

SENATE BILL NO. 2363

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Senate Bill No. 2363 without my approval.

This bill would authorize a "distressed small business tenant" to suspend payments of rent following the issuance of a "rent suspension executive order." The bill would define a distressed small business tenant as a business that had 50 or fewer employees on February 10, 2020, that leases real property for non-residential purposes, and whose monthly revenue does not exceed 80 percent of the tenant's "reasonable expectations" as a result of the COVID-19 pandemic. The rent suspension executive order would specify the duration of the suspension, which could not exceed three months, and identify a repayment schedule of between six to nine months, which would begin on the first day of the second month after the COVID-19 emergency is lifted. A commercial landlord would be prohibited from evicting a distressed small business asserting an emergency rent suspension consistent with the executive order.

The COVID-19 pandemic is having a devastating impact on small businesses throughout the country and here in New Jersey. Our small businesses are not only the storefront shops that anchor Main Street, they are also the engines of our State's economy, responsible for creating jobs and spurring economic growth. Small businesses will fuel New Jersey's resurgence when the COVID-19 pandemic is over, and I commend the bill's sponsors for their efforts to identify creative measures to sustain our small business community during this extraordinarily challenging time.

While I share the sponsors' concern for the viability of our State's small businesses, I am concerned that the approach contemplated in this bill fails to fully consider the financial impact that an emergency rent suspension would have on our non-residential property owners who are, in many cases, themselves small businesses. Indeed, the bill would allow any business that meets the definition of a distressed small business tenant to assert a right to an emergency rent suspension, regardless of whether the business is capable of making its rent payments. The bill disregards the financial position of the impacted parties, shifting the financial burden in all cases from tenants onto property owners, who may not be relieved of their own obligations to pay mortgage payments and property taxes.

Rather than establishing rules that help one segment of the economy at the expense of another, we should be taking more evenhanded steps to lift the tide for everyone concerned. Direct financial aid, including rental assistance, is a necessary lifeline for many small businesses struggling to survive these troubling times. To that end, my colleagues in the Legislature authorized the Economic Development Authority ("EDA") to provide grants during periods of emergency. Acting swiftly, the EDA established the Small Business Emergency Assistance Grant Program, which provides funding to small businesses experiencing losses as a result of COVID-related business interruptions. To date, the EDA has provided more than \$5.5 million in grants to more than 1,600 businesses across all 21 counties of the State. Last week, the EDA announced that \$5 million will be made available for businesses waitlisted during the initial phase of the program and that an additional \$45 million from the federal Coronavirus Relief

Fund will be used to provide grants of up to \$10,000 to a broader range of businesses.

While my Administration continues to fight for federal assistance, there are steps that our State must take on its own to secure our budgetary and cash flow position so that we can provide relief to those hardest hit by the COVID-19 crisis. Among the most crucial is swift passage of the New Jersey COVID-19 Emergency Bond Act ("Bond Act"), which will allow New Jersey to access billions of dollars in loans through the federal lending facility and the public and private markets. Passing the Bond Act is essential to ensuring the State can meet its short-term obligations in light of present revenue and liquidity challenges. It also will enable us to fund programs integral to our State's recovery, including small business assistance programs. I look forward to working closely with my partners in the Legislature in the days and weeks ahead to address the unprecedented budget challenges our State faces so we can ensure New Jersey's residents and businesses have access to critical support during this time of crisis and recovery.

Accordingly, I herewith return Senate Bill No. 2363 without my approval.

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Respectfully,
/s/ Philip D. Murphy
Governor

Attest:

/s/ Matthew J. Platkin
Chief Counsel to the Governor