

Honolulu, Hawaii

March 17, 2010

RE: S.B. No. 2020
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Sir:

Your Committee on Economic Revitalization, Business, & Military Affairs, to which was referred S.B. No. 2020 entitled:

"A BILL FOR AN ACT RELATING TO REAL PROPERTY,"

begs leave to report as follows:

The purpose of this bill is to continue to provide relief to small business lessees under Act 189, Session Laws of Hawaii 2009, (Act 189) which clarified standards for the renegotiation of commercial or industrial leases that require that rent be "fair and reasonable," by extending the sunset date of this Act from June 30, 2010, to June 30, 2015.

Grace Pacific Corporation; GP Roadway Solutions; Oahu Metal & Supply, Ltd.; Bacon Universal Company, Inc.; Jack Endo Electric, Inc.; Plywood Hawaii; Big Rock Manufacturing, Inc.; Citizens for Fair Valuation; Inter-Island Solar Supply; Mutual Plumbing Supply Co., Inc.; Electricians, Inc.; and many concerned individuals supported this bill. The Hawaii Association of REALTORS, Land Use Research Foundation of Hawaii, and HRPT Properties Trust opposed this bill.

Act 189 was enacted to protect the State's interest in the continued viability of small businesses located within or adjacent to the State's primary urban center. These businesses are needed at their present location to keep the State's economy stable, make their goods and services readily available to area residents, and



reduce commute times and costs for both area residents and the owners and employees of these businesses.

Act 189 applies to contracts that contain the terms "fair and reasonable" in reference to renegotiated lease rent. The Act addresses concerns that the lessor is asking unreasonably high new rents at twice the market rate, and using the high costs of arbitration to force small business lessees to accept these terms without electing arbitration.

The Act clarifies "fair and reasonable" by requiring that the renegotiated rent be fair and reasonable to both the lessor and the lessee, and taking into account the circumstances of the lease, including the use of the leased property, the surface and subsurface characteristics, and the surrounding neighborhood on the renegotiation date.

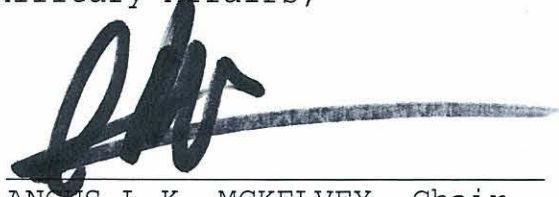
Act 189 is scheduled to sunset on June 30, 2010. However, not all of the leases containing the terms "fair and reasonable" have been renegotiated, and the last of these leases is scheduled to be reset in 2013. Therefore, your Committee has amended this bill by changing the sunset date of Act 189 to June 30, 2014, to allow the Act to expire one year after renegotiation of the last lease commences.

Your Committee recognizes that in at least one case, the professional appraisal performed during the arbitration of leases affected by this Act established a fair and reasonable rate of rent that helped the parties to the arbitration reach final agreement. Your Committee finds that there should be consideration of a procedure by which appraisals are used as a basis for rent renegotiation before the costs of arbitration are incurred.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization, Business, & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2020, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2020, H.D. 1, and be referred to the Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Economic
Revitalization, Business, &
Military Affairs,

A handwritten signature in dark ink, appearing to read 'AMK', with a long horizontal line extending to the right.

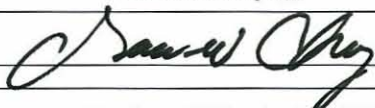
ANGUS L.K. MCKELVEY, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

HB 796-10

Record of Votes of the Committee on Economic Revitalization, Business, & Military Affairs

Bill/Resolution No. SB 2020 SSCR 2399	Committee Referral: EBM, JUD	Date: 3/11/10		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EBM Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. BERG, Lyla B.				✓
4. EVANS, Cindy	✓			
5. MANAHAN, Joey				✓
6. TAKAI, K. Mark				✓
7. TOKIOKA, James Kunane	✓			
8. TSUJI, Clift	✓			
9. WAKAI, Glenn				✓
10. WOOLEY, Jessica	✓			
11. WARD, Gene	✓			
TOTAL (11)	7			4
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				