

## Governor Murphy Signs Executive Order Allowing Tenants to Use Security Deposit to Pay Rent

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*Greenbaum, Rowe, Smith & Davis LLP Client Alert*

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On April 24, 2020, New Jersey Governor Phil Murphy signed Executive Order 128, which established new measures aimed at assisting tenants with paying their rent during the COVID-19 pandemic.

**EO128** provides as follows:

- Residential tenants may instruct their landlords in writing (including electronically) to apply the tenant's security deposit (including any interest accumulated thereon) towards rent due or about to become due. Tenants will be able to exercise this option up to 60 days after the Public Health Emergency terminates.
- The landlord may recoup from the tenant any monies the landlord expended that would have been reimbursable by the security deposit at the time that such reimbursement would have taken place.
- Tenants exercising the option to use their security deposit must replenish the security deposit in full either on the date six (6) months following the end of the Public Health Emergency terminates, or on a date on which the current contract, lease, or license agreement is extended or renewed, whichever is later. A landlord cannot require a tenant to make any further security deposit until this time.
- Provisions of the Security Deposit Act, *J.S.A. 46:8-19, et seq.*, that are inconsistent with EO128 are waived, however all other provisions remain in full force and effect.
- Any violation of the order may be enforced through penalties.

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