AMENDED IN SENATE JUNE 19, 2020

AMENDED IN SENATE JUNE 16, 2020

AMENDED IN SENATE JUNE 2, 2020

AMENDED IN SENATE MAY 18, 2020

AMENDED IN SENATE APRIL 30, 2020

SENATE BILL No. 1410

Introduced by Senators Caballero and Bradford
(Principal coauthors: Senators Atkins and Hertzberg)

February 21, 2020

An act to add and repeal Section 1947.20 of the Civil Code, to add and repeal Section 1161.05 of the Code of Civil Procedure, and to add and repeal Sections 17053.10, 17154.5, 19534, 23610, and 24311 of the Revenue and Taxation Code, relating to ~~tenancy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~ *tenancy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1410, as amended, Caballero. COVID-19 emergency: tenancies.

(1) Existing law permits the Governor to proclaim a state of emergency during conditions of disaster or of extreme peril to the safety of persons and property, including epidemics. Existing law provides that the proclamation takes effect immediately, affords specified powers to the Governor, and terminates upon further proclamation by the Governor. The Governor proclaimed a state of emergency March 4, 2020, related to the COVID-19 pandemic. An executive order issued by the Governor on March 27, 2020, and extended on May 29, 2020, prohibits the eviction of residential tenants during the pendency of a

state of emergency, except as specified. Under the executive order, this protection is effective through July 28, 2020.

Existing law establishes a procedure, known as an unlawful detainer action, that a landlord must follow in order to evict a tenant. Existing law provides that a tenant is subject to such an action if the tenant continues to possess the property without permission of the landlord in specified circumstances, including when the tenant has violated the lease by defaulting on rent or failing to perform a duty under the lease.

Existing law, the Tenant Protection Act of 2019, prohibits, with certain exceptions, an owner of residential real property from increasing the gross rental rate for a dwelling or unit more than 5% plus the percentage change in the cost of living, as defined, or 10%, whichever is lower, of the lowest gross rental rate charged for the immediately preceding 12 months, subject to specified conditions.

This bill would authorize an owner of real property and a tenant to sign and execute a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement that, during a state of emergency related to the COVID-19 pandemic, and unspecified additional days, would allow the tenant to defer the tenant's unpaid rent, and would prohibit the owner from serving a notice terminating the tenancy or filing a complaint for unlawful detainer for that unpaid rent or during the state of emergency, unless an exception applies. The agreement would require the tenant to repay the unpaid rent to the state as installments in accordance with a specified repayment schedule during taxable years beginning on or after January 1, 2024, and before January 1, 2034. The bill would require the owner of real property to offer the tenant a signed copy of the agreement, along with a specified notice, prior to executing the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement. The bill would require the owner of real property to obtain a signed acknowledgment of receipt from the tenant if the tenant declines the offer. If the tenant does not respond to the offer, the bill would require the owner to confirm, under penalty of perjury, that the owner hand-delivered or mailed the offer. By expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would void any demand for the payment of unpaid rent accrued, or any notice to terminate tenancy served, beginning on March 4, 2020, upon the declaration of the state of emergency related to the COVID-19 pandemic, and until the state of emergency is terminated, as provided. The bill would, during the state of emergency, prohibit an owner of real property from demanding payment of unpaid rent, serving a notice terminating tenancy, or filing a complaint for unlawful detainer, among other things, unless the owner includes a signed acknowledgment of receipt or a sworn confirmation of a rejected offer for a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement.

(2) Existing law authorizes the Franchise Tax Board to require any person to withhold for income tax purposes an amount of a taxpayer's income, as specified, that reasonably represents the amount of tax due, as determined by the board. Existing law also provides for the collection of various debts by the Franchise Tax Board, including fines, state or local penalties, bail, forfeitures, restitution fines, restitution orders, and other amounts imposed by specified state courts and delinquent tax debt due to the federal Internal Revenue Service.

This bill would require the Franchise Tax Board to calculate the repayment installments of unpaid rent, and would authorize a tenant to apply for reduction or forgiveness of repayment installments depending on the taxpayer's income. The bill would require specified persons to withhold the amount of each installment from each tenant's income during taxable years beginning on or after January 1, 2024, and before January 1, 2034, as provided. The bill would require the Franchise Tax Board to transfer these moneys to the Treasurer to be deposited in the General Fund.

This bill would specify that any deferment or repayment of rent authorized under these provisions is not included when determining the lowest gross rental rate for purposes of the Tenant Protection Act of 2019.

(3) Existing law, the Personal Income Tax Law, and the Corporation Tax Law, impose taxes upon taxable income, and in conformity with federal income tax law, generally defines "gross income" for purposes of those laws as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income. Existing law authorizes various credits against the taxes imposed by those laws.

Existing law establishes the continuously appropriated Tax Relief and Refund Account in the General Fund and provides that payments required to be made to taxpayers or other persons from the Personal Income Tax Fund are to be paid from that account, including any amount allowable as an earned income tax credit in excess of any tax liabilities.

This bill, for taxable years beginning on or after January 1, 2024, and before January 1, 2034, would exclude from gross income the gross amount of unpaid rent in a signed and executed tenant-owner ~~rent~~

~~stabilization~~ *COVID-19 eviction relief* agreement that is reduced or forgiven by the Franchise Tax Board, as described above.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2024, and before January 1, 2034, to a qualified taxpayer who is an owner of real property, as specified, in an amount equal to the gross amount of unpaid rent deferred by the qualified taxpayer in a signed and executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement between the qualified taxpayer and a tenant that meets the requirements described above, or in an amount equal to the gross amount of unpaid rent deferred plus inflation of at least 2% if the qualified taxpayer is a small business owner. The bill would require the qualified taxpayer to register with the Franchise Tax Board, and would require the board to approve the reservation, as specified. The bill would authorize the qualified taxpayer to claim the credit in any taxable year beginning on or after January 1, 2024, and before January 1, 2034, of the qualified taxpayer's choosing, or to sell the credit to an unrelated party, subject to specified conditions. If the amount allowable as a credit exceeds the qualified taxpayer's tax liability for the taxable year, the bill would authorize the qualified taxpayer to choose whether to be refunded the balance from the Tax Relief and Refund Account *upon appropriation by the Legislature* or to carry over the balance to reduce the taxpayer's tax liability in the following taxable years, as provided. ~~By authorizing additional moneys to be paid from a continuously appropriated fund, the bill would make an appropriation.~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(5) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~⅔~~ *majority*. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 1947.20 is added to the Civil Code, to read:

1947.20. (a) (1) An owner of real property and a tenant may sign and execute a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement during the state of emergency, and ____ days thereafter, in compliance with this section.

(2) If there is more than one owner of real property, each owner must sign the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement.

(3) If there is more than one tenant on one lease agreement for the real property unit, each tenant must have a separate tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement with the owner of real property.

(4) If there is more than one tenant for the real property unit and each tenant has a separate lease agreement, each tenant must also have a separate tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement with the owner of real property.

(b) The terms of the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement shall include all of the following:

(1) The owner of real property shall agree to allow the tenant to defer, pursuant to this section, any unpaid rents accrued during the state of emergency, and ____ days thereafter, and shall specify the amount of unpaid rent that will be deferred.

(2) The owner of real property shall agree not to serve a notice terminating the tenancy, file a complaint for unlawful detainer, take action to proceed with a pending unlawful detainer suit, or request that a sheriff execute a writ of possession for the property for either of the following:

(A) The unpaid rent that will be deferred.

(B) During the state of emergency, and ____ days thereafter, unless the notice alleges that the tenant has destroyed property or engaged in behavior that creates a substantial threat to the public health or safety.

(3) The tenant shall agree to pay any deferred unpaid rent accrued during the state of emergency, and ____ days thereafter, to the state in accordance with Section 19534 of the Revenue and Taxation Code.

(c) (1) Before an owner of real property and a tenant execute a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement, the owner of real property shall offer the tenant a signed copy of the agreement with the following notice:

NOTICE: BEFORE YOU ENTER INTO A COVID-19 PANDEMIC TENANT-OWNER ~~RENT STABILIZATION~~ *COVID-19 EVICTION RELIEF* AGREEMENT

California state law requires that you get this important notice before you decide whether to sign an agreement with your landlord to address your unpaid rent during the COVID-19 pandemic.

If you sign this agreement, your landlord agrees not to evict you for the unpaid rent specified in this agreement, and agrees not to evict you during a state of emergency relating to COVID-19, unless your lease expires or you do something to destroy property or that threatens public health and safety.

The State of California will pay your unpaid rent to your landlord in the form of a tax credit.

You will be required to repay the State of California the amount of unpaid rent listed in this agreement, in annual equal installment payments over the span of ten years beginning in 2024. The State of California will not charge you interest for this amount owed as long as the payment is made timely. If you cannot make your installment payments beginning in 2024, you may be eligible for a reduction or cancellation of that payment at that time. For more information, visit the Franchise Tax Board's web page at ____________________.

IMPORTANT THINGS YOU SHOULD KNOW

If you sign this agreement with your landlord, the agreement only protects you against an eviction from your current residence during a declared state of emergency relating to COVID-19 and for _____ days thereafter. In other words, when the COVID-19 state of emergency is over, you will be fully responsible for paying your rent and complying with the terms of your lease. If you sign this agreement, you should keep a copy of it for your records.

TENANT-OWNER ~~RENT STABILIZATION~~ *COVID-19 EVICTION RELIEF* AGREEMENT

Pursuant to Section 1947.20 of the California Civil Code, ____(Name of Owner of Real Property)____ agrees to defer the rent of ____(Name of Tenant/Lessee)____ for the property located at ____(Property Address)____ in the amount of $____(Unpaid rent accrued)____, covering the time period from ______ to ______ .

____(Name of Tenant/Lessee)____ agrees to repay the amount of $____(Same amount as unpaid rent accrued)____ to the State of California, starting in 2024, over a span of ten annual installments, interest-free.

IF YOU WANT THIS AGREEMENT, SIGN HERE, NEXT TO YOUR LANDLORD:

____(Date)____ ____(Date)____

____Name of Owner of Real Property____ ____(Name of Tenant/Lessee)____

____(Address)____ ___(Property Address)____

__(Tax ID or SSN of Owner of Real Property)__ __(Tax ID or SSN of Tenant)__

IF YOU DO NOT WANT TO ENTER INTO THIS AGREEMENT, PLEASE READ AND SIGN BELOW:

ACKNOWLEDGMENT OF RECEIPT OF OFFER TO SIGN ~~RENT STABILIZATION~~ *COVID-19 EVICTION RELIEF* AGREEMENT

I, ____(Name of Tenant/Lessee)____ acknowledge that, on ____(Date of Receipt)____, my landlord ____(Name of Owner of Real Property)____ offered me to sign a ~~Rent Stabilization~~ *COVID-19 Eviction Relief* Agreement for ____(Property Address)____ for unpaid rent during ____(Month(s) & Year)____ .

I have read the ~~Rent Stabilization~~ *COVID-19 Eviction Relief* Agreement and I DO NOT want to sign the ~~Rent Stabilization~~ *COVID-19 Eviction Relief* Agreement.

I understand that if I DO NOT sign the ~~Rent Stabilization~~ *COVID-19 Eviction Relief* Agreement, I am still obligated to pay for any unpaid rent past due according to my lease. Accordingly, my landlord may seek a court order for my eviction.

____(Date)____ ____(Date)____

____Name of Owner of Real Property____ ____(Name of Tenant/Lessee)____

____(Address)____ ___(Property Address)____

IMPORTANT THINGS YOU SHOULD KNOW

If you DO NOT sign the ~~Rent Stabilization~~ *COVID-19 Eviction Relief* Agreement or DO NOT RESPOND to this Acknowledgment of Receipt within 30 days of receiving it, your landlord will assume that you have REJECTED the ~~Rent Stabilization~~ *COVID-19 Eviction Relief* Agreement.

(2) If the owner of real property customarily communicates with the tenant in Spanish, Chinese, Tagalog, Vietnamese, or Korean, the owner of real property shall provide the tenant a copy of the notice and agreement in that language. The owner of real property may use the notice and agreement created by the Franchise Tax Board.

(3) (A) If an owner of real property makes an offer to the tenant to execute the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement and the tenant rejects the offer, the owner shall obtain a signed acknowledgment of receipt from the tenant.

(B) (i) If the tenant does not respond to the offer or to the acknowledgment of receipt within 30 days of the owner hand-delivering the offer, or within 40 days of the owner mailing the offer and acknowledgment of receipt, the offer shall be deemed rejected.

(ii) If the offer is deemed rejected, the owner of real property shall prepare the following sworn confirmation of a rejected offer for their records:

SWORN CONFIRMATION OF A TENANT-OWNER REJECTED OFFER OF A ~~RENT STABILIZATION~~ *COVID-19 EVICTION RELIEF* AGREEMENT

I swear under penalty of perjury under the laws of the State of California that, on _____(Date that the Notice and Offer were delivered or mailed)___, I hand-delivered or mailed a signed ~~Rent Stabilization~~ *COVID-19 EVICTION RELIEF* Agreement to ____(Name of Tenant/Lessee)_____ at _____(Address of Rental property)______ and that 30 days have since past if I hand-delivered the offer, or 40 days have since past if I mailed the offer.

(Name)___________________

Signature Date

(d) (1) Upon registering with the Franchise Tax Board, an owner of real property who executes a signed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement with a tenant pursuant to this section shall be eligible for a credit against their tax liability pursuant to Sections 17053.10 and 23610 of the Revenue and Taxation Code, unless the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement is between related persons as defined in Section 267 of Title 26 of the United States Code.

(2) An owner of real property who receives a credit against their tax liability pursuant to Section 17053.10 and 23610 of the Revenue and Taxation Code and who violates the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement shall be required to repay the entire credit to the Franchise Tax Board immediately, plus interest from the date the credit was first claimed on the tax return, as determined by the Franchise Tax Board.

(e) The owner of real property shall provide the Franchise Tax Board a copy of the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement and a copy of the signed receipt of acknowledgment from the tenant, consistent with this section, in a form and manner specified by the Franchise Tax Board, by the following dates:

(1) For agreements executed on or before January 1, 2021, no later than January 1, 2021.

(2) For agreements executed on or after January 1, 2021, no later than 60 days after the date the agreement is signed by both the owner and the tenant.

(f) The owner of real property shall provide a copy of the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement to the tenant within five days from when the agreement is executed.

(g) No deferment or repayment of rent authorized under this section shall be included when determining the lowest gross rental rate pursuant to Section 1947.12.

(h) For purposes of this section, the following shall apply:

(1) "Owner of real property" means an owner of residential real property or an owner of a mobilehome park.

(2) "Rent" does not include rental assistance payments from any federal or state governmental source or a nonprofit organization received by the tenant or by the owner of real property on the tenant's behalf.

(3) "State of emergency" means an emergency related to the COVID-19 pandemic declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(i) This section shall remain in effect only until December 31, 2034, and as of that date is repealed.

SEC. 2. Section 1161.05 is added to the Code of Civil Procedure, to read:

1161.05. (a) (1) Except as authorized under subdivision (b), any demand for payment of unpaid rent accrued during a state of emergency, and _____ days thereafter, and any notice terminating tenancy, including, but not limited to, any notice pursuant to Section 1161 or Section 798.56 of the Civil Code, is void if it was served during the state of emergency, and _____ days thereafter, and the conduct that gave rise to the demand or notice occurred during the state of emergency, and _____ days thereafter.

(2) It is the intent of the Legislature that this subdivision shall apply retroactively. In any action for unlawful detainer in which a judgment for possession has been entered in favor of the owner of real property, the tenant may move to have that judgment set

aside on the basis of this subdivision. No writ of possession shall issue while the motion to set aside is pending. If a writ of possession was issued prior to filing of the motion to set aside, the court shall stay execution of the writ while the motion to set aside the judgment is pending.

(b) (1) An owner of real property shall not, during a state of emergency, and _____ days thereafter, demand payment of unpaid rent, serve a notice terminating tenancy, file a complaint for unlawful detainer, take action to proceed with a pending unlawful detainer action, request that a sheriff execute a writ of possession for the property, or otherwise attempt to evict a tenant in any manner unless either of the following applies:

(A) The notice and any complaint based on that notice allege that the action is necessary to protect public health and safety.

(B) The notice or complaint includes either a signed acknowledgment of receipt or a sworn confirmation of a rejected offer pursuant to subdivision (c) of Section 1947.20.

(2) It is the intent of the Legislature that this subdivision apply prospectively.

(c) For purposes of this section, "state of emergency" means an emergency related to the COVID-19 pandemic declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(d) This section shall remain in effect two years after the state of emergency related to the COVID-19 pandemic terminates, and as of that date is repealed.

SEC. 3. Section 17053.10 is added to the Revenue and Taxation Code, to read:

17053.10. (a) (1) For each taxable year beginning on or after January 1, 2024, and before January 1, 2034, there shall be allowed as a credit to a qualified taxpayer against the "net tax," as defined in Section 17039, an amount equal to the amount of qualified rent deferred by the qualified taxpayer.

(2) If the qualified taxpayer is also a small business owner, the credit shall be an amount equal to the amount of qualified rent deferred by the qualified taxpayer, plus an adjustment for inflation no less than 2 percent.

(b) For purposes of this section:

(1) “Qualified rent” means an amount equal to the gross amount of unpaid rent deferred by the qualified taxpayer in a signed and executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement between the qualified taxpayer and the tenant that meets the requirements of Section 1947.20 of the Civil Code. Qualified rent does not include any amounts in excess of 100 percent of the sum of the amounts of rent charged per month stated in the lease agreement that would have been paid but for the executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement for those months in which the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement applies.

(2) (A) “Qualified taxpayer” means an owner of real property, as defined in Section 1947.20 of the Civil Code, that is subject to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code, and has registered with the Franchise Tax Board as provided in subdivision (d) of this section and been allowed a credit.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section is not allowed to the pass-thru entity, but shall be passed through to the partners or shareholders in accordance with applicable provisions of Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001). For purposes of this paragraph, “pass-thru entity” means any entity taxed as a partnership or “S” corporation.

(3) “Small business owner” means an individual that meets both of the following:

(A) Is the sole owner, or owners in the case of those individuals that are married and filing a joint return for the property.

(B) Whose state Adjusted Gross Income is no more than $1,000,000 for the taxable year in which the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement was executed.

(c) (1) On or before January 1, 2021, the Franchise Tax Board shall create a registration program for qualified taxpayers.

(2) The registration form shall require the qualified taxpayer to provide necessary information, as determined by the Franchise Tax Board, including, but not limited to, the following items:

(A) Name under which the qualified taxpayer transacts or intends to transact business.

(B) Name, address, and social security number or tax identification number of the tenant or tenants.

(C) Start date of the rent deferral, and the amount of rent deferred.

(D) The location of the qualified taxpayer's place or places of businesses.

(E) A copy or copies of the executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreements pursuant to Section 1947.20 of the Civil Code.

(F) A copy or copies of the existing lease agreements between the qualified taxpayer and the tenant or tenants.

(d) (1) To be eligible for the credit authorized by this section, each qualified taxpayer shall register with the Franchise Tax Board within _____ days of executing a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement, and shall provide the information required in paragraph (2) of subdivision (c).

(2) Upon receipt of a registration form, the Franchise Tax Board shall approve the reservation with respect to a qualified taxpayer, and shall provide a notice to the taxpayer that includes the amount of credit that would be available if the terms of the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement are completed.

(e) Beginning January 1, 2022, and annually thereafter, the Franchise Tax Board shall determine the aggregate amount of credit that has been approved for each calendar year.

(f) Any credit or deduction otherwise allowed under this part for any amount paid or incurred by the taxpayer upon which this credit is based shall be reduced by the amount of the credit allowed under this section.

(g) (1) A qualified taxpayer may claim the credit authorized in this section in any taxable year beginning on or after January 1, 2024, and before January 1, 2034, of the qualified taxpayer's choosing.

(2) If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the excess shall be credited against other amounts due, if any, and the balance, if any, at the qualified taxpayer's choosing, shall either:

(A) Be paid from the Tax Relief and Refund Account and refunded to the qualified ~~taxpayer.~~ *taxpayer upon appropriation by the Legislature.*

(B) Be carried over to reduce the “net tax” in the following taxable year, and succeeding years if necessary, until the credit is exhausted.

(h) (1) Notwithstanding any other law, except as set forth in this subdivision, a qualified taxpayer may sell any credit allowed under this section to an unrelated party.

(2) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

(3) In the case where the credit allowed under this section exceeds the “net tax,” the excess credit may be carried over to reduce the “net tax” of the party to whom the credit has been sold in the following taxable year, and succeeding years if necessary, until the credit is exhausted.

(4) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor shall the credit be resold by the unrelated party to another taxpayer or other party.

(5) A party that has acquired tax credits under this section shall be subject to the requirements of this section.

(6) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.

(i) The Franchise Tax Board shall develop a tax form to be used by the qualified taxpayer to verify the amount of qualified rent deferred pursuant to an executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement pursuant to Section 1947.20 of the Civil Code.

(j) (1) The Franchise Tax Board may prescribe rules, guidelines, or procedures to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(2) (A) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section, including any regulations to prevent improper claims from being filed or improper payments from being made with respect to net earnings from self-employment.

(B) The adoption of any regulations pursuant to subparagraph (A) may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State, and shall remain in effect until revised or repealed by the Franchise Tax Board.

(k) This section shall remain in effect only until December 1, 2034, and as of that date is repealed.

SEC. 4. Section 17154.5 is added to the Revenue and Taxation Code, to read:

17154.5. (a) For taxable years beginning on and after January 1, 2024, gross income does not include the gross amount of unpaid rent in a signed and executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement that is reduced or forgiven by the Franchise Tax Board pursuant to Section 19534.

(b) This section shall remain in effect only until December 31, 2034, and as of that date is repealed.

SEC. 5. Section 19534 is added to the Revenue and Taxation Code, to read:

19534. (a) The Franchise Tax Board shall create a form tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement and accompanying notice, as described in Section 1947.20 of the Civil Code, in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean, and shall make the form agreement and notice available on its website within 30 days of the operative date of this section. The Franchise Tax Board may call upon the assistance of any other state agency or public entity for assistance in carrying out these translations.

(b) For taxable years beginning on and after January 1, 2024, and before January 1, 2034, a tenant in a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement, as specified in Section 1947.20 of the Civil Code, shall pay the deferred rent in accordance with the following:

(1) The Franchise Tax Board shall not impose interest on the balance of unpaid rent specified in a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement unless and until the balance must sent to collections.

(2) The unpaid rent shall be divided into equal installments over a 10-year period beginning in each taxable year on and after January 1, 2024, and before January 1, 2034, and shall be repaid in those installments, unless a taxpayer seeks an exemption or reduction in the installment amount of that year as specified in paragraph (3).

(3) (A) Each equal installment calculated under paragraph (2) shall be included in the taxpayer's tax return for each year specified above.

(B) A taxpayer may apply for a reduction or elimination of that year's installment based on their taxable income for that year with the Franchise Tax Board, in a form and manner as specified by the Franchise Tax Board, as follows:

(i) For individuals with an income equal to or greater than 150 percent of the median state income, 100 percent of the payment calculated under paragraph (2).

(ii) For individuals with an income between 100 and 149 percent, inclusive, of the median state income, 75 percent of the payment calculated under paragraph (2).

(iii) For individuals with an income between 75 and 99 percent, inclusive, of the median state income, 50 percent of the payment calculated under paragraph (2).

(iv) For individuals with less than 75 percent of the median state income, none of the payment calculated under paragraph (2).

(C) Any portion of an equal installment calculated under paragraph (2) that is allowed to be reduced or forgiven shall not be collected by the Franchise Tax Board or any other person. The remaining installment shall remain due until explicitly forgiven or reduced by the Franchise Tax Board.

(c) (1) The Franchise Tax Board shall require any person required to withhold income under Section 18662 to additionally withhold the payments determined by the Franchise Tax Board under subdivision (a) and to transmit the amount withheld to the Franchise Tax Board at the time as it may designate.

(2) For a tenant in which withholding under paragraph (1) does not apply, the repayment of rent subject to a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement under Section 1947.20 of the Civil Code shall be collected from the debtor by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent income tax liability, including, but not limited to, the recording of a notice of state tax lien under Article 2 (commencing with Section 7170) of Chapter 14 of Division 7 of Title 1 of the Government Code, and the issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.

(d) The Franchise Tax Board shall transfer moneys collected under this section to the Treasurer to be deposited in the General Fund.

(e) For purposes of this section, the following apply:

(1) “Median state income” means the median state income provided by the Department of Finance.

(2) “Tenant” means a tenant who signs and executes a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement with an owner of real property pursuant Section 1947.20 of the Civil Code.

(f) This section shall remain in effect only until December 31, 2034, and as of that date is repealed.

SEC. 6. Section 23610 is added to the Revenue and Taxation Code, to read:

23610. (a) (1) For each taxable year beginning on or after January 1, 2024, and before January 1, 2034, there shall be allowed as a credit to a qualified taxpayer against the “tax,” as defined in Section 23036, an amount equal to the amount of qualified rent deferred by the qualified taxpayer.

(2) If the qualified taxpayer is also a small business owner, the credit shall be an amount equal to the amount of qualified rent

deferred by the qualified taxpayer, plus an adjustment for inflation no less than 2 percent.

(b) For purposes of this section:

(1) "Qualified rent" means an amount equal to the gross amount of unpaid rent deferred by the qualified taxpayer in a signed and executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement between the qualified taxpayer and the tenant that meets the requirements of Section 1947.20 of the Civil Code. Qualified rent does not include any amounts in excess of 100 percent of the sum of the amounts of rent charged per month stated in the lease agreement that would have been paid but for the executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement for those months in which the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement applies.

(2) (A) "Qualified taxpayer" means an owner of real property, as defined in Section 1947.20 of the Civil Code, that is subject to Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code, and has registered with the Franchise Tax Board as provided in subdivision (d) of this section and been allowed a credit.

(B) In the case of any pass-thru entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section is not allowed to the pass-thru entity, but shall be passed through to the partners or shareholders in accordance with applicable provisions of Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001). For purposes of this paragraph, "pass-thru entity" means any entity taxed as a partnership or "S" corporation.

(3) "Small business owner" means an individual that meets both of the following:

(A) Is the sole owner, or owners in the case of those individuals that are married and filing a joint return for the property.

(B) Whose state Adjusted Gross Income is no more than $1,000,000 for the taxable year in which the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement was executed.

(c) (1) On or before January 1, 2021, the Franchise Tax Board shall create a registration program for qualified taxpayers.

(2) The registration form shall require the qualified taxpayer to provide necessary information, as determined by the Franchise Tax Board, including, but not limited to, the following items:

(A) Name under which the qualified taxpayer transacts or intends to transact business.

(B) Name, address, and social security number or tax identification number of the tenant or tenants.

(C) Start date of the rent deferral, and the amount of rent deferred.

(D) The location of the qualified taxpayer's place or places of businesses.

(E) A copy or copies of the executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreements pursuant to Section 1947.20 of the Civil Code.

(F) A copy or copies of the existing lease agreements between the qualified taxpayer and the tenant or tenants.

(d) (1) To be eligible for the credit authorized by this section, each qualified taxpayer shall register with the Franchise Tax Board within _____ days of executing a tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement, and shall provide the information required in paragraph (2) of subdivision (c).

(2) Upon receipt of a registration form, the Franchise Tax Board shall approve the reservation with respect to a qualified taxpayer, and shall provide a notice to the taxpayer that includes the amount of credit that would be available if the terms of the tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement are completed.

(e) Beginning January 1, 2022, and annually thereafter, the Franchise Tax Board shall determine the aggregate amount of credit that has been approved for each calendar year.

(f) Any credit or deduction otherwise allowed under this part for any amount paid or incurred by the taxpayer upon which this credit is based shall be reduced by the amount of the credit allowed under this section.

(g) (1) A qualified taxpayer may claim the credit authorized in this section in any taxable year beginning on or after January 1, 2024, and before January 1, 2034, of the qualified taxpayer's choosing.

(2) If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the

excess shall be credited against other amounts due, if any, and the balance, if any, at the qualified taxpayer's choosing, shall either:

(A) Be paid from the Tax Relief and Refund Account and refunded to the qualified ~~taxpayer.~~ *taxpayer upon appropriation by the Legislature.*

(B) Be carried over to reduce the "tax" in the following taxable year, and succeeding years if necessary, until the credit is exhausted.

(h) (1) Notwithstanding any other law, except as set forth in this subdivision, a qualified taxpayer may sell any credit allowed under this section to an unrelated party.

(2) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

(3) In the case where the credit allowed under this section exceeds the "tax," the excess credit may be carried over to reduce the "tax" of the party to whom the credit has been sold in the following taxable year, and succeeding years if necessary, until the credit is exhausted.

(4) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor shall the credit be resold by the unrelated party to another taxpayer or other party.

(5) A party that has acquired tax credits under this section shall be subject to the requirements of this section.

(6) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.

(i) The Franchise Tax Board shall develop a tax form to be used by the qualified taxpayer to verify the amount of qualified rent deferred pursuant to an executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement pursuant to Section 1947.20 of the Civil Code.

(j) (1) The Franchise Tax Board may prescribe rules, guidelines, or procedures to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(2) (A) The Franchise Tax Board may prescribe any regulations necessary or appropriate to carry out the purposes of this section, including any regulations to prevent improper claims from being filed or improper payments from being made with respect to net earnings from self-employment.

(B) The adoption of any regulations pursuant to subparagraph (A) may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State, and shall remain in effect until revised or repealed by the Franchise Tax Board.

(k) This section shall remain in effect only until December 1, 2034, and as of that date is repealed.

SEC. 7. Section 24311 is added to the Revenue and Taxation Code, to read:

24311. (a) For taxable years beginning on and after January 1, 2024, gross income does not include the gross amount of unpaid rent in a signed and executed tenant-owner ~~rent stabilization~~ *COVID-19 eviction relief* agreement that is reduced or forgiven by the Franchise Tax Board pursuant to Section 19534.

(b) This section shall remain in effect only until December 31, 2034, and as of that date is repealed.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~In order to assist tenants and owners of real property during the state of emergency relating to the COVID-19 pandemic as quickly as possible, it is necessary for this act to take effect immediately.~~

O