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H.B. 277
(l_135_1603-6)
135th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 277's Bill Analysis

Version: In House Ways and Means

Primary Sponsors: Reps. Ray and Brent

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill authorizes a $750 nonrefundable tax credit per dwelling, with a limit of $7,500 per year, for property owners that agree not to charge additional rent or fees for tenants with companion animals, defined as a registered dog or cat, and to forgo any size or breed restrictions on companion animals allowed to reside on their property. The credit is pro-rated for the number of months that the companion animal resides in the applicable unit.
- Under the bill, the credit may be claimed against either the commercial activity tax (CAT), the personal income tax (PIT), or the financial institutions tax (FIT). The bill also requires property owners to submit an affidavit attesting to their eligibility for the credit and limits the total amount of credits awarded in any calendar year to $10 million.
- The total annual cost of the credit is estimated to be $10 million. The Tax Commissioner cannot issue credits until after January 1, 2026, so a reduction in GRF receipts will generally begin in FY 2027.
- The CAT, PIT, and FIT are GRF tax sources, so the revenue losses would be shared among the GRF (96.60% of the loss), and the Local Government (LGF, Fund 7069) and Public Library (PLF, Fund 7065) funds (1.70% of the loss each).

Detailed Analysis

The bill provides a $750 nonrefundable tax credit per dwelling for property owners that agree not to charge additional rent or fees for tenants with companion animals. The annual credit amount is prorated such that it is only granted for months when a companion animal resides in the qualifying unit. The bill defines a companion animal to be a registered dog or cat, and qualifying property owners must forgo any size or breed restrictions on companion animals allowed to reside on their property for the entire taxable year in which the credit is claimed.

However, the bill makes an exception, permitting the property owner to prohibit a companion animal that has been adjudicated to be a dangerous or vicious dog. If the companion animal is a dog, it must be registered with the county auditor, as required in R.C. 955.01. Property owners may also impose a limitation on the number of companion animals allowed to reside in a unit. The total credit claimed by a taxpayer is not to exceed $7,500 per year.

The credit would apply against either the commercial activity tax (CAT), the personal income tax (PIT), or the financial institutions tax (FIT). Property owners are required to submit an application to the Tax Commissioner for a tax credit certificate, including an affidavit attesting to their eligibility for the credit and a denotation of the tax against which the applicant proposes to claim the credit.[1] The legislation also expressly states that nothing in the proposed bill limits or disallows pass-through treatment of the credit. The bill prohibits the splitting of a credit issued to a taxpayer among multiple taxes and the Commissioner from awarding more than $10 million in tax credits in a calendar year. Credit applications may not be submitted to the Commissioner until January 1, 2026.

Property owner investors

There are an estimated 700,000 rental properties owned by individuals or other entities across the state of Ohio, accounting for approximately 1.7 million rental units, occupied or unoccupied. See Table 1 below for additional details.

Table 1. Number of Rental Properties and Units by Ownership Entity

Ownership Entity	Number of Rental Properties		Number of Rental Units	
	U.S.	Ohio**	U.S.	Ohio**
Individual Investor	13,421,000	469,735	18,389,000	643,615
LLP, LP, or LLC	3,065,000	107,275	20,222,000	707,770
Trustee for Estate	488,000	17,080	979,000	34,265
Tenant in Common	424,000	14,840	511,000	17,885
Nonprofit Organization	367,000	12,845	1,307,000	45,745
Other*	1,577,000	55,195	8,139,000	284,865
Total	**19,342,000**	**676,970**	**49,547,000**	**1,734,145**

Source: U.S. Census Bureau's 2021 Rental Housing Finance Survey (RHFS) for all properties and units nationwide.

*"Other" category includes General Partnerships, Real Estate Investment Trusts (REITs), Real Estate Corporations, Housing Cooperative Organizations, etc.

**Ohio figures were calculated proportionally based on the ratio of Ohio's population to the nation, which is roughly 3.5%.

[1] The bill makes knowingly attesting to a false statement in the aforementioned affidavit a violation of R.C. 5747.19, which carries a penalty under R.C. 5747.99 of a felony of the fifth degree.

Rental housing units

Ohio is estimated to have around 4.8 million occupied housing units, over 1.5 million of which are renter-occupied.[2] The total number of these renter-occupied units that are part of a property with ten or more units is approximately 400,000, or around 26% of all renter-occupied units in the state.[3] This percentage is also higher for some cities; in Cleveland, for example, 34% of all renters are estimated to live on a property with ten or more units. No more than ten units in these larger properties would qualify for the tax credit under the bill. All of the roughly 1.1 million units in structures with less than ten units would qualify. For the rest, the following assumptions were made: 50% of the units in structures with ten to 19 units, 30% of the units in structures with 20 to 49 units, and 5% of the units in structures with 50 or more units were counted as qualifying units. This method leaves roughly 1.2 million units across the state eligible. See Table 2 below for additional details.

Table 2. Number of Renter-occupied Units by the Number of Units on a Property

Units in Structure	City of Cleveland (Units)	State of Ohio (Units)
1, detached	100,200	517,100
1, attached	13,700	74,600
2 to 4	46,700	285,800
5 to 9	30,800	199,600
10 to 19	28,100	145,800
20 to 49	19,000	123,500
50 or more	50,200	131,500
Other*	900	43,300
Total	**289,600**	**1,521,200**

Source: U.S. Census Bureau's 2019 American Housing Survey (AHS) for Ohio and Cleveland.
*"Other" category includes manufactured/mobile homes, boats, recreational vehicles, etc.

Pet ownership

Out of an estimated 1.5 million renter-occupied housing units in Ohio, LBO estimates that roughly 370,000 have at least one dog in their household, and around 300,000 have at least one cat, according to the 2021 U.S. Census Bureau's American Housing Survey (AHS). Close to 600,000

[2] U.S. Census Bureau's 2021 American Community Survey (ACS).

[3] U.S. Census Bureau's 2019 American Housing Survey (AHS).

renter-occupied units in Ohio appear to have at least one pet, including other types of pets apart from dogs and cats. Since the figures provided for dogs and cats are not necessarily mutually exclusive, i.e., households can have both a cat and a dog, and the upper limit (i.e., 600,000) on the number of units having any type of pet listed on the survey is known, it is estimated that between 25% and 40% of renter-occupied housing units in the state have at least one dog or cat. See Table 3 below for additional details.

Table 3. Total Number of Renter-occupied Households with Pets

Presence of Pets in Household	East North Central Division (Units)	Ohio (Units)**
At least one dog	1,482,000	370,500
At least one cat	1,204,000	301,000
No pets***	3,362,000	840,500
At least one pet***	2,383,000	595,750
Total Renter-occupied Units*	**6,060,000***	**1,515,000***

Source: U.S. Census Bureau's 2021 American Housing Survey (AHS) for Household Pets.

*Figures do not add to totals because more than one category may apply to each unit, i.e., a household may have a dog and a cat. Listed totals represent the total estimated number of renter-occupied units in the East North Central Census Division (ENCD) and the state of Ohio.

**Ohio's figures were calculated from the ENCD proportionally based upon population; Ohio represents roughly 25% of the ENCD.

***Other types of pets, including fish, birds, reptiles, and small mammals were excluded from this table; however, the categories of "No pets" and "At least one pet" consider animals other than just dogs and cats to be pets for the purpose of their calculation.

Prohibition on animal breed & size restrictions

The bill prohibits property owners that claim the tax credit from imposing any restrictions on the size or breed of a dog or cat allowed to reside on their property. This requirement extends beyond the maximum of ten dwelling units upon which credits are able to be claimed to the property owner's entire residential premises. The only exception to this requirement is when a companion animal has already been determined to be a dangerous or vicious dog under the Revised Code.

It is unknown how many property owners across the state currently allow companion animals on their property and the number imposing breed or size restrictions.

Credit applicability

The CAT and FIT have a more narrow scope of taxpayers than the PIT. Most Ohio property owners owning qualifying rental units, who can apply the credit against their state tax liability, are expected to claim the credit against the PIT.

The commercial activity tax is a business privilege tax measured by taxable gross receipts, paid by individuals and entities having more than $6 million of such receipts in calendar year (CY) 2025 and thereafter.[4] Taxable gross receipts in excess of the exclusion amount are subject to the 0.26% tax rate.

The financial institutions tax is levied as a business privilege tax on financial institutions, measured by the total equity capital of the financial institution apportioned to Ohio. The apportionment factor includes a calculation of the total gross receipts of the financial institution in a calendar year.

The personal income tax is levied on statutorily defined incomes of every individual, trust, and estate residing in Ohio or earning or receiving income in Ohio, or otherwise having nexus with or in Ohio. However, the business income deduction (BID) allows taxpayers to deduct the first $250,000 ($125,000 for married filing separate) of their business income included in their federal adjusted gross income. Determining if rental payments qualify as business income is considered dependent on the specific facts and circumstances of a taxpayer's claim. If an individual is considered to be in the trade or business of rental property, however, such as actively advertising, managing, or maintaining a rental property, the income would likely be considered business income.

Estimated taxable income sources for property owners

As mentioned, Ohio excludes the first $250,000 of business income from taxation, and rental income is generally considered a business income source. The credit authorized by the bill could offset tax due for all sources of nonbusiness income as well as business income in excess of $250,000. The table below categorizes the estimated state tax liability for those persons reporting rental income to the Current Population Survey (CPS), 2023 Annual Social and Economic (ASEC) Supplement, which is conducted by the U.S. Census Bureau. As seen in Table 4, nearly 30% of those persons reporting rental income would not owe any state tax, if the national population is representative of Ohio property owners. Consequently, the nonrefundable credit authorized by the bill is unlikely to be fully utilized by every prospective taxpayer.

Table 4. Estimated TY 2024 PIT Liability Among Persons with Rental Income

Estimated State Income Tax Due Before All Credits	Percentage of Total Persons Reporting Rental Income
None	29.1%
$750 or less	6.1%
$751 to $1,500	13.0%
$1,501 to $2,250	10.1%
$2,251 to $3,000	8.1%

[4] Recently enacted changes to the CAT are summarized on the Ohio Department of Taxation's website: tax.ohio.gov.

Table 4. Estimated TY 2024 PIT Liability Among Persons with Rental Income	
Estimated State Income Tax Due Before All Credits	**Percentage of Total Persons Reporting Rental Income**
$3,001 to $3,750	5.1%
$3,751 to $7,500	15.1%
More than $7,500	13.5%
Total	**100.0%**

Note: LBO tabulation of income sources reported in CPS 2023 ASEC Supplement. Applies TY 2024 Ohio personal income tax rates on taxable income of all nationwide respondents.

Fiscal effect

If each property owner of an eligible rental housing unit were able to claim the $750 credit per dwelling, the total estimated cost would be between $225 million and $360 million a year. Slightly above 29% of property owners, though, are unlikely to owe any state tax. As a result, the estimated cost would be closer to between $160 million and $255 million a year if no cap on the amount of credits available to be claimed were imposed. However, the bill limits the total amount of credits awarded by the Tax Commissioner to $10 million in any calendar year. Consequently, LBO estimates the total cost of the credit under the bill to be $10 million a year.

This analysis assumes, for instance: that pet owners are equally likely to live in any housing unit regardless of the number of units in the structure, that all landlords with eligible rental units and state income tax liability are able to claim each credit (i.e., have not reached the ten-unit maximum), that the credit is equally likely to be claimed by a landlord for an eligible housing unit regardless of the number of units on the landlord's property or the amount of the landlord's nonzero state income tax liability, and that the number of renters with pets remains unchanged following implementation of the credit.

The revenue loss would be shared by the GRF (96.60% of the loss) and the Local Government (LGF, Fund 7069) and Public Library (PLF, Fund 7065) funds (1.70% of the loss each). Funds deposited into the LGF and PLF are distributed to counties, municipalities, townships, and public libraries according to statutory formulas and decisions by county budget commissions.

Synopsis of Fiscal Effect Changes

The substitute bill (l_135_1603-6) allows only the property owner to apply for and receive the credit, whereas the previous version (l_135_1603-3) authorized either the property owner, lessor, sublessor, manager, or agent thereof to apply for the credit. This follows a change from the use of the term "landlord" in the bill, which is defined more broadly in R.C. 5321.01, to the use of the term "property owner."

The substitute bill prohibits taxpayers from applying for a tax credit certificate before January 2026, a change from the first day of January following the bill's 90-day effective date. This alteration delays the first year of the bill's fiscal effect to FY 2027.

Applicants must file an affidavit attesting to their eligibility for the credit under the substitute bill and denote the tax against which they propose to claim the credit. In doing so, the substitute bill prohibits the splitting of a credit issued to a taxpayer among multiple taxes. A false statement in the aforementioned affidavit carries a penalty under R.C. 5747.99 of a felony of the fifth degree. The substitute bill also expressly states that nothing in the proposed bill limits or disallows pass-through treatment of the credit.

The substitute bill allows the credit to be claimed against either the commercial activity tax (CAT) or the personal income tax (PIT) for the taxable year in which the certificate is issued, a change from the preceding calendar quarter for the CAT and the same or immediately preceding tax year for the PIT, whereas the credit against the financial institutions tax (FIT) may still only be claimed against the taxable year immediately preceding the date the certificate is issued.

LBO estimates the total cost of the credit under the bill, following the previously imposed cumulative credit cap, to be $10 million a year, which is unchanged by this substitute bill. However, the substitute bill effectively delays the start of this fiscal effect to FY 2027.

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