

BUREAU OF CONSUMER FINANCIAL PROTECTION

**PAPERWORK REDUCTION ACT SUBMISSION
1 INFORMATION COLLECTION REQUEST**

SUPPORTING STATEMENT PART A

**DEBT COLLECTION PRACTICES RULE – 12 CFR 1006 (REGULATION F)
(OMB CONTROL NUMBER: 3170-XXXX)**

EMERGENCY JUSTIFICATION

The Bureau of Consumer Financial Protection (the Bureau) respectfully requests emergency processing and approval of the collection of information discussed below because public harm (related to the COVID-19 pandemic) is likely to result due to the use of normal clearance procedures.

On March 29, 2021, the Centers for Disease Control and Prevention (CDC) extended an existing agency order that imposes an eviction moratorium that generally limits the circumstances in which certain persons may be evicted from residential property. The Bureau is concerned that consumers are not aware of their protections under the CDC Order’s eviction moratorium and that debt collectors covered by the Fair Debt Collection Practices Act (FDCPA) may be engaging in eviction-related conduct that violates the FDCPA.

This interim final rule addresses the public health emergency caused by the COVID-19 pandemic and its effects on consumers, particularly renters who may be vulnerable to the negative economic impacts of the pandemic, the risk of eviction, and the health and safety consequences that may ensue.¹ Citing the continuing health and safety risks posed by the COVID-19 pandemic, the CDC Order, as extended on March 29, 2021, maintains the eviction moratorium until June 30, 2021. As the CDC Order extension noted, although COVID-19 transmission has decreased since a peak in January 2021, the current number of cases per day remains almost twice as high as the initial peak in April 2020 and transmission rates are similar to the second peak in July 2020. Since the CDC Order’s eviction moratorium went into effect in September 2020, some debt collectors have engaged in evicting consumers from residential properties. The Bureau has become aware in the months following the initial institution of CDC Order’s eviction moratorium that consumers who interact with these debt collectors may not be aware of their protections under the CDC Order.² As explained below, the failure of debt

¹ See 86 FR 16731, 16737 (Mar. 31, 2021) (in describing how it would be impracticable to provide notice and comment, the CDC wrote in the extension of the CDC Order that, “The rapidly changing nature of the pandemic requires not only that CDC act swiftly, but also deftly to ensure that its actions are commensurate with the threat.”).

² See, e.g., Gov’t Accountability Office, *Covid-19 Housing Protections: Moratoriums Have Helped Limit Evictions*, Page 1 of 7

collectors to disclose these protections can violate the FDCPA with immediate consequences to health and safety. These challenges have emerged only after the CDC Order initially took effect, and the temporary eviction moratorium effectuated by the CDC Order has recently been extended for a limited period of time. To provide necessary protection for consumers, particularly in light of the health and safety consequences of eviction, as well as clarity for debt collectors, it is critical that the interim final rule take effect immediately.

The Bureau respectfully requests OMB to approve this request by May 3, 2021. Contemporaneously with this request for emergency processing, the Bureau is also initiating standard clearance procedures by publishing a notice in the *Federal Register* allowing the public 60 days to comment on this collection of information. Accordingly, this request will also be resubmitted to OMB under standard clearance procedures.

ABSTRACT: The Bureau of Consumer Financial Protection (Bureau) is issuing an interim final rule to amend Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA) and currently contains the procedures for State application for exemption from the provisions of the FDCPA. The interim final rule addresses certain debt collector conduct associated with an eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) in response to the global COVID-19 pandemic. The amendments prohibit debt collectors from taking certain covered eviction actions unless the debt collectors provide written notice to certain consumers of their protections under the CDC temporary eviction moratorium and prohibit misrepresentations about consumers' ineligibility for protection under such moratorium.

JUSTIFICATION

1. Circumstances Necessitating the Data Collection

In 1977, Congress passed the Fair Debt Collection Practices Act (FDCPA) “to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.”³ The FDCPA established certain consumer protections but interpretative questions have arisen since its passage. The Bureau’s regulations implementing the FDCPA are contained in 12 CFR 1006, Regulation F.

This interim final rule addresses certain debt collector conduct associated with an eviction moratorium issued by the CDC. This interim final rule applies to debt collectors, as that term is defined in the FDCPA.

but Further Outreach Is Needed, at 1 (Mar. 15, 2021), <https://www.gao.gov/products/gao-21-370>.

³ 15 U.S.C. 1692(e).

On March 29, 2021, the CDC extended an existing agency order that imposes a temporary eviction moratorium that generally limits the circumstances in which certain persons may be evicted from residential property. The Bureau is concerned that consumers are not aware of their protections under the CDC Order's temporary eviction moratorium and that FDCPA-covered debt collectors may be engaging in eviction-related conduct that violates the FDCPA.

This interim final rule amends Regulation F, which implements the FDCPA, to require debt collectors to provide written notice to certain consumers of their protections under the CDC Order's temporary eviction moratorium and to clarify that certain misrepresentations are prohibited. More specifically, § 1006.9 prohibits certain acts by debt collectors that undermine the purpose and effectiveness of the CDC Order's temporary eviction moratorium to prevent the further spread of COVID-19. Section 1006.9(a) and (b) sets forth the purpose and coverage of subpart B and defines certain terms used in the subpart, and § 1006.9(c) identifies the prohibited acts. The Bureau is adopting § 1006.9 pursuant to its authority under FDCPA section 814(d) to write rules with respect to the collection of debts by debt collectors and, with respect to § 1006.9(c), pursuant to its authority to interpret FDCPA sections 807 and 808.

2. Use of the Information

The interim final rule contains information collection requirements that clarify the content of certain disclosures required by the FDCPA, prohibiting debt collectors from proceeding with certain steps in the eviction process without informing consumers about potential protection under the CDC Order.

3. Use of Information Technology

The interim final rule requires the debt collector to make the disclosure clearly and conspicuously in writing. Requiring debt collectors to provide the disclosure to consumers clearly and conspicuously and in writing rather than electronically (such as by email) increases the likelihood in the context of eviction during the global COVID-19 pandemic that consumers will actually receive and understand the disclosure, since the Bureau expects that most debt collectors will provide the disclosure to the address that is the subject of eviction proceedings.

4. Efforts to Identify Duplication

The disclosure provisions in the proposed rule would not duplicate any other Federal information collection requirement. The information collection requirements are unique to this regulation and proposed rule.

5. Efforts to Minimize Burdens on Small Entities

The disclosure and recordkeeping requirements of this rule would apply to all debt collectors as defined in the FDCPA. The Bureau estimates that most respondents are small entities. The

required disclosure is short and must be provided only for a limited time before June 30, 2021, which reduces the burden of the information collection.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

The information collections interpret the FDCPA's requirements. If the rule were not adopted, debt collectors and consumers would have less clarity about how the FDCPA applies to certain disclosures, and consumers who are the subject of covered eviction actions might not learn about the availability of protection under the CDC Order.

7. Circumstances Requiring Special Information Collection

There are no special circumstances. The collection of information requirements are consistent with the applicable guidelines contained in 5 CFR § 1320.5(d)(2).

8. Consultation outside the Agency

The Bureau consulted with appropriate prudential regulators and other Federal agencies regarding the consistency of this final rule with prudential, market, or systemic objectives administered by such agencies, as required by section 1022(b)(2)(B) of the Dodd-Frank Act.

The Bureau has published a notice in the *Federal Register* requesting an emergency approval for the information collections herein.

9. Payments or Gifts to Respondents

Not applicable. No payment, gifts, or other incentives are provided to respondents.

10. Assurances of Confidentiality

The Bureau does not collect any information under this rule.

11. Justification for Sensitive Questions

There is no information of a sensitive nature being requested by the Bureau under this information collection.

12. Estimated Burden of Information Collection

Total Hours Allocated to CFPB: 3,000

Total Associated Labor Costs Allocated to CFPB: \$53,500

Covered Entities

The rules would apply to debt collectors as defined in the FDCPA who engage in eviction proceedings on behalf of landlords or residential property owners to collect unpaid residential rent, which the Bureau expects would generally be attorneys. The Bureau estimates that there are approximately 500 such firms primarily engaged in collecting consumer debt.

Exhibit 1: Burden Hour Summary

Information Collection Requirement	No. of Respondents	Type of IC	Annual Frequency	Annual Responses	Average Response Time (hours)	Annual Burden Hours	Hourly Rate	Hourly Costs
<i>Disclosures regarding temporary eviction moratorium</i>		<i>Disclosure</i>						
Disclosures regarding temporary eviction moratorium	500		2,880	1,440,000	.0042 ⁴	6,000	\$17.79	\$107,000
Totals:	500		//////////	1,440,000	//////////	6,000	//////////	\$107,000⁵
CFPB Totals:	500		//////////	720,000	//////////	3,000	//////////	\$53,500

Burden Shared Between CFPB and the Federal Trade Commission

The CFPB shares administrative enforcement authority under the FDCPA with the Federal Trade Commission. To avoid double-counting, the CFPB allocates to itself half of the estimated paperwork burden under the proposed rule by dividing the burden hours evenly between the agencies. However, since we have joint authority over the respondents themselves, we retain the entity count of all affected respondents as shown above.

Requirement to make disclosures regarding the CDC Order’s temporary eviction moratorium

The interim final rule addresses certain debt collector conduct associated with a temporary eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) in response to the COVID-19 pandemic. Section 1006.9(c)(1) generally prohibits debt collectors from filing certain covered eviction actions against a consumer without disclosing that the consumer may be eligible for temporary protection from eviction under the CDC Order.

⁴ This figure is rounded up from 0.00416̄.

⁵ This figure is rounded up from \$106,740.

The Bureau estimates that 160,000 disclosures will be made each week under this requirement from the time that the interim final rule is effective until June 30, 2021, when the CDC Order is scheduled to expire. The disclosure must be sent by debt collectors attempting to collect unpaid rent through an eviction proceeding, which will generally be attorneys who are debt collectors for purposes of the FDCPA. The Bureau estimates that there are approximately 500 such debt collectors.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

Requirement to make disclosures regarding the CDC Order’s temporary eviction moratorium

The Bureau estimates that 160,000 such disclosures will be made every week from the time the interim final rule is effective until June 30, 2021, for a total of 1,440,000 disclosures. Because these disclosures will be delivered with eviction notices, the cost incurred is the paper and printing cost of this disclosure, which the Bureau estimates at \$.10 per disclosure. This places the total material cost at \$144,000.

Exhibit 2: Cost Burden Summary

Description of Costs (O&M)	Per Unit Costs	Quantity	Costs
Disclosures regarding temporary eviction moratorium	\$0.10	1,440,000	\$144,000
Total Burden Costs:	////////////////////	////////////////////	\$144,000
CFPB Burden Costs:	////////////////////	////////////////////	\$72,000

14. Estimated Cost to the Federal Government

There are no additional costs to the Federal Government.

15. Program Changes or Adjustments

This is a new information collection with Bureau allocated totals of 720,000 responses, 3,000 burden hours, \$53,500 labor costs, and \$72,000 burden costs.

16. Plans for Tabulation, Statistical Analysis, and Publication

There are no plans to provide any publications based on the information collection of this regulation.

17. Display of Expiration Date

The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal government's electronic PRA docket at www.reginfo.gov, as well as in the Code of Federal Regulations. There are no required forms or other documents upon which display of the control number and expiration date would be appropriate.

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR § 1320.9, and the related provisions of 5 CFR § 1320.8(b)(3) and is not seeking an exemption to these certification requirements.

PART B: COLLECTIONS OF INFORMATION USING STATISTICAL METHODS

Not applicable. The information collections contained in this proposed rule do not involve the use of statistical methods.