EXECUTIVE ORDER NO. 128

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), the facts and circumstances of which are adopted by reference herein, which recognized that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread through person-to-person contact, and ordered greater social distancing throughout New Jersey by limiting the unnecessary movement of individuals in and around their communities, reducing person-to-person interactions in accordance with Centers for Disease Control (CDC) and Department of Health (DOH) guidance; and

WHEREAS, tenants may be suffering from one or more financial hardships that are caused by or related to the COVID-19 pandemic, including but not limited to a substantial loss of or drop in income, and additional expenses such as those relating to necessary health care; and

WHEREAS, as of April 13, 2020, there were 856,528 unemployment claims filed by New Jerseyans over the previous five weeks; and

WHEREAS, on March 19, 2020, in anticipation of many New Jersyans experiencing substantial loss of income as a result of business closures, reductions in hours, or layoffs related to COVID-19, impeding their ability to keep current on rent and mortgage payments, and pursuant to Assembly Bill No. 3859 and Senate Bill No. 2276, I issued Executive Order No. 106 (2020), the facts and circumstances of which are also adopted by reference herein, which recognized the importance to public health of housing security and stability and enacted a moratorium on the removal of individuals from residential properties pursuant to evictions or foreclosure proceedings; and

WHEREAS, Executive Order No. 106 (2020) stays enforcement of all judgments for possession, warrants of removal, and writs of possession while in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice, but does not stop foreclosure or eviction proceedings from being initiated or continued; and

WHEREAS, such families struggling to pay rent due to financial hardship during the ongoing Public Health Emergency and the State of Emergency may also remain at increased risk for eviction upon the termination of Executive Order No. 106 (2020), which under the terms of the Order must happen no later than two months after the

end of the Public Health Emergency or State of Emergency established by Executive Order No. 103 (2020); and

WHEREAS, in addition to eviction proceedings being initiated and the continued risk of eviction upon termination of the Order, individuals may face other consequences from a late payment of rent, including interest and late fees, which they may be unable to satisfy in light of their substantial loss of income, as well as negative credit reports that may affect their ability to find housing options in the future; and

WHEREAS, pursuant to N.J.S.A. 46:8-19, a security deposit and the accumulated interest and earnings on the investment of such deposit remain the property of the tenant; and

WHEREAS, enabling individuals to pay portions of their rent with the security deposit they own will allow those individuals to mitigate the consequences regarding evictions and accumulation of interest and late fees upon termination of Executive Order No. 106 (2020), and thus is plainly in the public interest; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Upon written request from a tenant, including electronic communication, a security deposit governed by the provisions of N.J.S.A. 46:8-19 et seq., as well as the tenant's portion of the

interest and/or earnings accumulated thereon, shall be applied to or credited towards rent payments due or to become due from the tenant during the Public Health Emergency established in Executive Order No. 103 (2020) or up to 60 days after the Public Health Emergency terminates.

2. When a tenant applies or credits such deposit, interest, or earnings to pay rent pursuant to Paragraph 1 of this Order, the following additional provisions shall apply for the duration of the tenant's current contract, lease, or license agreement:

a. The landlord may recoup from the tenant any monies the landlord expended that would have been reimbursable by the security deposit and interest or earnings thereon, at the time that such reimbursement from the deposit and interest or earnings thereon would have taken place; and

b. The tenant shall otherwise be without obligation to make any further security deposit relating to the current contract, lease, or license agreement. If, however, the tenant and landlord extend or renew their contract, lease, or license agreement following the date of this Order, then the tenant shall be obligated to replenish the security deposit in full either on the date six months following the end of the Public Health Emergency established by Executive Order No. 103 (2020), which was extended by Executive Order No. 119 (2020), or on the date on which the current contract, lease, or license agreement is extended or renewed, whichever is later.

3. Use of a security deposit for the purposes outlined in this Order shall not be considered a violation of N.J.S.A. 46:8-19 et seq. Any provisions of N.J.S.A. 46:8-19 et seq. that are not inconsistent with this Order remain in full force and effect.

4. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

5. This Order shall take effect immediately and remain in effect until 60 days following the end of the Public Health Emergency established by Executive Order No. 103 (2020), which was extended by Executive Order No. 119 (2020). Nothing shall prevent the Governor from revoking or modifying this Order before it expires as described above.

GIVEN, under my hand and seal this 24th day of April, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor