

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL 1950

By: Cruz

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7 COMMITTEE SUBSTITUTE

8 [revenue and taxation - credit - landlords -

9 Oklahoma Tax Commission - effective date]

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2357.500 of Title 68, unless
15 there is created a duplication in numbering, reads as follows:

16 A. As used in this section:

17 1. "COVID-19" means the novel coronavirus identified as SARS-
18 CoV-2, the disease caused by SARS-CoV-2, and conditions associated
19 with the disease;

20 2. "COVID-19 financial hardship" means the financial difficulty
21 of paying rent caused by the COVID-19 pandemic such as loss of
22 employment, loss of financial support, increase in medical expenses,
23 increase of child care expenses, or other COVID-19-related
24 circumstances that have an effect on a tenant's ability to pay rent

1 which must be proven through documentation provided by the tenant in
2 the written agreement between the qualified entity and the tenant or
3 tenants to defer rent;

4 3. "Landlord" means the owner, lessor or sublessor of the
5 dwelling unit or the building of which it is a part, manufactured or
6 mobile home site, space or lot;

7 4. "Qualified entity" means:

- 8 a. an individual,
- 9 b. a general partnership,
- 10 c. a limited partnership,
- 11 d. a limited liability partnership,
- 12 e. a limited liability company,
- 13 f. a corporation, or
- 14 g. any other lawfully recognized entity;

15 5. "Qualified rental income loss" means an amount equal to the
16 gross amount of unpaid rent deferred by the qualified entity due
17 under a rental agreement which was deferred by written agreement
18 between the qualified entity and tenant or tenants due to COVID-19
19 financial hardship. Qualified rental income loss does not include
20 any amount in excess of one hundred percent (100%) of the sum of the
21 amounts of rent charged per month stated in the rental agreement
22 that would have been paid but for the written agreement;

23 6. "Qualified residential real property" means:

- 24 a. a single-family residential dwelling,

1 b. an apartment,

2 c. a duplex or townhome, or

3 d. any other structure or dwelling suitable for permanent
4 occupancy by one or more individuals;

5 7. "Rental agreement" means all agreements and valid rules and
6 regulations adopted under Section 126 of Title 41 of the Oklahoma
7 Statutes, which establish, embody or modify the terms and conditions
8 concerning the use and occupancy of a qualified residential real
9 property and premises;

10 8. "Tenant" means any person entitled under a rental agreement
11 to occupy a qualified residential real property; and

12 9. "Rent" means all payments, except deposits and damages, to be
13 made to the landlord under the rental agreement.

14 B. For taxable years beginning after December 31, 2019, and
15 ending not later than December 31, 2022, there shall be allowed a
16 credit against the tax imposed pursuant to Section 2355 of Title 68
17 of the Oklahoma Statutes in the amount of one hundred percent (100%)
18 for the qualified rental income loss incurred by a qualified entity
19 acting as a landlord of a qualified residential real property
20 pursuant to a rental agreement.

21 C. The Tax Commission shall recapture the credits otherwise
22 authorized by the this section if it finds the claimed qualified
23 rental income loss was recovered by the qualified entity pursuant to
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1 late rent payments or pursuant to forcible entry and detainer or
2 other civil actions.

3 D. For tax years 2020 and thereafter the total credits
4 authorized pursuant to subsection B of this section for all
5 taxpayers shall not exceed Five Million Dollars (\$5,000,000.00)
6 annually. Pursuant to the total credits authorized by this
7 subsection, each taxpayer shall be limited to a maximum tax credit
8 of One Thousand Two Hundred Fifty Dollars (\$1,250.00) annually.

9 E. The credit authorized pursuant to the provisions of this
10 section may not be used to reduce the tax liability of the taxpayer
11 to less than zero.

12 F. To the extent not used, the tax credit authorized by the
13 provisions of this section may be carried over, in order, to each of
14 the ten (10) subsequent taxable years.

15 G. The Tax Commission is hereby authorized to refund a qualified
16 entity for credits which have not been used by the qualified entity.
17 The qualified entity shall submit a written request for a refund
18 which shall contain the name, address and taxpayer identification
19 number of the qualified entity, the amount of the credit to be
20 refunded, the year the credit was originally allowed to the
21 qualified entity and the tax year or years for which the credit may
22 be claimed. The Tax Commission may promulgate rules to permit
23 verification of the validity and timeliness of a tax credit claimed
24 upon a tax return pursuant to this subsection but shall not

1 promulgate any rules that unduly restrict or hinder the refunds of
2 such tax credit.

3 H. The amount of the credit allowed but not used shall be
4 transferable to an unrelated party at any time during the ten (10)
5 years following the year of qualification. Any person to whom or to
6 which a tax credit is transferred shall have only such rights to
7 claim and use the credit under the terms that would have applied to
8 the entity by whom or by which the tax credit was transferred. The
9 provisions of this subsection shall not limit the ability of a tax
10 credit transferee to reduce the tax liability of the transferee
11 regardless of the actual tax liability of the tax credit transferor
12 for the relevant taxable period. The transferor originally allowed
13 the credit and the subsequent transferee shall jointly file a copy
14 of the written credit transfer agreement with the Tax Commission
15 prior to the transfer. The written agreement shall contain the
16 name, address and taxpayer identification number of the parties to
17 the transfer, the amount of the credit being transferred, the year
18 the credit was originally allowed to the transferor and the tax year
19 or years for which the credit may be claimed. A credit shall not be
20 transferred pursuant to the subsection to more than one taxpayer,
21 nor shall the credit be resold by the unrelated party to another
22 taxpayer or other party. The Tax Commission may promulgate rules to
23 permit verification of the validity and timeliness of a tax credit
24 claimed upon a tax return pursuant to this subsection but shall not

1 promulgate any rules that unduly restrict or hinder the transfers of
2 such tax credit.

3 I. 1. On or before January 1, 2022, the Tax Commission shall
4 create a registration program for qualified entities.

5 2. The registration form shall require the qualified entity to
6 provide necessary information, as determined by the Tax Commission,
7 including, but not limited to, the following items:

8 a. the legal name under which the qualified entity
9 transacts or intends to transact business,

10 b. the address and name of the tenant or tenants the
11 qualified entity is claiming qualified rental income
12 loss from,

13 c. the start date of the rent deferral and the amount of
14 rent deferred,

15 d. documentation proving the qualified entity did not
16 evict the tenant during the claimed deferral period,

17 e. the location of the qualified entity's place or places
18 of business,

19 f. a copy or copies of the written agreement between the
20 qualified entity and the tenant or tenants to defer
21 rent which must contain the tenant's documentation
22 proving COVID-19 financial hardship, and
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1 g. a copy or copies of the existing rental agreement
2 between the qualified entity and the tenant or
3 tenants.

4 3. To be eligible for the credit authorized by this section,
5 each qualifying entity shall register with the Tax Commission within
6 sixty (60) days of executing a written agreement between the
7 qualified entity and the tenant or tenants.

8 4. Upon receipt of a registration form, the Tax Commission shall
9 provide a notice to the qualified entity that includes its
10 eligibility to receive the credit and the total amount of credit
11 that would be available to the eligible entity pursuant to this
12 section.

13 J. The Tax Commission shall promulgate rules, guidelines, and
14 procedures as are necessary for the proper administration of the
15 credit authorized in this section including any regulations to
16 prevent improper claims from being filed. The Tax Commission may
17 also develop forms and instructions as necessary for a qualified
18 entity, if applicable, to claim, obtain a refund, or transfer
19 credits provided by this section.

20 SECTION 2. This act shall become effective January 1, 2022.

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