ASSEMBLY, No. 350

STATE OF NEW JERSEY
220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:
Assemblywoman AURA K. DUNN
District 25 (Morris and Somerset)

Co-Sponsored by:
Assemblymen Wirths, Dancer, Catalano, McGuckin, Thomson and
Assemblywoman N.Munoz

SYNOPSIS
Allows commercial property owners to claim certain amounts of commercial
tenant rent forgiveness during COVID-19 emergency as deduction against
property owner’s income under CBT or GIT.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT allowing commercial property owners to claim certain amounts of commercial tenant rent forgiveness during COVID-19 emergency as a deduction against the property owner’s income.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. For the purposes of the "Corporation Business Tax Act," P.L.1945, c.162 (C.54:10A-1 et seq.), and the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., a taxpayer shall be allowed to deduct from the taxpayer’s income the value of any qualifying rent forgiveness that the taxpayer provides to an eligible business. A taxpayer shall be allowed to deduct from the taxpayer’s income up to a total of $15,000 of cumulative rent forgiveness provided by the taxpayer to each eligible business that is a commercial property tenant of the taxpayer, and shall not be allowed to deduct more than $15,000 for rent forgiveness related to any individual commercial property unit.

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

c. For the purposes of this act:

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

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

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

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

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

"Taxpayer" means a person or entity required to pay tax to the State pursuant to the "Corporation Business Tax Act," P.L.1945, c.162 (C.54:10A-1 et seq.) or the "New Jersey Gross Income Tax
Act,” N.J.S.54A:1-1 et seq., who is a commercial property owner and who leases all or part of the taxpayer’s commercial property to an eligible business.

2. The Director of the Division of Taxation in the Department of the Treasury may adopt rules and regulations necessary to implement this act, including, but not limited to, rules and regulations to secure and verify documentation from taxpayers and to calculate the allowable deductions for commercial property units that are subject to leases that are payable on any regular basis that is not monthly. The Director shall impose a penalty, in the amount of three times the amount of the deduction claimed, on any taxpayer that intentionally, inappropriately claims the deduction allowed pursuant to this act.

3. This act shall take effect immediately.

STATEMENT

This bill allows taxpayers that are commercial property owners who grant their tenants rent forgiveness because of the COVID-19 pandemic to deduct from the taxpayers Corporation Business Tax or Gross Income Tax liability, whichever is applicable, a portion up to 33.3 percent or $15,000, whichever is less, of the amount of rent forgiveness provided by the taxpayer to each commercial tenant, over not more than three months.

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

The deduction is only to be available for forgiven rent on months occurring during the public health emergency declared by the Governor, but the deduction will not be allowed for forgiven rent on any month after September 2020.