

SB-563

Submitted on: 1/30/2021 4:18:32 PM

Testimony for CPN on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrew Lockwood	Testifying for Pacific Islands Institute	Comments	No

Comments:

Hi. I'm the owner of a small tour operator which owns its own commercial space and sublets to another business.

While I recognize and support the idea of aid to small businesses that are having trouble paying rent, I feel that small landlords also need to be supported and that they shouldn't be forced to provide relief to their tenants, as it can be just as hard or harder for a landlord as it is for the tenant, given the general business climate and given that landlords still have to pay mortgages, pay property tax, CAM, GET and other expenses, and that landlords may actually be impacted more severely by Covid-19 than their tenants - at least that's how it is for us.

After 25 years of our company's existence, five years ago my wife and I were finally able to purchase space in a commercial condominium to help us control our company's occupancy costs. We stretched to put down the 10% required to get an SBA loan, and we sublet about 45% of the space, which helps a lot, although the sublease does not cover its proportionate share of the mortgage. Then covid-19 hit, wiping out our tourism industry company, which specializes in bringing groups to Hawai'i. We have since had to lay off 2/3 of our staff - including my wife - and I have worked with no pay since last August. And we have taken on significant amounts of business and personal debt to hold on to two staff members and to pay our bills, as we believe in the positive impact our company has in the community and in its potential. And we're also putting two kids through college.

Our tenant is wonderful, and as a fitness studio, they have also been substantially impacted by Covid. That said, at least they are able to generate revenue through individual, small group, and on-line classes.

The point being, that while it is laudable for the legislature to look to provide relief to commercial tenants, please make sure that any legislation you consider also contains support for small landlords who desperately need and rely on the rental income, as they too are struggling mightily to make ends meet - and in some cases, are struggling harder than their tenants.

Mahalo



“Advancing the Commercial Property Management Industry through Education,
Networking and Advocacy”

Testimony to the Hawaii State Senate Committee on Commerce and Consumer Protection

February 2, 2021

9:30 a.m.

Hawaii State Capitol – Conference Room 229

RE: Senate Bill 563 Relating to Commercial Tenant Protection

Aloha Chair Rosalyn Baker, Vice-Chair Stanley Chang and Members of the Committee,

Thank you for the opportunity to submit testimony on Senate Bill 563.

We are the Building Owners and Managers Association of Hawaii (BOMA Hawaii) testifying in **opposition of Senate Bill 563**, which would prohibit commercial landlords from initiating or continuing any action to evict or collect unpaid rent from their commercial tenants that have been adversely impacted by COVID-19. We believe this will hamper, rather than help Hawaii’s economic recovery and resiliency.

BOMA Hawaii is a non-profit trade association with a membership that includes many commercial property owners and building managers. BOMA Hawaii is well aware of the many challenges facing the business community. Many of our members continue to operate properties that lease to businesses providing goods and services throughout the pandemic. We experience and witness firsthand the effects of COVID-19 on our commercial tenants, who this bill aims to protect. We are listening to tenant requests for help, working with them to find rent relief solutions that sustain their businesses, and supporting their efforts to obtain financial assistance through government programs. An eviction moratorium and/or prohibiting proceedings to collect past due rent will disincentivize tenants and commercial property owners from working together to resolve issues and concerns. It would hamper progress more than provide protections.

Small commercial businesses are the heart of Hawaii’s economy, and in times where they are financially fragile, we believe that we must do what we can to prop them up. While we support the intent of SB 563, we are supportive of measures that foster collaborative solutions between commercial property owners and tenants rather than broad restrictive regulation on commercial property owners.

Commercial property owners already participate in collaborative discussions with their tenants in order to provide rent relief throughout the pandemic. Throughout these discussions, we find that each tenant’s operations vary and require an individual solution that best addresses each tenant’s circumstance and need. More of this is needed.



“Advancing the Commercial Property Management Industry through Education,
Networking and Advocacy”

Without a source of income from the property, commercial property owners may be forced to default on their own obligations for mortgages, property taxes, utilities, and contract services that must continue on the property in spite of decreased revenue, like security, repairs and maintenance, and insurance. Commercial property owners do not have the ability to pause on these obligations.

We respectfully recommend that SB563 be held in committee. We are advocating for a solution that fosters a healthy tenant-landlord relationship in the long run. We believe this is possible without heavily restricting commercial property owners who have and are willing to continue collaborative rent relief discussions and solutions.

Thank you for the opportunity to testify on SB563.

Sincerely,

Nicole Nakano
2021 BOMA Hawaii President

Presentation To The
Committee on Commerce and Consumer Protection
February 2, 2021 at 9:30 AM
State Capitol Conference Room 229

Testimony in Opposition to Senate Bill 563

TO: The Honorable Rosalyn H. Baker, Chair, Committee on Commerce and Consumer Protection
The Honorable Stanley Chang, Vice Chair, Committee on Commerce and Consumer Protection
Members of the Committee

My name is Neal K. Okabayashi, the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing Hawaii banks and those from the continent with branches in Hawai`i.

HBA opposes SB 563 because, while well-meaning, it is not necessary as many lease mitigation efforts have been undertaken by involved parties. Commercial landlords do not want to lose tenants who have proved in the past that they are good tenants. Replacing a good tenant is a difficult task, in not, insurmountable under our current scenario. Continued lease mitigation efforts are a more practical solution than eviction moratoriums and lease terminations.

Pacific Business News reported on January 29, 2021, the outcome of a Commercial Rent Survey related to lease mitigation. It showed that from the second quarter 2020 to the fourth quarter in 2020, rent restructures rose from 2.2% to 5.3%. The second quarter began the month after the first Emergency Proclamation. Rent reductions rose from 8.8% in the 2020 second quarter to 14.7% in the fourth quarter of 2020. Rent deferral was steady, and it started at 27.5% in quarter 2 in 2020, and steadily remained at 25%, in the third quarter to 25.6% in the fourth quarter. In short, there has been an ongoing effort to mitigate the commercial tenant's lease issues.

When commercial tenants cannot pay rent, commercial landlords may not be able to pay their loan, and one sign that landlords are mitigating leases is the quantity of loan concessions made by banks to landlords due to the landlords' revenue losses which are realistically, in part, due to the tenant's inability to pay rent.

One Hawaii bank noted in its second quarter 2020 financial statement that their COVID-19 relate short-term loan and lease concessions was \$1.1 billion for the commercial segment. Logically, some of the concessions were needed by commercial landlords because of their lease mitigation.

We do have several comments on the bill if this Committee wishes to pass it on to the next committee. On page 2, starting at line 12 and continuing onto page 3, line 20, the language allowing the tenant to terminate the lease and permitting the guarantor to escape liability should be deleted. The tenant's remedies should be restricted to a pause in the eviction. We should not create a structure where tenant has all the lease negotiation leverage since this bill would allow the tenant to terminate its contractual obligation within thirty days of the notice of the receipt by the landlord of the tenant's

status as an impacted commercial tenant without any requirement that the tenant offer a reasonable concession. The bill does not even state when the tenant should proffer a negotiating offer.

If the language regarding termination of lease remains, on page 2, line 18, the language “pursuant to this subsection” should be deleted as it should not matter whether the agreement is reached under “this subsection” or some other process.

On page 4, in subsection (e), the subsection should be amended to provide that either party shall be liable for violations of the section and should read as follows:

“(e) A commercial landlord or impacted commercial tenant who willfully violates this section shall be liable to the {impacted commercial tenant} other party in a civil action for the following:

(1) Actual damages to the {tenant} other party;

(2) An amount no less than \$250 and no more than \$2,000 for each incident constituting a violation; and

(3) Reasonable attorney's fees arising from the civil action.”

The definition of “impacted commercial tenant” should be amended to include that the “The commercial tenant has applied for a Paycheck Protection Program in 2020 and 2021.” One of the authorized uses for a Paycheck Protection Program (“PPP”) loan is to pay rent, and it is reasonable to expect that steps should be taken by a tenant to receive help for rent payments. It should be noted that monies used for rent transforms are not actually a loan and need not be paid back because loan proceeds used for an authorized use is forgiven.

That language can read as follows: “(2) The commercial tenant has applied for a Paycheck Protection Program in the calendar year 2020 and 2021; and”

PPP loans were available in round 1, 2020, and are available in round 2 in 2021, starting in January 2021.

On page 5, line 5, the figure should be changed from “twenty percent” to “twenty-five percent” to be consistent with the PPP loan requirements for a second PPP loan.

Further, language on Page 5, lines 14 through 21 should be deleted as although decline in revenue is a reasonable criteria which might lead to an inability to pay rent but a decline in revenue may not always result in inability to pay rent. It depends on the margin of that business. For retail stores and restaurants, margins are small so a significant decline in revenue impacts rental payment ability but for a business with a large margin, it may impact profit but not ability to pay rent. Thus, there should be another requirement that the commercial tenant provide financial information proving the inability to pay rent as well as other mitigation efforts undertaken by the tenant to increase revenue and decrease expenses. That language should read as follows: “(3) The commercial tenant should provide to the commercial landlord in the written notice to the commercial landlord under subsection (c) a financial statement of income and expenses providing the inability to pay rent, and a description of the commercial tenant’s efforts, strategy, and plans to increase revenue and decrease expenses.”

At least as to the City & County of Honolulu, for businesses subject to the City’s rules were subject to a decline of at least 50% capacity so the capacity requirement essentially allows any Oahu tenant to be an “impacted commercial tenant”. It also appears that the current Mayor of Honolulu is inclined to relax the restrictions.

While the thoughts behind this bill are well-meaning, it is better to encourage the tenant and landlord to continue the ongoing process of negotiating lease mitigation as is presently the case. For these reasons, we opposed SB 563 as not necessary as there are current efforts to ameliorate the predicament.

Thank you for the opportunity to submit this testimony on SB 563 and please let us know if we can provide further information.

Neal K. Okabayashi
(808) 524-5161

SB-563

Submitted on: 1/31/2021 6:47:24 PM

Testimony for CPN on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Turner, UDCP	Testifying for Vision Design Kitchen and Bath LLC dba Poggenpohl Kitchens Hawaii	Support	No

Comments:

Aloha.

We strongly support SB 563 that will assist small business owners in dealing with our landlords during these challenging times.

While none of us predicted a pandemic, let alone one that effectively shut down a super majority of small businesses for over 6 months, you have the ability and opportunity to help out Hawaii's small businesses with this bill.

We expanded our business in 2019, with our target market being people who own properties in Hawaii that wish to update their property. The majority of our customers live in Hawaii part or much of the year; when they were not living in their properties, many times the properties are being occupied by friends and family and while were being rented to people.

We invested over \$300,000 on tenant improvements and were showing a steady increase in sales so that it appeared 2020 would be a good year.

However, the pandemic arrived and with it the shutdown of travel to Hawaii from March through October.

That meant that our business likewise was closed for a significant period of time and our customers were not able to come to our store for our products and services.

Our year went from good to catastrophically bad.

While we applied for and received local and federal assistance, it wasn't enough to bridge the gap between our reduced sales and our expenses, especially our rent.

Our landlord, which also may be struggling, hasn't been willing to negotiate with us so that we could reach a fair sharing of the losses. We don't expect to pay nothing but we

would like to be able to negotiate to achieve a sharing of the pain.

In the absence of some relief such as is provided in SB 563, we are looking at losing our retail space, losing the money invested for tenant improvements, and looking at a bankruptcy as the last grasp for protection.

We don't want to go there and SB 563 is the lifeline we need to survive. We urge you to help out us and other small businesses to require commercial landlords to negotiate and achieve reasonable rental adjustments that will benefit all instead of putting the pain on one group.

Please pass SB 563!

Mahalo.

Michelle Turner, Managing Manager

Vision Design Kitchen and Bath LLC

DBA Poggenpohl Kitchens Hawaii

3750 Wailea Alanui Dr EW21

Wailea HI 96753

SENATOR ROSALYN H. BAKER, CHAIR
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Gilbert S.C. Keith-Agaran
Senator J. Kalani English
Senator Lorraine R. Inouye
Senator Dru Mamo Kanuha
Senator Michelle N. Kidani

William Moore
Owner - Leading Importers LLC
831 Pohukaina St. Unit A1
Honolulu, HI 96813

SUPPORT FOR SB563 - RELATING TO COMMERCIAL TENANT PROTECTION

DATE: Tuesday, February 2, 2021
TIME: 9:30 AM
PLACE: Conference Room 229

In March 2020, at the very beginning of the COVID-19 pandemic, businesses across Hawaii began to shut down. We stopped going to work. We stopped sending our kids to school. We stopped going out for dinner. Soon thereafter tourism would come to a complete halt and even our beaches and parks would close. Many would lose their businesses and even more would lose their jobs.

Also in March 2020, The Howard Hughes Corporation's stock price fell from \$110 per share to \$37 per share and they were determined to keep collecting lease payments in Ward Village to shore up their stock price — even from businesses that were shuttered. I am the owner of one of those shuttered businesses and I still pay rent on time to the Howard Hughes Corporation every month. I've never missed a rent payment even though my business never opened.

Also in March of 2020, 5,000 miles away from Honolulu, in New York City, the Chairman of the Board of the Howard Hughes Corporation was watching the stock price fall and as soon as it got to the point that he believed was the bottom, he purchased 10 million shares. Yes. 10 million shares of stock in the company for which he was the Chairman of the Board. This single stock buy-back, one transaction, on a March day during a global pandemic, has earned him, as of today, about \$379 million dollars in profit.

One might think that the Howard Hughes Corporation, a \$4 billion dollar company, might see Corporate Social Responsibility as important and begin using a tiny fraction of profit from stock buy-backs to offer early terminations to their commercial tenants whose businesses failed due to COVID-19 and rent deferments to those who were shut down and hoped to re-open in the future. However, instead of offering

relief to struggling business owners, they gave back to the community in another way: According to 2019-2020 Howard Hughes corporate Environmental, Social and Governance report:

“The Building exterior was lit up a different color every week from April 28 to June 21 to honor frontline workers, law enforcement, first responders, healthcare workers, teachers, government workers, and volunteers who dedicated their time and efforts during the onset of the pandemic. A MAHALO banner was placed prominently on the Kō’ula construction barricades to show Ward Village’s appreciation to all the many groups who helped the community during this crucial time.”

Three months before COVID-19 arrived, the Howard Hughes Corporation told me to stop the buildout of my business when they learned their permits were approved for another new residential tower and my space would be demolished. I will spare the committee any further details of my 16-month struggle with the Howard Hughes Corporation other than to say that on April 9, 2020 I submitted a formal request for early termination of my lease to the President of Howard Hughes Corporation in Hawaii. He did not respond to my letter, however, two months later I received a letter from an employee writing on his behalf asking me to “resubmit my request.” Then, on August 9, 2020, seven months into COVID-19 and ten months after they informed me my building was being torn down, a Howard Hughes corporate attorney based in Hawaii sent me a letter stating:

You are currently in noncompliance with your Lease since you have failed to diligently and continuously pursue construction and completion.

I can not speak on behalf of the other commercial tenants who are also here today asking the Legislature of the State of Hawaii to step in and force the commercial landowners to terminate the leases of the businesses that have failed due to COVID-19. I can only speak for myself. To me, a corporation that publishes an annual Environmental, Social and Governance (ESG) report does so because they know we are living in a changing world and good employees demand to work for a company that demonstrates that they take ESG seriously. Companies that still believe in shareholder primacy and don’t believe in stakeholder capitalism are soon to be a thing of the past because good employees want to work for good companies. The best companies give all their workers a voice and encourage them to hold their senior management accountable for ethical and responsible behavior.

If the employees alone can not compel their senior management to act responsibly, then the only other way is for the State to send a clear message that shared sacrifice during a pandemic means everyone — not everyone except landowners.

Thank you for the opportunity to testify.



February 1, 2021

The Honorable Senator Rosalyn Baker
The Honorable Senator Stanley Chang
Members of the Senate Committee on
Commerce and Consumer Protection

RE: **SB 563- Relating to Commercial Tenant Protection**
Hearing date: Tuesday, February 2, 2021

Aloha Chair Baker, and members of the committees,

Mahalo for the opportunity to submit testimony on behalf of the Hawaii Chapter of the International Council of Shopping Centers in **OPPOSITION** of SB563. ICSC Hawaii is the local chapter of the nation's leading organization for shopping center and retail real estate. ICSC Hawaii has over 200 members in the State including local land owners, asset managers, retailers, realtors, developers, lenders and other professionals. ICSC Hawaii opposes SB563 on three main grounds:

First, SB563 is too broad as it arguably applies to all commercial tenants and covers the period from March 2020 through some indefinite future date (90 days after the expiration of the last emergency proclamation). Permitting commercial tenants to remain in a space without paying rent for a long, indefinite period of time is simply unsustainable. It will force landlords to take other action to survive, such as deferring property maintenance, raising rents on paying tenants, not paying vendors and suppliers and perhaps even shutting down or declaring bankruptcy for failure to meet their obligations, including payment of property taxes .

Second, the passage of SB563 would allow commercial tenants to not pay rent and/or terminate their leases without material consequence. Landlords would have no short-term recourse or relief against non-paying tenants, which would make negotiation of mutually-beneficial partial rent relief futile. Rather than allowing market forces to drive rent relief discussions, or replacing a non-paying tenant with a paying tenant, landlords would be forced to assume 100% of the loss due to the non-payment of rent. SB563 could perhaps even incentivize commercial tenants to not pay rent or refuse to negotiate modified partial payments of rent, knowing that landlords are prohibited from acting.

Finally, the passage of SB563 would interfere with the contractual arrangement agreed to by tenant and landlord. In essence, under the language of SB563, the government would be taking away a contractual right of a landlord to evict or collect rents without just compensation. Such action may be prohibited by law and may face constitutional and other challenges.

ICSC Hawaii firmly believes that imposing the broad, restrictive, across-the-board regulations contained in SB563 will have short and long-term detrimental effects on the commercial real estate market and the economic recovery of the State as a whole. We respectfully recommend this bill be deferred and that you continue to allow property owners and tenants to collaboratively discuss, structure, and implement rent relief initiatives that best suits a tenant's circumstance and needs.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Kelli Yanagawa Wilinski", is written over a light blue horizontal line.

Kelli Yanagawa Wilinski
Hawaii State Director, ICSC

Kapolei Shops, LLC
220 S. King Street, Suite 1800
Honolulu, Hawaii 96813

808.523.9708 phone
808.521.0977 fax



March 11, 2008

Legislative Committee
State Capitol

RE: SB563 RELATING TO COMMERCIAL TENANT PROTECTION

To Whom It May Concern:

I am testifying on behalf of my partners and myself. I would like to express that this bill is not fair to landlords and furthermore landlords are not getting any relief on their mortgages, Real Property Tax or any other property expenses.

I understand that Tenant's need relief, but it is not fair to exclude landlord's from this either.

Sincerely,

KAPOLEI SHOPS, LLC

A handwritten signature in black ink, appearing to read "Mark D. Bratton", written over a horizontal line.

Mark D. Bratton
Member

Kapolei Shops, LLC



KA MAKANA ALI'I

The Center for West O'ahu

February 2, 2021

The Honorable Rosalyn Baker, Chair
and Committee Members
Committee on Commerce and Consumer Protection
Hawaii State Senate, Rm. 229
Honolulu, HI 96813

Dear Chair Baker and Committee Members:

RE: SB 563 Relating to Commercial Tenant Protection

My name is Stephanie England, General Manager of Ka Makana Ali'i Shopping Center. Ka Makana Ali'i is located in Kapolei on lands owned by the Department of Hawaiian Home Lands (DHHL). The Center is the third largest retail center located on O'ahu, and is the first regional center to be built on O'ahu in over 30 years. Ka Makana Ali'i assists DHHL in achieving its mission to initiate and support programs that benefit native Hawaiians, and it is one of the largest employment centers in West O'ahu.

We strongly oppose SB 563 Relating to Commercial Tenant Protection. From the day KMA opened, our management team has worked with our tenants to ensure their success. The COVID-19 pandemic has required that we work diligently with every tenant in our Center to address the economic hardship caused by the pandemic and the government-ordered shut down of business, travel and gatherings. We have not initiated formal action to evict any local or national tenant. Rather, we have purposefully elected to find creative solutions for our tenants during these difficult times and to provide them the best opportunity to recover as the economy restarts and businesses reopen. We do this because we recognize the need to keep the economy alive and the importance of keeping members of our community employed.

We play a role in cultivating our community both inside and outside the Center. To best help our tenants succeed during and after this pandemic, we worked together with our Ownership Team and re-negotiated almost every lease at our Center. Despite the current capacity, social distancing regulations and other limitations currently in place, many of our tenants have reported positive results because of our efforts and commitment to them. Success for the tenant equates to success for the landlord, the land lessor, vendors and creditors, and ultimately DHHL.

91-5431 Kapolei Pkwy, Suite 427
Kapolei, HI 96707

P + 808.628.4800

F + 808.628.4805

kamakanaalii.com

SB563 does nothing to help Hawaii's economy or the business community except to provide commercial tenants with a way to escape their obligations and put most of the financial burden on the landlord, who, in the case of KMA, is already at risk for the millions of dollars that have been spent to develop the shopping center.

SB563 burdens responsible landlords who have worked with their tenants by unilaterally imposing a rent schedule which delays rent payments until twelve (12) months after the government declares an end to the COVID-19 emergency; it disrupts existing landlord – tenant relationships by suspending landlords' ability to enforce the commercial lease, and it gives commercial tenants the right to terminate their lease and limit their damages to three (3) months' rent. In the long run, SB 563 may put more tenants out of business than save them.

Please hold this measure and allow tenants and landlords to work together based on the rights and legal obligations under their existing lease agreements.

Respectfully,



Stephanie England
VP Retail Management | JLL
General Manager | Ka Makana Ali'i



February 1, 2021

The Honorable Senator Rosalyn Baker
The Honorable Senator Stanley Chang
Members of the Senate Committee on
Commerce and Consumer Protection

RE: **SB 563- Relating to Commercial Tenant Protection**
Hearing date: Tuesday, February 2, 2021

Aloha Chair Baker, and members of the committees,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **OPPOSITION** of SB563. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

SB 563 amends Chapter 127A, Hawaii Revised Statutes to prohibit 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. SB 563 allows for commercial tenants to engage with the commercial landlord to modify the rent or other economic requirements of the lease.

The entire infrastructure of the commercial real estate industry is predicated on the enforceability of the contractual relationships between tenants, landlords and lenders. If SB 563 is passed this will allow tenants to stop paying rent or walk from their leases without recourse and landlords would need to cut costs which means they may have to stop paying vendors and banks. Imposition of an eviction restriction will handcuff landlords and their lenders potentially leading to more defaults, foreclosures and bankruptcies.

Further, an eviction moratorium may incentivize the tenant to not pay rent to the landlord, even if they could pay some or all of it, while still leaving their landlords with the obligation to maintain the property without being compensated. Market forces, and not legislation, should determine negotiations between landlords and tenants

In addition, many commercial property owners are currently collaborating with tenants to provide rent relief during the pandemic. NAIOP finds that each tenant's business operations are unique, and therefore, many commercial property owners work

The Honorable Senator Rosalyn Baker
The Honorable Senator Stanley Chang
Members of the Senate Committee on
Commerce and Consumer Protection
February 1, 2021
Page 2

with each tenant to craft specific rent relief provisions tailored to best assist the tenant's particular needs.

Accordingly, instead of imposing the restrictive regulations contained in SB563, we recommend this bill be deferred to allow property owners and tenants to be able to continue to collaboratively discuss, structure, and implement rent relief initiatives that best suits a tenant's circumstance and needs.

Mahalo for your consideration,

Michael Iosua, Partner
Imanaka Asato LLLC



January 30, 2021

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senate Committee on Commerce and Consumer Protection

Comments in Opposition to SB 563 Relating to Commercial Tenant Protection (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 07/01/2022.)

Tuesday, February 2, 2021, at 9:30 a.m., Conference Room 229, via Videoconference.

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. LURF's mission is to advocate for reasonable, rational, and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to express comments in **opposition to SB 563.**

SB 563. This bill proposes to prohibit 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.

LURF's Position. LURF and its members are well aware of the many challenges currently facing the business community during the COVID-19 pandemic. And while rent control and tenant protection legislation during this period may be intended for the economic benefit of the local community, there is a definite need for policy makers to first understand both sides of the problem – from both the tenants' and landlords' perspectives, and then to judiciously consider the impact on both parties as well as the overall economy based on facts and data.

LURF must therefore oppose SB 563, as it believes the measure as drafted is one-sided and fails to take into consideration the unintended consequences of, and burdens placed upon commercial landlords which will likely hinder, rather than facilitate Hawaii's economic recovery and resiliency. LURF's position is based on the following:

- During the pandemic, commercial landlords have continued to mutually work with commercial tenants to provide rent relief based on their individual economic situations. An eviction moratorium and/or a prohibition on proceedings to collect past due rent will disincentivize collaboration between commercial tenants and landlords and prevent the parties from working together to resolve issues and concerns.
- Each commercial tenant's business operation is unique. Landlords currently work with commercial tenants on a rent relief structure that would best address the tenant's specific circumstance in an effort to assist in sustaining their business operations.
- Despite the decrease in, or cessation of rents, many landlords continue to be burdened with the obligation to maintain the property, provide services to commercial tenants, and service debt.
- Landlords must also undertake and absorb the cost of verifying commercial tenants' status or satisfaction of criteria required for designation as an "Impacted commercial tenant" as defined by the proposed measure.
- SB 563 fails to include any **"just cause" exceptions** for situations in which landlords have just cause to terminate commercial tenants who are unlawful; commit nuisance or criminal activity on the property; criminally threaten the landlord; improperly assign or sublet the leased space; or otherwise cause issues that breach terms of their lease. As a result of this bill, it appears unlikely that any current commercial tenant, especially any tenant in breach of the lease, will voluntarily vacate, leaving landlords with few, if no options to protect their property.
- While remedies for the commercial tenant provided in this bill are deemed cumulative and expressly do not preclude any other remedies available to tenants under any other laws, the measure fails to mutually and expressly include or afford any remedies or other such protections for landlords which may be negatively impacted by lease termination and/or breaches by tenants (e.g., tenants' failure to vacate), which may result from this legislation.
- Without the income derived from their properties, landlords/property owners may be forced to default on their own obligations such as mortgages, master leases, property taxes, utilities, as well as contracted services including security,

repairs and maintenance, and insurance; or perhaps even contemplate selling their interest in those properties.

- Despite landlords/property owners having to continue paying property taxes and other operating expenses for their commercial tenants, no form of direct government relief has yet been extended directly to them, so they are not incentivized to likewise provide relief to their tenants. Unfortunately, commercial landlords, many of which have forgone months of rent without relief and nevertheless continue to endeavor to work with commercial tenants, are snubbed by policymakers, rather than being considered and included in relief and other legislative measures proposed to help initiate, stimulate, support, and provide relief for Hawaii's business community.
- It appears unknown to, or at least unconfirmed by the introducers of SB 563, whether the effects and unintended consequences (practical and legal) of the proposed protections afforded to commercial tenants pursuant to this bill will cause interference with the local commercial rental market. Facts, data, experts, survey results and/or studies have not been referenced or cited to support this bill which will undoubtedly affect and potentially further disrupt the State's commercial rental market and economy.¹ While recent surveys obviously indicate that commercial rent relief is necessary for many businesses to survive through the pandemic, those reports also acknowledge the critical fact that landlords also have their own expenses that need to be paid, and that financial aid for landlords would therefore not only help landlords, but incentivize them to help their tenants.
- Moving forward, this type of legislation may also prompt landlords to require much stronger qualifying criteria as it pertains to tenant credit, revenue, and verification of past experience/professionalism, to avoid leasing to unqualified tenants, thereby deterring the expansion of business operations and start-up of new ventures which are beneficial to, if not essential for economy recovery and revitalization.
- Lastly, there is no indication or finding that Bill 563 is supported by facts and/or law to ensure the constitutional rights of landlords/property owners which are being forced to surrender possession of their property for below market, or more realistically zero rents.² Such a measure, without justification, may constitute an unconstitutional taking without just compensation.

¹ LURF is aware that recent surveys are being conducted (e.g., Hawaii Commercial Rent Survey of Tenants [last updated January 2021] by Island Business Management LLC; and Hawaii Rental Market Survey by the University of Hawaii Economic Research Organization (UHERO) collecting and analyzing data from the commercial and residential sectors), which point out the interdependent relationship between tenants and landlords, and rental markets in Hawaii.

² Landlords are now deferring already reduced rent however, this temporary solution creates higher future rent obligations for commercial tenants who will unlikely be able to pay off deferred rent or afford higher rental costs.

For all of the above reasons, LURF supports initiatives that foster mutually beneficial, collaborative solutions between commercial tenants and landlords rather than broad, restrictive, one-sided, and potentially unconstitutional regulation of commercial property, especially during this economically challenging and sensitive time.

LURF thus recommends that SB 563 be held in Committee to allow for further review and confirmation of the propriety and legality of the proposed regulation; to instead explore the initiation and introduction of measures which, based on verified facts and data, would incentivize and benefit all sectors of Hawaii's rental market and members of the business community; and to enable commercial tenants and landlords to continue to collaboratively discuss, structure/restructure, and implement rent relief initiatives that optimally benefit the circumstances and needs of commercial tenants.

Thank you for the opportunity to present testimony regarding this important matter.

SB-563

Submitted on: 1/31/2021 1:26:28 AM

Testimony for CPN on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark R. Hagadone, Ph.D., FACFE	Individual	Oppose	No

Comments:

Honorable Senators Keith-Agaran, Baker, English, Inouye, Kanuha and Kidani and CPN Committee Members.

I am testifying in opposition against SB 563

I am a small businessman and a lessor leasing space to several commercial lessees in the Kaimuki Business District. My Neighborhood in Kaimuki is filled with lessors, lessees, and small business operators. I have been both a lessor and a lessee, many times, throughout my business career.

I grew up on Kauai, lived in Kaimuki for 40 years, attended Kauai and Kalani High Schools and the University of Hawaii and have owned and operated several small, high technology businesses, for the past 40 years in Kaimuki. I am a member of the Kaimuki Business and Professional Association and have served on the Kaimuki Neighborhood Board as both an officer (Treasurer) and a Member for 4 years.

I know our community members and I know the business of our community.

Many of our small business owners in Kaimuki and throughout Oahu rely on lease rental income from our lessees. When times are hard, we use this rental money to pay our mortgages, our property managers, our employees, and our building maintenance and fiscal managers, our taxes and yes, our *ohana*. They are all looking at US to continue to pay, each month, the mortgages, the management fees, the maintenance fees, the property taxes for the City and County and the State General Excise Taxes for our community.

We, both lessors and lessees, have ALL been hit by COVID, every one of us. If you are considering protecting one category along this economic chain of interdependence, please do not discriminate by abandoning the small business property owners who pay Hawaii's mortgages, property managers, maintenance staff and City and State taxes. All of us, local bankers, tenants, property owners, government tax officials, property maintenance and management professionals **depend** on the collection of lease rent. We, as small business property owners, are NOT the big, demonized, fat cat, "landlords" we are being characterized (by some) as or "those" who can "afford" to

pay for all these services, mortgages, taxes and employed management and maintenance professionals.

Additionally, and maybe most importantly, we are NOT San Francisco, Oregon, Washington, or California State, as some have **extolled** as “golden examples” of what we should follow locally!

We are Hawaii, we do work together, we do have site specific circumstances and unique legal contracts. We do not need the the legislature to attempt to mandate every individual situation with a cookie cutter approach. Respectfully, as senators, you have bigger fish to fry right now, stop digging in the minutia.

We work together with our tenants, we exercise forbearance when necessary, we negotiate lower rents or shorter lease periods, and most importantly we do not need government control in our back pockets. We have already been doing this for the past year! DON’ T take negotiation tools away from the lessees or the lessors by attempting to pass a law which treats all situations as if they were equivalent, or worse, as if we were part of the Mainland!

The Pandemic is bad enough without having the Legislature mandate how to negotiate, service or terminate leases which are ALL SITE SPECIFIC and uniquely legally binding. One set of rules DOES NOT fit all cases. Attempts at mandating by law, negotiable issues between a lessor and lessee are nothing more than aggravated interference in normal Business negotiations between willing business partners. We do not need the government to mandate these interactions. Let the small business owners and lessees continue to negotiate the best solutions based on their unique circumstances and their unique relationships. As small businessperson, property owners or lessors, we can solve our own unique problems, by ourselves.

We do not need to invoke mainland standards, as some have suggested, to serve Hawaii!

If you cut the supply of cashflow from the lease rentals, you will be cutting the cashflow to the lessors who owe the bankers, who own the mortgages, to the property managers and real estate professionals who service the properties, to the City and County Officials trying to collect property taxes and to the State Government trying to collect general excise taxes.

If you economically discriminate against the small business community which feeds Hawaii and its economic engines and you will tortuously interfere with unique lessor lessee contract law, making this entire “protection” program more like an extortion than normal business negotiation.

Thank you for taking the time to listen to our position in this matter.

Respectively Submitted:

Mark R. Hagadone

LATE

KAPOLEI HAWAII PROPERTY COMPANY LLC

February 2, 2021

The Honorable Rosalyn Baker, Chair
and Committee Members
Committee on Commerce and Consumer Protection
Hawaii State Senate, Rm. 229
Honolulu, HI 96813

Dear Chair Baker and Committee Members:

RE: SB 563 Relating to Commercial Tenant Protection

Kapolei Hawaii Property Company LLC, the owner of Ka Makana Ali'i ("KMA"), strongly opposes SB 563 Relating to Commercial Tenant Protection.

KHPC, as a commercial landlord, initiated communications with nearly all of the tenants and other occupants of KMA very soon after the governmental COVID-19 mandated closures, and has maintained a continuing dialogue with its tenant-community as the COVID-19 orders have evolved over time. As a result, tenants and licensees of a majority of the spaces at KMA and KHPC have agreed to amendments to their leases and occupancy agreements to provide various forms of rent relief, including without limitation, abatements, deferments, and other restructurings of rent and other obligations under the leases. From inception, KHPC viewed eviction as a last resort. Our success in somewhat stabilizing KMA and finding replacements for those who, unfortunately, were unable to survive despite rent relief, strongly suggests SB563 is unnecessary.

SB563, while attempting to address commercial tenant concerns, is unworkable and ill-advised. Rather than help the economy, the measure will jeopardize the ability of landlords and tenants to work together to arrive at mutually beneficially agreements in respect to commercial premises. Furthermore, SB 563 will impede Hawaii's recovery efforts. Commercial developers, landlords, and lenders of projects or potential or planned-projects with tenants affected by the measure will now face an unforeseen credit risk thereby further reducing their ability to obtain and effectuate loans, loan work-outs, and persevere through Hawaii's economic downturn.

We also believe that this measure is defective under the constitutions of the United States of America and the State of Hawaii. It abrogates existing legal contractual rights between a landlord and its tenant by (i) suspending landlords' ability to enforce the commercial lease, (ii) unilaterally imposing a rent schedule which delays rent payments until twelve (12) months after the government declares an end to the COVID-19 emergency, and (iii) giving commercial tenants the right to terminate their lease, limiting their damages to three (3) months' rent and terminating third party guarantees.

This measure is a disservice to the members of the business community, both landlords and tenants, who are working to find innovative and tailored solutions to keep Hawaii's commercial properties vital, and consequently, the Hawaiian economy afloat.

Please vote NO on SB 563.

Sincerely,



Edward M. Kobel
Executive Vice President
Kapolei Hawaii Property Company LLC



Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Melissa Bow. I live in Makiki (Oahu) and I own my small business Via Gelato in Kaimuki. I am writing in strong support of SB 563.

I co-wrote the Commercial Tenant Protections resolution and passed it unanimously with the members of Kaimuki Business Professional Association in April 2020. I submitted that resolution to the State and City in May 2020. I also worked with Becky Gardner and Derek Turbin to get it introduced to all the other neighborhood boards on Oahu. I know that Kaimuki, Kahala and Kaneohe neighborhood boards all used the general language of that reso and strongly support commercial tenant protections to be enacted to help protect small businesses to get them through this pandemic because they have seen first-hand the struggle within the community.

I worked with We Go Film in May 2020 to also make videos to share on social media on what was really going on with small businesses and why commercial tenant protections enacted into law are so important; now more than ever.

The reasons why I wrote that resolution and spent time advocating for Commercial Tenant Protections is because as a small business owner I am very aware of how strict commercial leases are written. Most of us who have commercial leases written pre-Covid are on the hook no matter what. These leases for the most part, state that any failure to pay rent on time is a breach of the lease agreement and plunges the tenant into default of the lease which is associated with fees, penalties and the possibilities of eviction all of which the landlord is legally entitled to. However, these are not normal circumstances that we are in. I know from personal experience that there are landlords out there that do not care what fluctuations the world goes through; there are landlords who expect full rent no matter what. If you read commercial leases you will see that under the section of Force Majeur the section is used to clarify that rent is due even in circumstances of Force Majeur. Many commercial leases do not even allow for lapses in rent due to natural disasters. For those who do allow for natural disasters, many of us have been told not only by our landlords, but also by our insurance companies that a viral pandemic, does not count as a natural disaster and is not covered; exceptions not made. I know that landlords attribute this type of legal language to their need to mitigate their risk, which I understand, but I do not think that it is morally right for all the risk to be borne by the tenant. It is reasonable to create emergency laws to protect against the mass default and subsequent lawsuits and indelible stain of bankruptcies of small businesses and non-profits failing during this situation of Covid-19. The fact that SB 563 sunsets in 2022 speaks to the intention that this is a temporary emergency measure not meant to punish landlords but rather to hit the pause button and encourage landlords and tenants to work together to solve the issues of rent.

Small business owners have been calling me all year asking for help and strategy in negotiating with their landlords. They have complained that some of their landlords are not willing to even return their written requests or their phone calls in a timely fashion. Some complained that their landlords have been completely unwilling to negotiate rent or payment of rent at all even though there is no way that they can make the money they need to pay it all. They feel powerless because the leases they signed pre-Covid put them in a position where they *are* legally liable for paying in full on time no matter what and their landlords are not in any way required to work with them. They have told me that they have spent all their savings in addition to the grant money towards unchanging rent that is due like clockwork. They have called me in confidence so I cannot share their names without permission, but I

just want to underline that these folks are just as successful at their businesses as Via Gelato is (many of them even more successful and famous). It feels so hopeless and so unfair when the situation is stacked against them like this. I know that Koko Head Café (they have given permission to share this) their landlord wanted to double their rent all through 2020 and they have always paid on time even when their income plummeted to only 20% of normal. They closed for quite some time because they could not manage both operating expenses as well as that sky high rent. I don't know what came of that situation recently, but I do think that enacting Commercial Tenant Protections would certainly be a huge stress reliever for these businesses and protect them. I also think that with legal protections, it encourages compromise and dialogue between landlords and tenants.

I hope these stories helps to fill you with confidence in supporting SB 563 and enacting it into law. I am very grateful that it has been introduced and that we have the opportunity to testify.

With gratitude,
Melissa Bow
President KBPA
Owner, Via Gelato
kaimukibusiness@gmail.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Summer Shiigi, District 1 (Ala Moana Area) / Oahu. I am writing in strong support of SB 563 that prohibits commercial landlords from initiating eviction or collecting rent from commercial tenants that have been adversely affected by Covid-19.

I own a small women's clothing company called Ten Tomorrow - we manufacture our own line here in Honolulu and have a retail location in Kaimuki.

Pre-Covid my revenue came mostly from in-person shopping, my biggest fear is not being able to make rent while we try to navigate the changing landscape of retail. Rent is my biggest expense by far and on a good month, is still takes away 50% of my sales. I was lucky enough to get some federal and state grants but those were used up in a matter of a couple months. I think the pandemic will affect brick and mortar for years. My rent also increases every year, which pre-covid may have been manageable as business was expected to grow every year; but now I'm just trying to survive and any increase in expenses hurts deeply.

I was lucky to get rent breaks when the state mandated retail to shut down; however landlords refuse to come to the negotiating table to discuss revising lease terms or rates in the long run now that we are allowed to operate. I feel this bill will help give small businesses some sense of security or leverage to at least discuss options. Everyone is affected by the pandemic and landlords should not be able to operate as if everything is the same.

I know that California, Washington and Oregon have all signed a Western States pact and have already created emergency laws to protect small business and non-profit commercial tenants in April 2020. This precedent should only make it more clear that this is something necessary for Hawaii.

Small businesses make up a lot of the economy here and a lot are owned by individuals or families that will not survive the demise of the business. I, myself, had to have my parents sign my business lease agreement as guarantors - if my business fails, it affects more than just me and my staff. In the long run, I would like legislature to start looking at lease agreements in general and how unfair our state, in particular can be to small business commercial tenants. We become LLCs just to be forced to have personal guarantors on commercial leases.

Sincerely,

Summer Shiigi

contact@tentomorrow.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Rena Shishido; I live in Pacific Heights, Oahu. I own the film company We Go Film.

I've talked to many business owners that had a very difficult time last year. As we move into 2021 and the pandemic still influencing all of our lives, I can't believe that some small businesses still have to pay full rent while having restrictions and regulations on how they operate their space. As I hear about more local businesses closing down, I'm afraid it's not going to just "go back to normal" once the pandemic is over. Without help, these businesses are going to be gone forever. I completely believe that the safety of our state is very important and if these businesses have to operate at less capacity that's understandable but that is the very reason why they need to be protected against evictions!

I SUPPORT SB 563 that prohibits commercial landlords from initiating eviction or collecting rent from commercial tenants that have been adversely affected by Covid 19. Local businesses need help, especially for gyms, cafes, and restaurants that aren't able to operate at full capacity!! They should have some sort of rent relief. Even after they've been allowed to open up again, they're still playing catch up from the closures and decrease in customers from last year. I can't even imagine how they can keep up with the rent. I don't want to see our local businesses suffer as big companies continue to do just fine on our island.

Hawaii has relied on tourism and this should be a wake up call that we need each other and the community to thrive. Without the help of the state, the only businesses that are going to survive are the ones from the mainland. The fact that other states have already created emergency laws in April 2020 to protect against commercial evictions should be encouragement that Hawaii can and should do the same.

Best,
Rena Shishido
wegofilm@gmail.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Alexis Tansey. I live in Kakaako on Oahu.

Small Businesses make up the economy in Hawaii. It is the possibility to finally separate from a tourism dependent community. But without help, I don't know if they will survive. I am so concerned about Highway Inn, Sure Shot Café, Kokohead Café, Square Barrels, Junpuu, Golden Pork Ramen, Piggy Smalls, Vino, and Senia.

I support SB 563 - This seems like a simple and straight forward approach to protect community and small businesses.

I also would love to see more small business relief loans, grant programs and assistance relief to Landlords as well.

Sincerely,

Alexis Tansey

tansey.alexis@gmail.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is April Cheng. I live in Kakaako on Oahu.

I am a small business owner myself (Travel Chic) but I luckily work from home at this time. I can't imagine having the hardship of rent/leasing a commercial space right now along with housing rent/mortgages. I'm so concerned for all businesses who have commercial spaces which is why I strongly support SB 563.

Sincerely,

April Cheng

april@travelchicworld.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Christopher Burt; I live in District 37 – Mililani.

I am writing because small businesses are going out of business one by one and Hawaii will soon be run by big mainland corporations. This will not be sustainable within our own island. I'm also concerned that means the profits will go straight to North America and not stay here in Hawaii. That is why I support SB 563 and anything that will help small businesses make it through.

Hawaii is relying way too much on tourism; it seems they are saving relief funds to help tourist to come back to Hawaii when we should be looking for other alternatives to stimulate the economy, focus on locals and to change it up and reduce the reliance on tourism.

Please allow our local small businesses to open and operate at their discretion.

Best,

Christopher Burt

soccerman114@msn.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Cindy Wong. I live in Salt Lake on Oahu.

I work for a small business company and our pay has been reduced due to Covid-19. The State took so long to release the CARES funds to help small businesses. We want to get back on the road to normalcy! So many restaurants/ small businesses are closing each week - HELP!

I support SB 563, because small businesses need all the help they can get!

Since I am writing, I want you to know that I feel the State of Hawaii does NOT do anything to help our everyday, hardworking citizens and turns their backs to the homeless people that are overcrowding the streets and terrifying people trying to go about their day. Please control the homeless population!

Sincerely,

Cindy Wong

bluberrykiwi@gmail.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Paul D. Yee. I live in Aina Haina on Oahu.

Government control of commercial rentals will be disastrous, it will violate any and all legal documents like leases. It will deter investors from injecting capital into Hawaii, which will have a negative effect on our fragile economy. Rent control in NY has a poor record of benefits. We will have a mass exodus of investors which will leave bigger hole on tax revenues. The cons far outweigh the pros. Please reject rent control.

I strongly oppose SB 563.

Instead of penalizing the landlord, why not give the business a moratorium on the taxes (GET, payroll, UI, etc) during this emergency period.

Sincerely,

Paul D. Yee

seekyee@gamil.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Shaina. I live in Aina Haina on Oahu.

I'm writing because small business owners deserve to be safe during these trying times. They are not harming the public the way big businesses do and need the public in order to pay their bills. The business I'm most personally concerned about is Zoe Lash Pro.

I support SB 563 and I feel like this should have already been done, so please do this ASAP!

Sincerely,

Shaina

shaishai3000@gmail.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Sunshine Eckstrom. I live in Haleiwa, Oahu.

I'm concerned for the health of Hawaii's economy and the well-being of its citizens. If small business owners aren't given assistance ASAP, they may lose everything and their employees will be out of work.

I believe small businesses need financial assistance, rent/lease forgiveness, and a moratorium on evictions.

This is why I strongly support "SB 563 RELATING TO COMMERCIAL TENANT PROTECTION. 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."

Aloha,

Sunshine Eckstrom

silvercanyonequine@gmail.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,
My name is Susan Martin. I live in Ewa Beach (Oahu).

I look around and see so many doors closed, some for good. At the end of this pandemic, what will be left of the Hawaii that we know? The new normal should include all of those little shops and restaurants that have been the heart and soul of Hawaii. We need to start opening up and allow the small businesses to do business. The moratorium on evictions does not protect these small businesses that have risked EVERYTHING to start up their business, their dream. Through no fault of their own, they are now losing EVERYTHING. I'm particularly concerned about Highway Inn.

Eviction moratoriums in Hawaii currently do not address businesses, only housing. In addition to rent subsidies for housing, there should be rent subsidies for these small businesses that cannot afford their rent due to massive decrease in their bottom line.

This is why I support SB 563. As I stated previously, the same protections provided to homeowners and renters should also cover small businesses.

Aloha,

Susan Martin

kaleo0424@gmail.com

Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senator Bennette E. Misalucha
Senator Joy A. San Buenaventura
Senator Clarence K. Nishihara
Senator Kurt Fevella
Senaor Gil Riviere
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Senator Laura Acasio
Senator Chris Lee
Senator Mike Gabbard
Senator Donna Mercado Kim

Dear Senators,

My name is Wainani Arnold; I live in Pālolo, O’ahu and I am the owner of Wainani Wellness Center in Kaimuki. My small business offers Pilates, yoga, and other health abs wellness modalities. We were in the category of businesses that was required to be closed the most and we took a huge hit. Of course, we are concerned about being able to make rent with the restrictions in place and out limited capacity to see clients. We understand that it is a sacrifice for the greater good, but unfortunately it doesn’t change the reality that we are not able to make rent. Of it were not for grants abs loans we would have had to close by this point.

I SUPPORT SB 563 that prohibits commercial landlords from initiating eviction or collecting rent from commercial tenants that have been adversely affected by Covid 19 because it’s just the right thing to do!!!

Let’s not be the last state on board to protect small business and non-profit commercial tenants. In the end, it’s these businesses that will uphold local communities. It’s the micro-action to the macro-picture.

Aloha,

Wainani Arnold

info@wainaniwellness.com



**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
February 2, 2021**

Re: SB 563 RELATING TO COMMERCIAL TENANT PROTECTION

Good morning Chair Baker and members of the Senate Committee on Commerce & Consumer Protection. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii was founded in 1901, RMH is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. Our membership includes small mom & pop stores, large box stores, resellers, luxury retail, department stores, shopping malls, local, national, and international retailers, chains and everyone in between.

The Retail Merchants of Hawaii understands the need for SB 563 Relating to Commercial Tenant Protection. This measure 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.

We support the efforts to encourage commercial landlords from evicting commercial tenants who have been impacted by the economic effects of COVID-19.

The 3rd Commercial Lease Rent survey from data collected between December 1 and 31, 2020 revealed:

- One in 10 Hawaii businesses permanently closed over the course of the pandemic, and 67 percent were impacted significantly by government restrictions.
- From April through December 2020, 50 percent of businesses did not pay their rent in full.
- Three in 10 businesses expected to miss three full rent payments between October and December 2020, and more than half expected to miss at least one full rent payment between January and June 2021.
- Tourism accounts for at least one-quarter of the overall revenue of 37 percent of Hawaii businesses.
- 86 percent of businesses saw their annual revenue decrease in 2020, and 82 percent expect a decrease in 2021 as well.

We do believe that landlords and tenants need to continue to be encouraged to negotiate their commercial lease rent agreements and find an agreeable solution. We need to also recognize that many of the commercial landlords are local families who are not part of a big corporation. Landlords also have mortgages and other operational expenses who do not go away just because of a pandemic.

Mahalo again for this opportunity to testify.

 3610 Waiialae Ave • Honolulu, HI 96816  (808) 592-4200  tyamaki@rmhawaii.org

SB-563

Submitted on: 2/1/2021 3:07:16 PM

Testimony for CPN on 2/2/2021 9:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
james Kimo Falconer	Individual	Oppose	No

Comments:

Please consider the fact that many small family properties operating a ground lease to a master tenant have no say in who is being evicted by the master lease holder, this is very damaging to the property owners whose only recourse is to arbitrate under the terms of the lease. By protecting the master tenant through this bill, the property owner is helpless to remedy the situation. The rent the master lease holder pays is the livelihood of many family members. It would be terrible if the land owner had to declare bankruptcy because without any remedy. Perhaps this bill should limit who it is intended to target by creating a minimum size of a property to be affected, ie. Hotels less than 50 rooms, commercial rentals less than 10 retail stores become exempt?

Your consideration to this matter is appreciated, mahalo.

James Kimo Falconer

LATE

SB-563

Submitted on: 2/1/2021 4:59:42 PM
Testimony for CPN on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy K Shiratori (B)	Individual	Oppose	No

Comments:

To Whom it may Concern:

First of all, allow me to register my total opposition to the above bill. SB 563 appears to be a terrible reaction to the short-term problems created by the pandemic, with long term or permanent and potentially devastating economic implications to Hawaii's economy as a whole. This would include revenues to the City and State that will most definitely suffer from an extreme over-reach into a commercial Real Estate marketplace that already has in-place methods and/or vehicles to resolve the underlying issues resultant from the pandemic. At the very least it would impact needed credit vehicles for businesses to survive these difficult times.

This is in NO WAY similar to the current residential rent problems created by the pandemic by way of unemployed citizens. Unemployed citizens have only received minimal governmental assistance and these individuals have no way to get rental relief in order to keep a roof over their heads and food on their plates.

Commercial tenants suffering from the pandemic have had the opportunity to receive PPP/Forgivable or other loans in substantial amounts to cover rent and wages to their employees and keep businesses afloat. Additional PPP and SBA loans are being made available now to these very same businesses and should tide them over until the vaccines can be rolled out and the pandemic gets under control. More importantly, if an existing tenant has been permanently damaged by the pandemic, they have legal remedy through bankruptcy and the courts to resolve the lingering lease issues. Landlords have been working through these issues with their tenants and providing relief where possible along with the government subsidies being provided. What is not needed is overburdensome government legislation that will negatively impact our economy in a long term or permanent way.

Our commercial real estate market will self-adjust as it always has through mutual Landlord / Tenant negotiations or existing legal remedies available to all parties.

We understand landlord and tenant relationships need to be fair, but government intervention at this time is not needed or required.

Please do not allow this bill to become law. The pandemic issues are temporary in nature and do not require government imposed long term mitigation efforts that will permanently damage property rights and thriving businesses. It will be devastating to what is left of our economy.

Thank you for considering this testimony.

Kathy K. Shiratori (B)

Project Manager/Lease Administrator | Honolulu

Mobile +1 808 223 7633

Main +1 808 524 2666 | Fax +1 808 521 0977

kathy.shiratori@colliers.com

Colliers International

220 South King Street | Suite 1800

Honolulu, HI 96813 | United States

www.colliers.com



SB-563

Submitted on: 2/1/2021 8:44:58 PM

Testimony for CPN on 2/2/2021 9:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Alexander Peach	Individual	Oppose	No

Comments:

To Whom it may Concern:

First of all, allow me to register my total opposition to the above bill. SB 563 appears to be a knee jerk reaction to the short-term problems created by the pandemic, with long term or permanent and potentially devastating economic implications to Hawaii's economy as whole. This would include revenues to the City and State that will most definitely suffer from an extreme over-reach into a commercial Real Estate marketplace that already has in-place methods and/or vehicles to resolve the underlying issues resultant from the pandemic. The legislation could also harshly impact local lending institutions that could very easily result in a 2008 type financial collapse which serves no benefit to this community. At the very least it would impact needed credit vehicles for businesses to survive these difficult times.

This is in NO WAY similar to the current residential rent problems created by the pandemic by way of unemployed citizens. Unemployed citizens have only received minimal governmental assistance and these individuals have no way to get rental relief in order to keep a roof over their heads and food on their plates.

Commercial tenants suffering from the pandemic have had the opportunity to receive PPP/Forgivable or other loans in substantial amounts to cover rent and wages to their employees and keep businesses afloat. Additional PPP and SBA loans are being made available now to these very same businesses and should tide them over until the vaccines can be rolled out and the pandemic gets under control. More importantly, if an existing tenant has been permanently damaged by the pandemic, they have legal remedy through bankruptcy and the courts to resolve the lingering lease issues. Landlords have been working through these issues with their tenants and providing relief where possible along with the government subsidies being provided. What is not needed is overburdensome government legislation that will negatively impact our economy in a long term or permanent way.

Our commercial real estate market will self-adjust as it always has through mutual Landlord / Tenant negotiations or existing legal remedies available to all parties.

We understand landlord and tenant relationships need to be fair, but government intervention at this time is not needed or required.

Please do not allow this bill to become law. The pandemic issues are temporary in nature and do not require government imposed long term mitigation efforts that will permanently damage property rights and thriving businesses. It will be devastating to what is left of our economy.

Thank you for considering this testimony.



LATE

Testimony of

Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

Committee on Commerce & Consumer Protection
Senate Bill 563: Relating to Commercial Tenant Protection

Chair Baker, and members of the Committee, mahalo for the opportunity to offer comments on this measure on behalf of the Hawai'i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers —counts among its membership a wide swath of our local business community ranging from large resorts, to family eateries, to small businesses. Much in the way it is difficult to encapsulate the depth and breadth of our membership, it is likewise difficult to pass a relief measure such as Senate Bill 563 without inadvertently harming either commercial landlords or tenants.

While we understand and appreciate the intent of this measure to assist a wide variety of local businesses, we have significant concerns regarding several loopholes that could be taken advantage of by a commercial tenant acting in bad faith. Moreover, this measure offers no protections or means of recourse for landlords. Should this bill be amended in such a way as to provide similar protection to both parties of the landlord-tenant relationship, our organization would be more likely to support its passage.

Mahalo for the opportunity to provide these comments.

SB-563

Submitted on: 2/1/2021 10:43:13 PM

Testimony for CPN on 2/2/2021 9:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Becky Gardner	Individual	Support	No

Comments:

I strongly support this bill. The Kaimuki Neighborhood Board, to which I'm a member, unanimously passed a resolution in August 2020 on this very matter. The lionshare of input and drafting was done by the Kaimuki Business & Professional Association and Ziya Law Firm. Please see the final page for an enumeration of approaches government can take as alternatives to what is proposed in SB563 for your consideration. It's my understanding that 3-4 other Neighborhood Boards have since passed substantially similar resolutions - demonstrating significant community support.

Commerical lease relief is desperately needed by our local struggling businesses and the families they support. There are many creative ways we can provide this relief. Thank you for the oppotunity to provide testimony on this very important measure.

Text of Kaimuki NB reso:

"URGING ALL BRANCHES OF GOVERNMENT OF THE STATE OF HAWAII AND THE CITY & COUNTY OF HONOLULU TO ENGAGE IN EMERGENCY MEASURES TO PROTECT COMMERCIAL TENANTS

WHEREAS, small businesses comprise 44% of all national economic activity; and

WHEREAS, according to an April 2020 study conducted by National Bureau of Economic Research, researchers found that "many small businesses are financially fragile . . . the median business has more than \$10,000 in monthly expenses and less than one month of cash on hand."

WHEREAS, small businesses of 50 employees or less comprise 90% of all businesses in Hawaii, indicating that Hawaii's economic activity is predominantly dependent on the success of its small, local businesses; and

WHEREAS, the pandemic has had a severe and unprecedented impact on Hawaii's economy, causing numerous small businesses to significantly reduce or shut down operations; and

WHEREAS, the prevalence and spread of COVID-19 cases is growing exponentially in Hawaii, and the uncertain nature of its effects on public health and business activity threaten prolonged economic disruption due to further pending lockdowns and shutdowns of businesses; and

WHEREAS, according to a July 2020 survey on Commercial Rent conducted by the Department of Business and Economic Development and Tourism (DBEDT Study) and other organizations, the businesses most heavily affected by the pandemic from April – June were food services & drinking places, retail, accommodations, arts, entertainment, and recreation; and

WHEREAS, according the DBEDT Study, 44% of respondents indicated they have not paid any rent at all from April – June 2020, and are currently closed; and

*WHEREAS, the DBEDT Study also reported that smaller landlords have granted rent reductions, forgiveness and/or opportunities for rent restructuring and negotiations; however, a study conducted by Cushman & Wakefield ChaneyBrooks, a commercial real estate organization, found that of the seven largest landlords in Hawaii - representing 70% of the Hawaii State-wide commercial spaces - **none have given rent forgiveness or rent reductions** for the month of April; and*

WHEREAS, according to a survey of local businesses conducted by the Kaimuki Business and Professional Association, several businesses were able to renegotiate their rent obligations; and of all respondents receiving rent reductions, their rent was reduced to 15% or less of their gross income; and

WHEREAS, the pandemic and its economic aftermath has sparked a national dialogue on ways to protect commercial tenants, with a large focus on enacting a temporary national moratorium on small business debt collections; and

WHEREAS, several jurisdictions across the country have taken measures to protect commercial tenants, which include, but are not limited to enacting and ordering moratoriums and freezes on foreclosures, evictions, repossessions, utility disconnects, garnishments, default judgments, concessions of judgments, administrative offsets, negative credit reporting; and

WHEREAS, California, Oregon, and Washington created a “Western States Pact” to coordinate their approach to reopening their states’ economies while mitigating the effects of COVID-19 on public health, where efforts include a range of measures from all three branches of their governments at many levels to assist small businesses with their commercial lease obligations, which include executive orders and proclamations by governors and mayors, ordinances by legislative bodies, and policies and rules by Judiciary administrators; now therefore, and

BE IT RESOLVED, by the Kaimuki Neighborhood Board, that the uncertain nature of the COVID-19 pandemic, and the swift, devastating economic disruption and prolonged

effect it has had on Hawaii's small businesses must be met with not only aid but by other emergency measures to enable these businesses to stop the bleeding, remain financially solvent, and ultimately have a chance to survive, with the recovery and survival of the entire Hawaii economy tied with it; and

BE IT FURTHER RESOLVED, among the emergency measures that need to be taken and/or considered include the following:

- 1. A temporary moratorium on commercial evictions and/or foreclosures if non-payment is due to COVID-19;*
- 2. Discouraging the use of security deposits to pay for unpaid rent and requiring tenants to replenish that security deposit if applied towards rent;*
- 3. Prohibiting late fees and interest for non-payment due to COVID-19 hardships;*
- 4. Allowing commercial tenants affected by COVID-19 the right to renegotiate their leases, or terminate them if after 30 days of good faith negotiation, no agreement can be reached;*
- 5. Mandating Rent Caps for COVID-distressed businesses to at no more than 15% of the tenant's gross income unless pre-pandemic rent is lower; and limiting the final maximum rent due so it is based on the public occupancy mandated by government orders (e.g. – if the business space occupancy is reduced to 50% of normal capacity, rent should not be more than 50% the pre-pandemic lease rate; and total rent forgiveness in the event of a total lock-down unless the tenant is liable for paying the operating expenses and property taxes of the landlord);*
- 6. Prohibiting repossessions, garnishments, default judgments, concessions of judgments, administrative offsets, and negative credit reporting if non-payment is due to COVID;*
- 7. Prohibiting landlords from exercising the "Personal Guarantee" provisions of leases to hold non-tenants liable;*
- 8. Relieving landlords of certain property tax obligations that drive their demand for tenant rents;*
- 9. Allowing appropriate emergency measures to be applied retroactively; and*

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Governor, Members of the Legislature, and the Chief Justice of the Judiciary of the State of Hawaii; as well as the Mayor and Council Members of the City and County of Honolulu.

SB-563

Submitted on: 2/1/2021 9:40:43 PM

Testimony for CPN on 2/2/2021 9:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Erin Mitsuyoshi	Individual	Oppose	No

Comments:

To Whom it may Concern:

First of all, allow me to register my total opposition to the above bill. SB 563 appears to be a knee jerk reaction to the short-term problems created by the pandemic, with long term or permanent and potentially devastating economic implications to Hawaii's economy as whole. This would include revenues to the City and State that will most definitely suffer from an extreme over-reach into a commercial Real Estate marketplace that already has in-place methods and/or vehicles to resolve the underlying issues resultant from the pandemic. The legislation could also harshly impact local lending institutions that could very easily result in a 2008 type financial collapse which serves no benefit to this community. At the very least it would impact needed credit vehicles for businesses to survive these difficult times.

This is in NO WAY similar to the current residential rent problems created by the pandemic by way of unemployed citizens. Unemployed citizens have only received minimal governmental assistance and these individuals have no way to get rental relief in order to keep a roof over their heads and food on their plates.

Commercial tenants suffering from the pandemic have had the opportunity to receive PPP/Forgivable or other loans in substantial amounts to cover rent and wages to their employees and keep businesses afloat. Additional PPP and SBA loans are being made available now to these very same businesses and should tide them over until the vaccines can be rolled out and the pandemic gets under control. More importantly, if an existing tenant has been permanently damaged by the pandemic, they have legal remedy through bankruptcy and the courts to resolve the lingering lease issues. Landlords have been working through these issues with their tenants and providing relief where possible along with the government subsidies being provided. What is not needed is overburdensome government legislation that will negatively impact our economy in a long term or permanent way.

Our commercial real estate market will self-adjust as it always has through mutual Landlord / Tenant negotiations or existing legal remedies available to all parties.

We understand landlord and tenant relationships need to be fair, but government intervention at this time is not needed or required.

Please do not allow this bill to become law. The pandemic issues are temporary in nature and do not require government imposed long term mitigation efforts that will permanently damage property rights and thriving businesses. It will be devastating to what is left of our economy.

Thank you for considering this testimony.

SB-563

Submitted on: 2/2/2021 2:32:45 AM

Testimony for CPN on 2/2/2021 9:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Erica Dias	Individual	Support	No

Comments:

TO: Senator, Rosalyn H. Baker, Chair,

Senator, Stanley Chang, Vice Chair, and

Members of the Committee on Commerce and Consumer Protection

RE: Testimony in Strong Support of SB563 Relating to Commercial Tenant Protection

Mahalo for your time in reviewing my testimony.

I SUPPORT SB 563 that prohibits commercial landlords from initiating eviction or collecting rent from commercial tenants that have been adversely affected by Covid 19.

Legislation is needed to protect small businesses in Hawai'i. Because of the adverse economic effects of COVID-19 and the State's economic downturn this last year, small businesses will continue to be negatively affected, and many will be forced to permanently close unless we enact legislation to protect them. Hawai'i has one of the highest rates of small businesses closing (<https://www.hawaiinewsnow.com/2020/09/21/hawaii-has-among-nations-highest-rates-businesses-closed-now-or-good/>). In fact, HPR reports a whopping 25% of Hawai'i's small businesses have closed during the pandemic (<https://www.hawaiipublicradio.org/post/one-quarter-local-businesses-closed-pandemic#stream/0>). Like Like Drive Inn, for example, has been a landmark on Ke'eumoku Street for decades, and it closed during the pandemic.

I am concerned for the survival of small businesses in general and I support local, small businesses where I can versus large corporations. Without legislation, small businesses will continue to suffer while large corporations and landlords continue to do well, or even better than before COVID. For instance, see Washington Post article: <https://www.washingtonpost.com/graphics/2020/business/50-biggest-companies-coronavirus-layoffs/>.

One way that small businesses are at a disadvantage is that landlords can evict small businesses for failure to pay, but yet still force the business owner to pay on lease agreements, therefore going into greater debt. Additionally, I am also concerned that female & LGBTQ business owners in particular will be targeted by shady landlords who try to exchange sexual favors for rent (<https://www.kitv.com/story/41988398/hawaii-landlords-reportedly-exchanging-sexual-favors-for-rent-amid-pandemic>).

In April 2020, near the beginning of Covid-19, California, Washington and Oregon all signed a Western States pact and created emergency laws to protect small business and non-profit commercial tenants. However, Hawai'i has not yet enacted any such laws that cover small businesses and non-profit commercial tenants -- until now where the discussion has been formally started in the State Senate. Please join California, Washington, and Oregon in their commitment to protecting small businesses. Hawai'i's economy is made up of so many small businesses and with each small business that closes its doors or lays off employees, the more unemployment we'll have, more burden on the State's budget, and this can and will add to ongoing issues in Hawai'i, such as homelessness, mental illness, and incarceration.

Please also consider additional measures/bills to protect Hawai'i's small businesses, including use of nontraditional or out-of-the-box ideas that will lay the foundation for future success (not just for temporary, immediate gains). One such example would be introducing and passing bills that will support and sustain the creation of small business hubs, or food hubs, like how some local farmers are part of a farm hub, or CSA program. These proposed small business hubs for the different small business sectors must also be affordable and beneficial for all parties. With small restaurants, for example, there are food delivery services available, but the customer tends to pay more and the food delivery service profits from that, not the small business.

I humbly ask that you vote in support of SB563 to protect small businesses and prohibit commercial landlords from initiating eviction or collecting rent from commercial tenants that have been adversely affected by COVID-19.

LATE

SB-563

Submitted on: 2/2/2021 8:14:34 AM

Testimony for CPN on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dustin Hagadone	Individual	Oppose	No

Comments:

I'm uncertain how targeting one half of our business community could benefit the industry, or State, as a whole. How does one group's hardship (the lessors) translate to a successful relief measure for all? I understand the appeal to romantics, and although on the surface SB563 sounds equitable, it takes little insight to see this ex parte bill doing more harm than good for Hawaii. Is there a senate bill in the pipeline that would provide relief, of similar strength, to our lessors as well? I worry SB563 may be too myopic to achieve what I'm sure was intended to be a helping hand in a difficult time for our commiunity, because of the that I oppose SB563. Thank you kindly.

Respectfully,

Dustin Hagadone

LATE

SB-563

Submitted on: 2/2/2021 9:32:31 AM

Testimony for CPN on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Derek	Individual	Support	No

Comments:

I support SB563. Our local small businesses have been hit especially hard by the pandemic. SB563 is a great way to support our small businesses and ensure that they survive the pandemic. There is support across the board for this measure, as the Kaimuki, Kahala, and Manoa neighborhood boards have adopted a similar resolution.

Thank you!

Derek