



September 8, 2021

COMMUNICATION REGARDING NEW LEGISLATION
AFFECTING FAILURE TO PAY RENT CASES
IN LANDLORD/TENANT ACTIONS

Effective October 1, 2021, before a landlord may file a complaint for failure to pay rent, the landlord must provide to the tenant a written notice of the landlord's intent to file such a case unless the tenant pays all the rent claimed to be owed within 10 days. [House Bill 18, amending subsections (b)(2) and (c) of section 8-401 of the Real Property Article of the Maryland Code.]

The notice must be in a form created by the Judiciary. Per section 8-401(c) of the Real Property Article of the Maryland Code, notice is deemed to occur when the written notice is:

1. Sent by First Class Mail – Certificate of Mailing
2. Affixed to the door of the premises; or
3. If elected by tenant, sent by electronic delivery via email, text, or an electronic tenant portal.

The Failure to Pay Rent complaint must also contain an affirmation that the landlord gave the required notice and the date it was given. [Section 8-401 (c)(3) of the Real Property Article of the Maryland Code]

PLEASE NOTE:

The District Court has created the required notice and has amended the failure to pay rent complaint. However, the version of the notice that had been previously posted to our website and the version of the complaint sent to the printer contain the words "first-class mail" but do not contain the words "certificate of mailing." Certificate of mailing can mean the certificate provided by the USPS (for a fee) upon request and that shows the date the mail was received by the post office. Many large filers use a mail service. Mail services also provide a certification of mailing, containing the same information as the USPS certificate – sometimes more. Subsequent drafts of the forms will contain checkboxes for "First Class Mail – USPS Certificate of Mailing" and "First Class Mail – Mail Service Certificate of Mailing." Meanwhile, certification of first-class mailing should be taken to mean certification by either the USPS or a mail service and landlords should be prepared to show documentation at trial.

A revised version of the Notice as well a revised version of the Failure to Pay Rent Form will be posted to our website when complete. The final version of the Notice will be posted at mdcourts.gov/sites/default/files/court-forms/dccv115.pdf. The revised Failure to Pay Rent forms will not be available in our warehouse until the end of October. Landlords can use the previous version until January 1, 2022.

ADDITIONAL INFORMATION:

The federal government has authorized billions of dollars in rental assistance to landlords and tenants as a result of the COVID-19 pandemic. State and local government programs are processing applications for these federal funds every day. Both landlords and tenants are strongly encouraged to contact their state and local governments to determine what resources may be available. The Maryland Judiciary's Help Centers are staffed by trained attorneys and can assist in connecting the parties to the entities providing this financial assistance and in filling out the required application. The Help Centers services are **free**. For more information, please call 410-260-1392 or visit mdcourts.gov/helpcenter.