
A BILL FOR AN ACT

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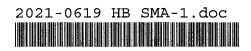
RELATING TO COMMERCIAL TENANT PROTECTION.

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

1	SECTION 1. Chapter 127A, Hawaii Revised Statutes, is		
2	amended by adding a new section to be appropriately designated		
3	and to read as follows:		
4	" <u>§127A-</u> Commercial tenant protection. (a) It shall be		
5	unlawful, during the effective period of any emergency		
6	proclamation and for ninety days following the termination of		
7	that effective period, for a commercial landlord to initiate or		
8	to continue proceedings to collect past-due rent from an		
9	impacted commercial tenant or to evict an impacted commercial		
10	tenant if the impacted commercial tenant has served written		
11	notice to the commercial landlord of the tenant's status as an		
12	impacted commercial tenant.		
13	(b) The unpaid balance of any rent that has accrued on the		
14	commercial tenancy of any impacted commercial tenant during the		
15	effective period of an emergency proclamation shall be due at		
16	the end of the month containing the date twelve months after the		
17	end of the effective period of the final emergency proclamation		



1	unless the commercial landlord and the impacted commercial		
2	tenant has reached an agreement to pay the balance at a later		
3	date.		
4	(c) An impacted commercial tenant who wishes to modify the		
5	tenant's commercial lease during the effective period of an		
6	emergency proclamation or within sixty days after the end of the		
7	effective period may engage in good faith negotiations with the		
8	tenant's landlord to modify the rent or other economic		
9	requirement of the lease. The impacted commercial tenant may		
10	initiate these negotiations by serving written notice, including		
11	notice of the tenant's status as an impacted commercial tenant,		
12	to the commercial landlord. If the impacted commercial tenant		
13	and the commercial landlord do not reach a mutually satisfactory		
14	agreement within thirty days of the landlord's receipt of		
15	notice, the tenant may terminate the lease by serving notice of		
16	termination to the landlord. If the impacted commercial tenant		
17	terminates the lease, the tenant shall have fourteen days from		
18	the date of service to vacate the property; provided that if the		
19	impacted commercial tenant has vacated the property within those		
20	fourteen days, the following shall apply:		
21	(1) The lease shall terminate;		



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1	(2)	No f	urther liability for rent, fees, or costs shall
2		accr	ue under the lease;
3	(3)	Any	third-party guaranties associated with the lease
4		shal	l terminate and shall no longer be enforceable;
5		and	
6	·(4)	<u>In l</u>	ieu of any other damages, the impacted commercial
7		<u>tena</u>	nt shall, within twelve months of vacating the
8		prop	erty, pay the landlord all of the following:
9		(A)	Three months of rent as specified under the most
10			recent terms of the lease or the actual amount of
11			unpaid rent that accrued during the effective
12			period of any emergency proclamation, whichever
13			is less; and
14		<u>(B)</u>	All unpaid rent that accrued prior to the
15			effective period of the initial emergency
16			proclamation.
17	If the im	pacte	d commercial tenant and the commercial landlord
18	reach an	agree	ment pursuant to this subsection, the tenant shall
19	not have	a sub	sequent option to terminate the lease under this
20	subsectio	n at	<u>a later date.</u>



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1	(d)	Remedies provided under this section are cumulative			
2	and do not preclude any remedies available to tenants under any				
3	other law.				
4	(e)	A commercial landlord who willfully violates this			
5	section sh	nall be liable to the impacted commercial tenant in a			
6	civil action for the following:				
7	(1)	Actual damages to the tenant;			
8	(2)	An amount no less than \$250 and no more than \$2,000			
9		for each incident constituting a violation; and			
10	(3)	Reasonable attorney's fees arising from the civil			
11		action.			
12	(f)	For the purposes of this section:			
13	"Com	mercial landlord" means any person, business, or other			
14	entity that owns or manages commercial property, or their agent.				
15	"Commercial tenant" means a tenant occupying commercial				
16	real property pursuant to a lease including but not limited to				
17	businesses or nonprofit organizations.				
18	"Emergency proclamation" means an emergency proclamation				
19	issued by	the office of the governor relating to coronavirus			
20	disease 2019 (COVID-19).				



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1	"Imp	acted commercial tenant" means a commercial tenant that
2	operates	primarily in Hawaii, occupies commercial real property
3	pursuant	to a lease, and meets one of the following criteria:
4	(1)	The commercial tenant has experienced a decline of
5		twenty per cent or more in average monthly revenue
6		over the two most recent calendar months when compared
7		to:
8		(A) The commercial tenant's average monthly revenue
9		for the two calendar months before a state or
10		local government shelter-in-place order took
11		effect; or
12		(B) The commercial tenant's average monthly revenue
13		for the same calendar months in 2019;
14	(2)	The commercial tenant was prevented from opening or
15		was required to delay opening the tenant's business
16		because of a state of emergency relating to COVID-19;
17		or
18	(3)	The commercial tenant has suffered a decline of
19		fifteen per cent or more in capacity due to compliance
20		with an official public health and safety guideline
21		for preventing the spread of COVID-19."



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H.B. NO. 581

1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act shall take effect upon its approval

3 and shall be repealed on July 1, 2022.

INTRODUCED BY:

JAN 2 2 2021



Report Title:

Commercial Tenants Protection; Eviction Moratorium; Rental Deferment

Description:

Prohibits a commercial landlord from initiating or continuing any action to evict or collect unpaid rent from a commercial tenant that has been adversely impacted by the economic effects of COVID-19 or official measures intended to mitigate the spread of COVID-19. Sunsets 7/1/2022.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

