

EXECUTIVE ORDER NO. 249

WHEREAS, on March 9, 2020, I issued Executive Order No. 103, declaring the existence of a Public Health Emergency, pursuant to the Emergency Health Powers Act ("EHPA"), N.J.S.A. 26:13-1 et seq., and a State of Emergency, pursuant to the New Jersey Civilian Defense and Disaster Control Act (the "Disaster and Control Act"), N.J.S.A. App A:9-33 et seq., in the State of New Jersey for the Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, 200, 210, 215, 222, 231, 235, and 240, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, November 22, 2020, December 21, 2020, January 19, 2021, February 17, 2021, March 17, 2021, April 15, 2021, and May 14, 2021, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, as COVID-19 continued to spread across New Jersey, I have issued a series of Executive Orders pursuant to my authority under the Disaster and Control Act and the EHPA, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189-198, No. 200, Nos. 203-204, No. 207, and Nos. 210-211 (2020) and Nos. 214-216, Nos. 219-220, Nos. 222-223, No. 225, Nos. 228-235, Nos. 237-244, and No. 246 (2021), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, in response to the COVID-19 pandemic and upon enactment of P.L.2020, c.1, on March 19, 2020, I issued Executive Order No. 106 (2020), which prohibited any lessee, tenant, homeowner, or individual from being removed from a residential property as the result of an eviction or foreclosure proceeding; and

WHEREAS, on June 4, 2021, I signed Assembly Bill No. 5820 into law as P.L.2021, c.103 and issued Executive Order No. 244, which terminated the Public Health Emergency declared in Executive Order No. 103 (2020) but maintained the State of Emergency declared in that same Order; and

WHEREAS, P.L.2021, c.103 provided that, following the termination of the Public Health Emergency, certain listed Executive Orders, including Executive Order No. 106 (2021), shall remain in effect until January 1, 2022; and

WHEREAS, P.L.2021, c.103 provides that the Governor may revoke or modify the listed Executive Orders, including Executive Order No. 106 (2021), prior to January 1, 2022; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") announced yesterday that the nationwide eviction moratorium, which had been in place since September 4, 2020 and had initially expired on July 31, 2021 at midnight, will be extended for 60 days in counties with heightened levels of community transmission; and

WHEREAS, earlier today, I signed Senate Bill No. 3691 (First Reprint) into law as P.L.2021, c.188, which responsibly winds down the moratoriums on removals pursuant to eviction or foreclosure proceedings established by Executive Order No. 106 (2020) and appropriates \$750 million in federal funds to provide critical

rental and utility assistance for the many residents of New Jersey who have struggled over the last 17 months; and

WHEREAS, Senate Bill No. 3691 (First Reprint) prohibits evictions of very low-, low-, moderate-, and middle-income households for nonpayment or habitual late payment of rent, or failure to pay a rent increase, that accrued during the period beginning March 1, 2020 and ending August 31, 2021; and

WHEREAS, Senate Bill No. 3691 (First Reprint) further prohibits evictions of very low-, low-, and moderate-income households for residential arrearages incurred from the period beginning September 1, 2021 and ending December 31, 2021 if the household certifies: (1) the household's income; (2) that the household was unable to pay rent due to circumstances arising from the COVID-19 pandemic; and (3) that the household has applied for State, county, or local rental assistance programs for which they are eligible; and

WHEREAS, earlier today I also signed Assembly Bill No. 4463 (First Reprint) into law as P.L.2021, c.189, which makes certain eviction filings occurring during the period beginning March 9, 2020 and ending August 3, 2021 confidential and prohibits a landlord from considering such filings when evaluating a prospective tenant; and

WHEREAS, it is appropriate to modify Executive Order No. 106 (2020) to be consistent with Senate Bill No. 3691 (First Reprint); and

WHEREAS, this Order is a modification of Executive Order No. 106 (2020), and thus consistent with P.L.2021, c.103;

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. For eviction actions based upon any reason other than nonpayment of rent, habitual late payment of rent, or failure to pay a rent increase, Executive Order No. 106 (2020) is hereby rescinded.

2. For eviction actions based upon nonpayment or habitual late payment of rent, or failure to pay a rent increase, Executive Order No. 106 (2020) shall expire on August 31, 2021, for any lessee or tenant who is not a very low-, low-, or moderate-income household.

3. For eviction actions based upon nonpayment or habitual late payment of rent, or failure to pay a rent increase, Executive Order No. 106 (2020) shall expire on December 31, 2021, for any lessee or tenant who is a very low-, low-, or moderate-income household. Provided, however, that the protection conferred on such tenants shall expire on August 31, 2021, to the extent that such tenants do not certify: (1) the household's income; (2) that the household was unable to pay rent due to circumstances arising from the COVID-19 pandemic; and (3) that the household has applied for State, county, or local rental assistance programs for which they are eligible.

4. For removals resulting from foreclosure proceedings, Executive Order No. 106 (2020) shall expire on November 15, 2021.

5. No residential tenant of a very low-, low-, moderate- or middle-income household as those terms are defined in Senate Bill No. 3691 (First Reprint) shall be evicted based upon nonpayment or habitual late payment of rent, or failure to pay a rent increase, that accrued during the period beginning March 1, 2020 and ending August 31, 2021.

6. No residential tenant of a very low-, low-, or moderate-income household as those terms are defined in Senate Bill No. 3691 (First Reprint) shall be evicted based upon nonpayment or habitual late payment of rent, or failure to pay a rent increase, that accrued during the period beginning September 1, 2021 and ending December 31, 2021 if the household certifies: (1) the household's income; (2) that the household was unable to pay rent due to circumstances arising from the COVID-19 pandemic; and (3) that the household has applied for State, county, or local rental assistance programs for which they are eligible.

7. Sheriffs, court officers, and their agents shall refrain from acting to remove individuals from residential properties through the eviction or foreclosure processes during the time the protections extended under Executive Order No. 106 (2020) are in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice.

8. This Order shall not affect any schedule of rent that is due.

9. For the purpose of this Order, "residential property" means any property rented or owned for residential purposes, including, but not limited to, any house, building, mobile home or land in a mobile home park, or tenement leased for residential purposes, but shall not include any hotel, motel, or other guest house, or part thereof, rented to a transient guest or seasonal tenant, or a residential health care facility. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to these lists.

10. Executive Order No. 106 (2020) is hereby superseded to the extent inconsistent with Senate Bill No. 3691 (First Reprint).

11. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with any Administrative Orders issued pursuant to this Order.

12. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

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

14. This Order shall take effect immediately.

GIVEN, under my hand and seal this
4th day of August,
Two Thousand and Twenty-one,
and of the Independence of
the United States, the Two
Hundred and Forty-Sixth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor