



April 30, 2021

COMMUNICATION REGARDING THE CONSUMER FINANCIAL PROTECTION BUREAU
(CFPB) INTERIM FINAL RULE INVOLVING THE CDC AGENCY ORDER AND FAILURE TO
PAY RENT LANDLORD TENANT ACTIONS

CFPB Regulations

The CFPB recently issued an interim final rule requiring “debt collectors” to provide written notice to tenants of their protections under the CDC agency order prior to filing an eviction action in a failure to pay rent case with the court. The CFPB interim final rule takes effect on May 3, 2021. The CFPB interim final rule can be found here: <https://www.consumerfinance.gov/rules-policy/final-rules/debt-collection-practices-global-covid-19-pandemic-regulation-f/>. The interim final rule provides suggested language that is acceptable to the CFPB as adequate notice of the CDC agency order to the tenant. The interim final rule will last for the same period as the CDC agency order.

The term “debt collector” is generally defined in the Fair Debt Collection Practices Act (FDCPA) as any person who uses any instrumentality or interstate commerce or mail in any business the principal purpose of which is the collections of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due, or asserted to be owed or due to another.

As the CFPB interim final rule obligates debt collectors to provide notice in writing but does not obligate the courts to accept a copy of the notice that is given to tenants, there will not be an additional filing or form required to accompany a failure to pay rent complaint filing. The comments to the interim final rule indicate that a debt collector may satisfy the notice requirement by delivering the disclosure to the address that is subject to the eviction proceedings and the debt collector is not required to ensure that that the tenant actually receives the disclosure. The CFPB has not taken a position on whether a lack of compliance on the part of a debt collector serves as a defense to an eviction. Any arguments or motions related to the CFPB interim final rule made in a failure to pay rent hearing will be heard by the court as necessary on a case by case basis. For any alleged breach of the interim final rule, consumers may be able pursue remedies via consumer financial laws, codes or statutes. The CFPB has provided more information which can be found by visiting cfpb.gov/eviction or call a housing counselor at 1-800-569-4287.

Additional Information

The CDC issued an agency order regarding evictions that became effective on September 4, 2020 and had been extended to remain in effect until June 30, 2021. The CDC order with a sample affidavit can be found here: <https://www.cdc.gov/coronavirus/2019-ncov/covid-evictiondeclaration.html>.

Maryland Governor Larry Hogan’s Executive Order on evictions was renewed on December 17, 2020 and can be found here: <https://governor.maryland.gov/covid-19-pandemic-orders-and-guidance/>. The Governor’s Order will remain in effect until such time as the state of emergency is lifted or it is amended.

The District Court of Maryland continues to explore and coordinate with other state and local government agencies that are providing COVID-19 relief to tenants and landlords. Both landlords and tenants are encouraged to contact their state and local governments to determine what resources may be available. The Maryland Judiciary’s Help Centers have compiled a list of COVID-19 resources available to both landlords and tenants. The Help Centers are staffed by trained attorneys and provide brief free legal advice on all civil matters, including questions regarding landlord tenant proceedings. For more information, please contact the Maryland Judiciary’s Help Centers at 410-260-1392 or <https://mdcourts.gov/selfhelp>.