

# Senate Bill 87

Sponsored by Senator FINDLEY (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates income tax credit for lost rental income of landlord, forgone due to prohibition on evictions and rent nonpayment actions during COVID-19 emergency period.

Applies to tax years beginning on or after January 1, 2020, and before January 1, 2021.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to a tax credit for lost rental income during COVID-19 emergency period; creating new  
3 provisions; amending ORS 314.772 and 318.031; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) A credit against taxes that are otherwise due under ORS chapter 316 or,**  
7 **if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer that**  
8 **is a landlord and that has lost rental income due to nonpayment of rent authorized by sec-**  
9 **tion 3, chapter 13, Oregon Laws 2020 (1st special session), during the emergency period de-**  
10 **finied in section 3, chapter 13, Oregon Laws 2020 (1st special session).**

11 **(2) The credit allowed under this section shall equal the total amount of items of non-**  
12 **payment originally due during the emergency period, and owed by tenants to the landlord at**  
13 **the close of the tax year, less any amounts due during the emergency period and subse-**  
14 **quently received by the taxpayer during the grace period authorized by section 3, chapter 13,**  
15 **Oregon Laws 2020 (1st special session).**

16 **(3) Prior to claiming the credit allowed under this section, a taxpayer is required to re-**  
17 **ceive written certification of eligibility from the Department of Revenue.**

18 **(4) The credit allowed under this section may not exceed the tax liability of the taxpayer**  
19 **for the tax year.**

20 **(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer**  
21 **in a particular tax year may be carried forward and offset against the taxpayer's tax liability**  
22 **for the next succeeding tax year. Any credit remaining unused in the next succeeding tax**  
23 **year may be carried forward and used in the second succeeding tax year, and likewise any**  
24 **credit not used in that second succeeding tax year may be carried forward and used in the**  
25 **third succeeding tax year but may not be carried forward for any tax year thereafter.**

26 **(6) A nonresident shall be allowed the credit under this section. The credit shall be**  
27 **computed in the same manner and be subject to the same limitations as the credit granted**  
28 **to a resident. However, the credit shall be prorated using the proportion provided in ORS**  
29 **316.117.**

30 **(7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,  
 2 the credit allowed under this section shall be prorated or computed in a manner consistent  
 3 with ORS 314.085.

4 (8) If a change in the status of a taxpayer from resident to nonresident or from nonres-  
 5 ident to resident occurs, the credit allowed under this section shall be determined in a  
 6 manner consistent with ORS 316.117.

7 (9) The Department of Revenue shall adopt rules for the purposes of this section, in-  
 8 cluding policies and procedures for certifying taxpayers as eligible for the credit allowed un-  
 9 der this section as required in subsection (3) of this section.

10 **SECTION 3.** ORS 314.772 is amended to read:

11 314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to a  
 12 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The  
 13 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
 14 allowable to the shareholders of the S corporation.

15 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on  
 16 income of the shareholder of an S corporation, there shall be taken into account the shareholder's  
 17 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but  
 18 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-  
 19 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
 20 manner prescribed under section 1377(a) of the Internal Revenue Code.

21 (3) The character of any item included in a shareholder's pro rata share under subsection (2)  
 22 of this section shall be determined as if such item were realized directly from the source from which  
 23 realized by the corporation, or incurred in the same manner as incurred by the corporation.

24 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax  
 25 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
 26 316.117, then that provision shall apply to the nonresident shareholder.

27 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104  
 28 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141  
 29 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture  
 30 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS  
 31 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee  
 32 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution  
 33 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy  
 34 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-  
 35 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-  
 36 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),  
 37 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS  
 38 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS  
 39 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643  
 40 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account  
 41 contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone  
 42 facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research  
 43 expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774,  
 44 Oregon Laws 2013 (alternative fuel vehicle contributions), **and section 2 of this 2021 Act (rent**  
 45 **nonpayment).**

1        **SECTION 4.** ORS 318.031 is amended to read:

2        318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter  
3 317 shall be administered as uniformly as possible (allowance being made for the difference in im-  
4 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-  
5 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,  
6 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and  
7 315.643 **and section 2 of this 2021 Act** (all only to the extent applicable to a corporation) and ORS  
8 chapter 317.

9        **SECTION 5.** **Section 2 of this 2021 Act applies to tax years beginning on or after January**  
10 **1, 2020, and before January 1, 2021.**

11        **SECTION 6.** **This 2021 Act takes effect on the 91st day after the date on which the 2021**  
12 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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