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# A BILL FOR AN ACT

RELATED TO COMMERCIAL PROPERTY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The legislature finds that failure to maintain parking lots in commercial shopping centers can lead to hazardous conditions for people and automobiles. Often there is confusion about whether the landlord or tenant is responsible for this type of maintenance. The purpose of this Act is to clarify the responsibility for maintaining parking lots and common areas open to the public for commercial purposes.

1 SECTION 2. Section 520A-5 is amended to read as follows:

2 "§520A-5 Exceptions to limitations. Nothing in this  
3 chapter limits in any way any liability which otherwise exists:

4 (1) For wilful or malicious failure to guard or warn  
5 against a dangerous condition, use, or structure which  
6 the owner knowingly creates or perpetuates and for  
7 wilful or malicious failure to guard or warn against a  
8 dangerous activity which the owner knowingly pursues  
9 or perpetuates; or



1           (2) For injury suffered in any case where the owner of  
 2           land charges the person or persons who enter or go on  
 3           the land for the control or eradication of invasive  
 4           species, except that in the case of land leased to the  
 5           State or a political subdivision thereof, any  
 6           consideration received by the owner for such lease  
 7           shall not be deemed a charge within the meaning of  
 8           this section.

9           (3) For failure to maintain walkways, parking lots, and  
 10          other common areas of a property that is open to the  
 11          public for commercial purposes."

12          SECTION 3. Chapter 520, Hawaii Revised Statutes, is amended  
 13          by adding a new part to be appropriately designated and to read  
 14          as follows:

15          "§520- Commercial landlord's remedies for tenant's failure  
 16          to maintain. (a) If the tenant is in material noncompliance  
 17          with section 520A-5(3), the landlord, upon learning of any such  
 18          noncompliance and after notifying the tenant in writing of the  
 19          noncompliance and allowing a specified time not less than ten  
 20          days after receipt of the notice, for the tenant to remedy the  
 21          noncompliance:



1       (1) May terminate the rental agreement and bring a summary  
2 proceeding for possession of the property or any other proper  
3 proceeding, action, or suit for possession if the tenant is in  
4 material noncompliance with section 520A-5(3); or

5       (2) May remedy the tenant's failure to comply and bill the  
6 tenant for the actual and reasonable cost of such remedy plus a  
7 fee of \$500 for each day the noncompliance continues, if the  
8 noncompliance can be remedied by the landlord which bill shall  
9 be treated by all parties as rent due and payable on the next  
10 regular rent collection date or, if the tenancy has terminated,  
11 immediately upon receipt by the tenant. No allowance of time to  
12 remedy noncompliance shall be required when noncompliance by the  
13 tenant causes or threatens to cause irreparable damage to any  
14 person or property. If the tenant cannot be served with notice  
15 as required, notice may be given the tenant by posting the same  
16 in a conspicuous place on the property.

17       (b) The landlord may bring an action or proceeding for  
18 waste or for breach of contract for damage suffered by the  
19 tenant's wilful or negligent failure to comply with the tenant's  
20 obligations under section 520A-5(3).

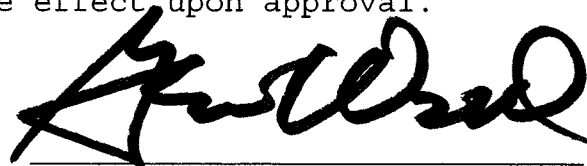
21       SECTION 4. New statutory material is underlined.



1 SECTION 5. This Act shall take effect upon approval.

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INTRODUCED BY:



JAN 23 2020



# H.B. NO. 2734

**Report Title:**

Commercial Property; Maintenance; Liability

**Description:**

Clarifies responsibility for maintenance of commercial property open to the public.

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