

AMENDED IN ASSEMBLY APRIL 6, 2021
AMENDED IN ASSEMBLY MARCH 25, 2021
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 1146

Introduced by Assembly Member Cervantes

February 18, 2021

An act to add *and repeal* Article 11 (commencing with Section 63049.80) ~~to~~ of Chapter 2 of Division 1 of Title 6.7 of the Government Code, relating to ~~property tax relief~~: *rent forgiveness*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1146, as amended, Cervantes. California ~~Property Tax~~ *Small Business Rent Relief Act*.

Existing law, the Bergeson-Peace Infrastructure and Economic Development Bank Act, establishes the California Infrastructure and Economic Development Bank (bank). The act authorizes the bank, among other things, to make loans, issue bonds, and provide financial assistance for various types of projects that qualify as economic development or public development facilities.

~~The California Constitution generally provides that all property is taxable and is required to be assessed at the same percentage of fair market value. The California Constitution limits the rate of a general ad valorem property tax to 1% of the value of the property, and requires this tax to be collected by the counties and apportioned to the districts within the counties, as provided.~~

Existing law authorizes counties, cities, and other local agencies to impose various taxes and fees in connection with activity or property within those jurisdictions.

This bill would enact the California ~~Property Tax~~ *Small Business Rent Relief Act*, which would authorize a county to establish a local ~~property small business rent forgiveness and tax relief program~~, as provided, for the purpose of providing ~~property tax credits to qualified taxpayers, as defined, to be used against a part of the ad valorem property tax owed on a qualified taxpayer's property.~~ *any tax or fee owed to the county by the qualified taxpayer, and for which the county has authority to collect a credit in lieu of cash.* The bill would authorize the bank to establish the California ~~Property~~ *Small Business Rent Forgiveness and Tax Relief Program*, as provided, for the purpose of providing grants to qualified counties, as defined, to ~~reimburse those counties for the loss of property tax revenue attributed to the implementation of a local property~~ *implement a small business rent forgiveness and tax relief program.* The bill would create the ~~Property~~ *Small Business Rent Forgiveness and Tax Relief Account* within the California Infrastructure and Economic Development Bank Fund, for the purpose of receiving moneys transferred to the account, and would require all moneys in the account to be available for expenditure, upon appropriation by the Legislature, for the purpose of implementing the California ~~Property~~ *Small Business Rent Forgiveness and Tax Relief Program*. The bill would require the bank to submit a report to the Governor and the Legislature on program activities, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 11 (commencing with Section 63049.80)
- 2 is added to Chapter 2 of Division 1 of Title 6.7 of the Government
- 3 Code, to read:
- 4
- 5 Article 11. California ~~Property Tax~~ *Small Business Rent Relief*
- 6 Act
- 7
- 8 63049.80. This article shall be known, and *may* be cited, as the
- 9 California ~~Property Tax~~ *Small Business Rent Relief Act*.
- 10 63049.81. For purposes of this article, all of the following
- 11 definitions shall apply:

1 (a) “Account” means the ~~Property~~ *Small Business Rent*
2 *Forgiveness and Tax Relief Account* established pursuant to
3 Section 63049.84.

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

6 (e) ~~“Local government” means a city or special district.~~

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

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

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

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

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

22 (f) “Qualified property” means commercial real property that
23 is rented or leased to a qualified ~~tenant that employs 20 or fewer~~
24 ~~employees.~~ *tenant.*

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

27 (1) Owns qualified property.

28 (2) Has entered into an enforceable agreement with a qualified
29 tenant to forgive all ~~or a part of a past due rental or lease payment~~
30 ~~payments owed on the qualified property.~~ *property between April*
31 *1, 2020, and June 31, 2021.*

32 (h) “Qualified tenant” means a tenant that satisfies ~~both~~ *all* of
33 the following:

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

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

39 (2)

1 (3) ~~Is unable to operate a business on the qualified property, or~~
2 ~~the~~ *The* business on the qualified property has been significantly
3 ~~impacted, due to~~ *impacted by* COVID-19 emergency orders.

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

6 63049.82. (a) The California Infrastructure and Economic
7 Development Bank may establish the California ~~Property Rent~~
8 *Forgiveness and Tax Relief* Program. The program shall not be
9 implemented until the Governor transfers sufficient moneys into
10 the account to implement the program.

11 (b) The purpose of the program is to provide grants to qualified
12 counties to ~~reimburse those counties for the loss of property tax~~
13 ~~revenue attributed to the implementation of a local property~~
14 *implement a local small business rent forgiveness and tax relief*
15 program authorized pursuant to Section 63049.86.

16 63049.83. The Governor may, pursuant to the authority in
17 Section 8645, transfer moneys to the account from any fund legally
18 available.

19 63049.84. (a) The ~~Property Small Business Rent Forgiveness~~
20 *and Tax Relief* Account is hereby established within the California
21 Infrastructure and Economic Development Bank Fund for the
22 purpose of receiving moneys transferred pursuant to Section
23 63049.83.

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

27 63049.85. (a) Upon the transfer of moneys to the account
28 pursuant to Section 63049.83, the bank shall adopt a resolution
29 making a finding that there are sufficient moneys in the account
30 to cover the costs of implementing the program, including, but not
31 limited to, appropriate oversight costs.

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

- 36 (1) (A) A process for awarding grants to qualified counties.
- 37 (B) A process that, to the extent that the total amount of grants
38 applied for by qualified counties exceeds the funds available for
39 implementation of the program, reduces each applicant’s grant
40 amount by an equal percentage.

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

3 63049.86. (a) A county may adopt a resolution or ordinance
4 establishing a local-property *small business rent forgiveness and*
5 tax relief program for the purpose of providing property tax credits
6 to qualified taxpayers.

7 (b) (1) The county may provide a property tax credit, to be used
8 against a part of the ad valorem property tax owed on a qualified
9 taxpayers property, not to exceed the amount of the local
10 government's share of the property tax subject to paragraph (2).
11 any tax or fee owed to the county by a qualified taxpayer, and for
12 which the county has authority to collect a credit in lieu of cash.

13 (2) A county shall seek approval from a local government before
14 providing a credit for that local government's share of the property
15 tax.

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

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

22 (B) *Notwithstanding subparagraph (A), if the qualified taxpayer*
23 *collected rental or lease payments related to the qualified property*
24 *between April 1, 2020, and June 31, 2021, the value of the credit*
25 *shall be reduced as necessary to ensure the sum of the credit and*
26 *those rental or lease payments collected between April 1, 2020,*
27 *and June 31, 2021, shall not exceed 100 percent of the estimated*
28 *amount of 14 months of rental or lease payments, using the rental*
29 *or lease rate for the month of February 2020 to determine this*
30 *value.*

31 (c) The program authorized by this section shall may apply to
32 ad valorem property taxes and fees owed to the county for the
33 2020-21 and 2021-22 2020-21, 2021-22, and 2022-23 fiscal
34 years. years, including any amounts owed in arrears or delinquent
35 during those years.

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

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

1 63049.87. (a) (1) On or before one year after implementation
2 of the program, and annually thereafter, the bank shall submit a
3 report to the Governor and the Legislature on program activity.

4 The report shall include, but is not limited to, all of the following:
5 (A) The total amount of moneys in the account, at the beginning
6 of the fiscal year and at the end of the fiscal year.

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

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

9 (D) The number of qualified taxpayers that received a ~~property~~
10 ~~tax~~ credit.

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

13 (F) *The total dollar amount of rents forgiven.*

14 ~~(F)~~

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

19 (i) Fewer than five employees.

20 (ii) Five to 20 employees.

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

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

26 63049.88. *This article shall remain in effect until January 1,*
27 *2024, and as of that date is repealed.*

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

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

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

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

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

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

- 1 (4) *The number of qualified tenants assisted in each of the fiscal*
2 *years that credits were provided.*
- 3 (5) *The total dollar amount of rents forgiven.*
- 4 (c) *The information required by subdivision (b) shall be*
5 *collected and reported to the Governor and the Legislature in*
6 *accordance with Section 63049.87 of the Government Code.*

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