

SENATE, No. 2493

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 28, 2020

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Allows commercial property owner to claim tax credit against CBT or GIT for providing commercial tenant rent forgiveness during COVID-19 emergency.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT allowing commercial property owners to claim a tax credit
2 against income for providing commercial tenant rent forgiveness
3 during the COVID-19 emergency.
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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. a. For the purposes of the "Corporation Business Tax Act,"
9 P.L.1945, c.162 (C.54:10A-1 et seq.), and the "New Jersey Gross
10 Income Tax Act," N.J.S.54A:1-1 et seq., a taxpayer shall be allowed
11 a credit against the tax otherwise due equal to the amount of any
12 qualifying rent forgiveness that the taxpayer provides to an eligible
13 business. A taxpayer shall be allowed a credit against the tax
14 otherwise due up to a total of \$15,000 of cumulative qualifying rent
15 forgiveness provided by the taxpayer to each eligible business that
16 is a commercial property tenant of the taxpayer, and shall not be
17 allowed a credit that exceeds \$15,000 for rent forgiveness related to
18 any individual commercial property unit.

19 b. The credit allowed pursuant to this section shall apply only
20 to rent forgiven for months that occur during the emergency
21 declared by the Governor pursuant to Executive Order No. 103 of
22 2020 or any extension thereof. The credit shall not be allowed for
23 rent forgiveness for any month after the month of September 2020.

24 c. For the purposes of this act:

25 "Affiliated group" means an affiliated group as defined in section
26 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504.

27 "Controlled group" means a controlled group of corporations as
28 defined in section 1563 of the federal Internal Revenue Code, 26
29 U.S.C. s.1563.

30 "Commercial property" means property that is classified pursuant
31 to the requirements of N.J.A.C.18:12-2.2 as Class 4A "commercial
32 properties".

33 "Eligible business" means a commercial, business, trade,
34 wholesaling, retailing, or other profit-making enterprise, or a
35 nonprofit organization, that leases all or a part of a commercial
36 property in this State. "Eligible business" shall not include any
37 commercial, business, trade, wholesaling, retailing, or other profit-
38 making enterprise that is considered to be a part of a controlled
39 group or an affiliated group with the taxpayer.

40 "Qualifying rent forgiveness" means 33.3 percent or \$5,000,
41 whichever is less, of the total amount of rent forgiveness provided
42 by a taxpayer to an eligible business for each month up to three
43 months, or an equivalent amount for a commercial lease that is not
44 payable to the taxpayer on a monthly basis.

45 "Taxpayer" means a person or entity required to pay tax to the
46 State pursuant to the "Corporation Business Tax Act," P.L.1945,
47 c.162 (C.54:10A-1 et seq.) or the "New Jersey Gross Income Tax
48 Act," N.J.S.54A:1-1 et seq., who is a commercial property owner

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1 and who leases all or part of the taxpayer's commercial property to
2 an eligible business.

3
4 2. The Director of the Division of Taxation in the Department
5 of the Treasury shall adopt rules and regulations necessary to
6 implement this act, including, but not limited to, rules and
7 regulations to secure and verify lease and rent forgiveness
8 documentation from taxpayers, and to calculate the allowable
9 credits for commercial property units that are subject to leases that
10 are payable on any regular basis that is not monthly. The Director
11 shall impose a penalty, in the amount of three times the amount of
12 the credit claimed, on any taxpayer that intentionally,
13 inappropriately claims a credit allowed pursuant to this act.

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15 3. This act shall take effect immediately.

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STATEMENT

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20 This bill allows taxpayers that are commercial property owners
21 who grant their tenants rent forgiveness, because of the COVID-19
22 pandemic, to claim a tax credit against the taxpayer's Corporation
23 Business Tax or Gross Income Tax liability, whichever is
24 applicable. The tax credit allowed under the bill is to be equal to up
25 to 33.3 percent or \$15,000, whichever is less, of the amount of rent
26 forgiveness provided by the taxpayer to each commercial tenant,
27 over not more than three months.

28 The bill stipulates that a taxpayer is not allowed to claim a tax
29 credit for any rent forgiveness provided by the taxpayer to a
30 business that is a part of the same controlled group or the same
31 affiliated group as the taxpayer.

32 The tax credit is only to be available for forgiven rent on months
33 occurring during the public health emergency declared by the
34 Governor, but the tax credit will not be allowed for forgiven rent on
35 any month after September 2020. The bill also requires the
36 Director of the Division of Taxation in the Department of the
37 Treasury to adopt rules related to documentation requirements and
38 the imposition of penalties for intentionally and inappropriately
39 claiming a credit under the bill.