District Court of Maryland
Office of the Chief Judge
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December 30, 2020

COMMUNICATION REGARDING THE RECENTLY ENACTED CONSOLIDATED APPROPRIATIONS ACT OF 2021.

On December 27, 2020, the Consolidated Appropriations Act of 2021 (the COVID Relief Act) was enacted. The text of the COVID Relief Act may be found here: https://www.congress.gov/bill/116th-congress/house-bill/133/text. The Centers for Disease Control and Prevention (CDC) of the United States Department of Health and Human Services previously issued an agency order regarding evictions that became effective on September 4, 2020 providing an affirmative defense in certain landlord tenant actions as set forth below. The COVID Relief Act extends the CDC agency order until January 31, 2021.

The September 4, 2020 CDC agency order provides, in pertinent part, that a landlord may not evict any tenant, lessee or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

1. The individual has used best efforts to obtain all available government assistance for rent or housing;
2. The individual either (i) expects to earn no more than $99,000 in annual income for Calendar Year 2020 (or no more than $198,000 if filing a joint tax return), (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
3. the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses;
4. the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and
5. eviction would likely render the individual homeless— or force the individual to move into and live in close quarters in a new congregate or shared living setting— because the individual has no other available housing options.

Although failure to pay rent hearings will not occur during the current phase of operations for the District Court (Phase II), the defense provided by the CDC agency order may be raised by motion in any failure to pay rent case that was heard prior to November 16, 2020 provided that an eviction had not yet occurred. If a tenant is successful in asserting this defense, the court will determine the merits of the case and/or the amount that is due for possession but will reserve entry of judgment until such time as the judgment is not prohibited by the CDC agency order. Any case in which a judgment had previously been reserved based on the CDC agency order defense will continue to be reserved until such time that the CDC agency order expires or is further extended. Upon expiration of the CDC agency order, the court, without request from any party, will enter each judgment for possession that was reserved by the court. The landlord has a continuing duty to inform the court of any payments made by the tenant while the case is pending or is reserved and must affirm under oath as to the amount then and owing based on the reserved judgment should the landlord file a petition for a warrant of restitution. Each judge will determine the sufficiency of the evidence provided.

The COVID Relief Act also contains an appropriation for funding emergency rental assistance. Both landlords and tenants are encouraged to contact their state and local governments to determine what additional resources may be available as the result of the COVID Relief Act. In addition, the Maryland Judiciary's Self-Help Centers have compiled a list by county of COVID-19 resources available to both landlords and tenants. For more information, please contact the Maryland Judiciary's Self-Help Centers at 410-260-1392 or https://mdcourts.gov/selfhelp.