



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** • COMMISSIONER **Manuel P. Alvarez**

For Immediate Release

April 14, 2021

Contact: Mark Leyes

916-576-4984

DFPI Reminds Debt Collectors, Mortgage Lenders and Servicers about COVID-19 Renter and Homeowner Protections

SACRAMENTO – The California Department of Financial Protection and Innovation (DFPI) recently issued a reminder to future debt collector licensees and existing mortgage lenders and servicers about protections for California renters and homeowners experiencing economic hardship under the COVID-19 pandemic.

Under California law, any “unpaid rent or other unpaid financial obligation of a tenant” that came due between March 1, 2020, and June 30, 2021, may qualify as COVID-19 rental debt and be subject to certain protections, DFPI Commissioner Manuel P. Alvarez noted in a [message to debt collectors](#).

The COVID-19 Tenant Relief Act ([SB 91](#)) includes the following protections for COVID-19 rental debt:

- 1) COVID-19 rental debt cannot be sold or assigned before July 1, 2021.
- 2) Starting July 1, 2021, COVID-19 rental debt cannot be sold or assigned if the debt pertains to a person “who would have qualified for rental assistance funding” under [California’s emergency rental assistance program](#) if “the person’s household income is at or below 80 percent of the area median income for the 2020 calendar year.”
- 3) Creditors cannot charge or attempt to collect late fees for COVID-19 rental debt if the renter has submitted a “declaration of COVID-19-related financial distress.”
- 4) With limited exceptions, those collecting COVID-19 rental debt in court must submit documentation showing that they have made “a good faith effort to investigate whether governmental rental assistance is available to the tenant, seek governmental rental assistance for the tenant, or cooperate with the tenant’s efforts to obtain rental assistance from any governmental entity, or other third party.”
- 5) Actions to recover COVID-19 rental debt may not be commenced before August 1, 2021, and any action to recover COVID-19 rental debt that was pending as of January 29, 2021, is stayed until August 1, 2021.

Under California’s COVID-19 rental assistance program, a landlord can receive 80 percent of unpaid rent owed from April 1, 2020, through March 31, 2021, from government funds for a qualifying tenant

if they agree to forgive any remaining unpaid rent for that period. To comply with applicable laws, debt collectors should ensure that they are not collecting rental debt that was paid or forgiven under California's rental assistance program.

The DFPI also reminded debt collectors that the federal Fair Debt Collection Practices Act (FDCPA) and the Consumer Financial Protection Act (CFPA) protect California consumers from unfair, false, deceptive, or misleading representations, and harassment or abusive conduct in rental debt collection. For example, courts have held that falsely suggesting a person or entity may initiate a lawsuit to collect a debt when that person or entity has no intention or ability to do so can be deceptive or misleading under the FDCPA.

Under the DCLA, the Commissioner must investigate all applicants for a debt collector's license to determine whether any facts exist that constitute reasons for denial. The DFPI will begin accepting applications for debt collector licenses later this year. Grounds justifying license denial include "any act involving dishonesty, fraud, or deceit, if the crime or act is substantially related" to the debt collection business and violations of any similar regulatory schemes. Furthermore, the Commissioner may revoke a license if the Commissioner determines that "any fact or condition exists that, if it had existed at the time that the licensee applied for the license, would have been grounds for denying the application."

The DCLA was enacted in 2020 to protect California consumers and provide the DFPI with licensing and examination authority over debt collectors, which includes debt buyers, operating in California.

"The DFPI will take all necessary actions to ensure debt collectors comply with the FDCPA, CFPA, and the COVID-19 Tenant Relief Act," the Commissioner's message stated.

The DFPI issued a similar notice to mortgage servicer licensees, reminding them of requirements under the COVID-19 Small Landlord and Homeowner Relief Act of 2020 and encouraging mortgage lenders and servicers to work with affected customers and communities to avoid foreclosures.

"Mortgage servicers may offer customers payment accommodations, such as payment deferrals or due date extensions, loan modifications to modify the rate and term of the mortgage, or loss mitigation options described in HUD/FHA's [updated guidance](#)," [the DFPI's guidance](#) stated.

In addition to regulating debt collectors, the DFPI licenses and regulates financial products and services, including state-chartered banks and credit unions, student loan servicers, commodities and investment advisers, money transmitters, the offer and sale of securities and franchises, broker-dealers, non-bank installment lenders, payday lenders, mortgage lenders and servicers, escrow companies, PACE administrators, rent-to-own contractors, credit repair companies, consumer credit reporting agencies, debt-relief companies, and more.

###