

### **Item 3. AB 1146 (Cervantes) PA**

**Summary:** Authorizes the establishment of the California Rent Forgiveness and Tax Relief Program for the purpose of providing grants to qualified counties to implement local rent forgiveness and tax relief program.

#### **Proposed Amendments:**

1. Increase the number of employees a qualified tenant may have from 20 to 50.
2. Clarify that a qualified tenant may be legally organized as a sole proprietor, independent contractor, 1099 employee, C-corporation, S-corporation, limited liability company, partnership, cooperative or limited partnership, or a registered 501(c)(3), 501(c)(6), or 501(c)(19).
3. Specify that the maximum grant amount to a qualified county is the value of 25% of the county's share of property tax assessed on commercial property in the 2020 tax year. A qualified county may also request an additional allocation equal to 50% of estimated and reasonable administration costs.
4. Clarify that in exchange for the credit, the landlord has an agreement to release any and all claims for nonpayment or rental debt owed for the specified time period.

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# JEDE AMENDMENTS

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**AB 1146 (Cervantes): Amended Assembly 4/6/21  
Submitted by: Toni Symonds, JEDE Committee Staff**

**SECTION 1.** Article 11 (commencing with Section 63049.80) is added to Chapter 2 of Division 1 of Title 6.7 of the Government Code, to read:

## **Article 11. California Small Business Rent Relief Act**

**63049.80.** This article shall be known, and may be cited, as the California Small Business Rent Relief Act.

**63049.81.** For purposes of this article, all of the following definitions shall apply:

(a) “Account” means the Small Business Rent Forgiveness and Tax Relief Account established pursuant to Section 63049.84.

(b) “Bank” means the California Infrastructure and Economic Development Bank.

(c) “Full-time equivalent” means either of the following:

(1) In the case of an employee paid hourly, “full-time equivalent” means the total number of hours worked per month for the qualified tenant by the employee, not to exceed 140 hours per month per employee, divided by 140.

(2) In the case of a salaried employee, “full-time equivalent” means the total number of weeks worked per month for the qualified tenant by the employee divided by 4 multiplied by the fraction of full-time employment that the employee worked.

(d) “Program” means the California Small Business Rent Forgiveness and Tax Relief Program authorized to be established pursuant to Section 63049.82.

(e) “Qualified county” means a county that establishes a local small business rent forgiveness and tax relief program pursuant to the authority in Section 63049.86.

(f) “Qualified property” means commercial real property that is rented or leased to a qualified tenant.

(g) “Qualified taxpayer” means a taxpayer that satisfies both of the following:

(1) Owns qualified property.

(2) **Commits to and then enters** ~~Has entered~~ into an enforceable agreement with a qualified tenant to forgive all past due rental or lease payments owed on the qualified property between April 1, 2020, and ~~June 31~~ **May 31, 2021, in exchange for receiving a credit pursuant to 63049.86 . This agreement shall release the qualified tenant for any and all claims for nonpayment or rental debt owed for the specified time period.**

(h) “Qualified tenant” means a tenant that satisfies all of the following:

(1) Rents or leases qualified property from a qualified taxpayer for an uninterrupted period from February 1, 2020, through May 31, 2021.

(2) Employed ~~20~~ **50** or fewer full-time equivalent employees during the month of February 2020.

(3) The business on the qualified property has been significantly impacted by COVID-19 emergency orders.

(4) Is currently active and operating, or has a clear plan to reopen when the state permits reopening of the business.

**(5) Is legally organized as a sole proprietor, independent contractor, 1099 employee, C-corporation, S-corporation, limited liability company, partnership, cooperative, limited partnership, or a registered 501(c)(3), 501(c)(6), or 501(c)(19).**

**63049.82.** (a) The California Infrastructure and Economic Development Bank may establish the California Rent Forgiveness and Tax Relief Program. The program shall not be implemented until the Governor transfers sufficient moneys into the account to implement the program.

(b) The purpose of the program is to provide grants to qualified counties to implement a local small business rent forgiveness and tax relief program authorized pursuant to Section 63049.86.

**63049.83.** The Governor may, pursuant to the authority in Section 8645, transfer moneys to the account from any fund legally available.

**63049.84.** (a) The Small Business Rent Forgiveness and Tax Relief Account is hereby established within the California Infrastructure and Economic Development Bank Fund for the purpose of receiving moneys transferred pursuant to Section 63049.83.

(b) All moneys in the account are available for expenditure, upon appropriation by the Legislature, for the purpose of implementing the program.

**63049.85.** (a) Upon the transfer of moneys to the account pursuant to Section 63049.83, the bank shall adopt a resolution making a finding that there are sufficient moneys in the account to cover the costs of implementing the program, including, but not limited to, appropriate oversight costs.

(b) Upon the adoption of a resolution pursuant to subdivision (a), the bank shall adopt guidelines and requirements for implementing the program, including, but not limited to, both of the following:

(1) (A) A process for awarding grants to qualified counties.

(B) A process that, to the extent that the total amount of grants applied for by qualified counties exceeds the funds available for implementation of the program, reduces each applicant's grant amount by an equal percentage.

(2) Deadlines and written procedures for qualified counties to apply for grants.

**(c) (1) The maximum allocation to a qualified county shall be the value of 25% of the county's share of property tax assessed on commercial property in the 2020 tax year.**

**(2) Notwithstanding subparagraph (1), an additional allocation for equal to 50% of estimated and reasonable administration costs, subject to any limitations set in the guidelines and requirements adopted by the bank.**

**63049.86.** (a) A county may adopt a resolution or ordinance establishing a local small business rent forgiveness and tax relief program for the purpose of providing credits to qualified taxpayers.

(b) (1) The county may provide a credit, to be used against any tax or fee owed to the county by a qualified taxpayer, and for which the county has authority to collect a credit in lieu of cash.

(2) This article does not confer any new authority relative to the operation of a tax and fee credit by a county.

(3) (A) The value of the credit shall be calculated as 30 percent of the estimated amount of 14 months of rental or lease payments, using the rental or lease rate for the month of February 2020, to determine this value.

(B) Notwithstanding subparagraph (A), if the qualified taxpayer collected rental or lease payments related to the qualified property between April 1, 2020, and June 31, 2021, the value of the credit shall be reduced as necessary to ensure the sum of the credit and those rental or lease payments collected between April 1, 2020, and June 31,

2021, shall not exceed 100 percent of the estimated amount of 14 months of rental or lease payments, using the rental or lease rate for the month of February 2020 to determine this value.

(c) The program authorized by this section may apply to taxes and fees owed to the county for the 2020–21, 2021–22, and 2022–23 fiscal years, including any amounts owed in arrears or delinquent during those years.

(d) A county may apply for a grant, in the form and manner as prescribed by the bank, to cover the costs of the program established pursuant to subdivision (a).

(e) Participation in a local small business rent forgiveness and tax relief program by a qualified taxpayer shall be optional.

**63049.87.** (a) (1) On or before one year after implementation of the program, and annually thereafter, the bank shall submit a report to the Governor and the Legislature on program activity. The report shall include, but is not limited to, all of the following:

(A) The total amount of moneys in the account, at the beginning of the fiscal year and at the end of the fiscal year.

(B) The number of qualified counties that applied for grants.

(C) The number of qualified counties that received grants.

(D) The number of qualified taxpayers that received a credit.

(E) The number of qualified tenants assisted in each of the fiscal years that credits were provided.

(F) The total dollar amount of rents forgiven.

(G) Information on the size of each qualified tenant that entered into an agreement with a qualified taxpayer for the forgiveness of rent or lease payments. The information required by this paragraph shall be categorized based on the number of employees as follows:

(i) Fewer than five employees.

(ii) Five to 20 employees.

**(iii) 21 to 50 employees.**

(2) A report required to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795.

(b) The bank may include the information required by this section in any annual report of the bank, in lieu of submitting a separate report for purposes of complying with this section.

**63049.88.** This article shall remain in effect until January 1, 2024, and as of that date is repealed.

**SEC. 2.** For the purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to Article 11 (commencing with Section 63049.80) of Chapter 2 of Division 1 of Title 6.7 of the Government Code, as proposed to be added by Section 1 of this act, the Legislature finds and declares as follows:

(a) The specific goals, purposes, and objectives of the tax expenditures authorized by this act are to reduce past due rental burden on small business and small nonprofit tenants.

(b) The performance indicators used to determine if the act is achieving its goals, purposes, and objectives are as follows:

(1) The number of qualified counties that applied for grants.

(2) The number of qualified counties that received grants.

(3) The number of qualified taxpayers that received a credit.

(4) The number of qualified tenants assisted in each of the fiscal years that credits were provided.

(5) The total dollar amount of rents forgiven.

(c) The information required by subdivision (b) shall be collected and reported to the Governor and the Legislature in accordance with Section 63049.87 of the Government Code.