

---

# SENATE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO UPDATE THEIR 2003  
REPORT ANALYZING THE MAJOR PROBLEMS STILL FACING COMMERCIAL  
AND OTHER LAND LESSEES.

1           WHEREAS, commercial and industrial properties in the State  
2 remain in the hands of a few large landowners who maintain a  
3 system of leasehold tenure and continue to establish long-term  
4 leases; and

5  
6           WHEREAS, in 2003 the Legislature requested the Legislative  
7 Reference Bureau to study the major problems facing commercial  
8 and other lessees; and

9  
10          WHEREAS, the Legislative Reference Bureau's report  
11 contained feedback from lessees and lessors, and also reviewed  
12 information from real estate analysts, real property tax data,  
13 an economic report prepared by SMS research, and information  
14 from the Department of Business, Economic Development, and  
15 Tourism; and

16  
17          WHEREAS, one of the concluding observations noted in the  
18 report was that the feedback for the report indicated there was  
19 a lack of available fee simple commercial and industrial  
20 property on the market; and

21  
22          WHEREAS, the report also observed that the primary problem  
23 lessees in the State face tended to stem from supply and demand;  
24 and

25  
26          WHEREAS, there has been an increase in the outlying areas  
27 on Oahu of fee simple, zoned properties since the 2003 report,  
28 thus allowing for a comparative analysis of market behaviors  
29 through changing economic conditions; and

30  
31          WHEREAS, a dichotomy exists between urban industrial  
32 development lands, which are primarily held as leaseholds, and



1 vacant land in outlying industrial parks, which are  
2 predominately held in fee simple; and  
3

4 WHEREAS, valuations of land in the urban core are  
5 identified by market participants as based on the leasehold  
6 tenure, whereby the contractual terms of the leases require  
7 appraisers to determine a contract market value rather than  
8 determining the value in an arm's length transaction, thus  
9 leading to excessive valuations of the underlying land; and  
10

11 WHEREAS, increased ground rents have been previously  
12 identified as a major expense to business and have continued to  
13 increase at a greater rate than is economically sustainable,  
14 leading to a financial hardship for businesses operating on  
15 leasehold land and increasing the costs to all consumers in the  
16 State; and  
17

18 WHEREAS, the State's need for economic revitalization would  
19 be furthered by a healthy leasehold system in which the risks  
20 assumed by the respective parties of the lease, the benefits  
21 created by the development, and activities established on the  
22 leasehold property are equitably reflected in the setting of the  
23 ground rents under the terms of the lease; and  
24

25 WHEREAS, almost ten years have passed since the last report  
26 on the problems facing commercial and other land lessees, and  
27 many of these problems still remain; now, therefore,  
28

29 BE IT RESOLVED by the Senate of the Twenty-sixth  
30 Legislature of the State of Hawaii, Regular Session of 2012, the  
31 House of Representatives concurring, that the Legislative  
32 Reference Bureau is requested to update their 2003 report  
33 analyzing the major problems still facing commercial and other  
34 land lessees; and  
35

36 BE IT FURTHER RESOLVED that the Legislative Reference  
37 Bureau is requested to consult with the Economic Research  
38 Organization at the University of Hawaii at Manoa and the  
39 Department of Business, Economic Development, and Tourism for  
40 any reports or information that may be required for a thorough  
41 and complete analysis; and  
42

43 BE IT FURTHER RESOLVED that the Legislative Reference  
44 Bureau, in conducting the study, is requested to consult with



1 representatives of various lessees, lessors, and any individual  
2 or agency or organization representative with a direct interest  
3 in the issues to ensure that all stakeholders are represented;  
4 and

5  
6 BE IT FURTHER RESOLVED that the Legislative Reference  
7 Bureau is requested to consult with the Governor's office, given  
8 the need for economic revitalization and support for small  
9 business, which the Governor's administration has been  
10 instrumental in supporting; and

11  
12 BE IT FURTHER RESOLVED that the Legislative Reference  
13 Bureau is also requested to consult with the Attorney General  
14 for legal issues, opinions, and advice relating to any  
15 constitutional issues related to the study; and

16  
17 BE IT FURTHER RESOLVED that the Legislative Reference  
18 Bureau is requested to submit a report of its findings and  
19 recommendations, including proposed legislation, to the  
20 Governor's office and the Legislature no later than twenty days  
21 prior to the convening of the Regular Session of 2013; and

22  
23 BE IT FURTHER RESOLVED that certified copies of this  
24 Concurrent Resolution be transmitted to the Governor, Director  
25 of the Legislative Reference Bureau, Director of Business,  
26 Economic Development, and Tourism, Attorney General, and  
27 Economic Research Organization at the University of Hawaii at  
28 Manoa.

