



OFFICE OF LEGAL COUNSEL

**INTERPRETIVE GUIDANCE**

**Number:** COVID19-12

**Date:** May 4, 2020

**Re:** Order of the Governor of the State of Maryland, Number 20-04-29-03, dated April 29, 2020,  
Prohibiting Garnishment of CARES Act Recovery Rebates

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At this time, the Office of Legal Counsel (“OLC”) recommends that the Administration interpret the above-referenced Order as follows:

1. **Transition Matters.** OLC recommends that enforcement action not be taken against a financial institution if:
  - a. prior to receiving notice of the Order and having a reasonable opportunity to act on it, the financial institution (i) subjected a customer’s CARES Act Recovery Rebate (as defined in the Order) to Garnishment (as defined in the Order), and (ii) paid such portion of the CARES Act Recovery Rebate to the judgment creditor pursuant to a judgment entered against the financial institution as garnishee;
  - b. prior to receiving notice of the Order and having a reasonable opportunity to act on it, the financial institution (i) subjected a customer’s CARES Act Recovery Rebate to Garnishment and (ii) has not paid such portion of the CARES Act Recovery Rebate to the judgment creditor, provided that the financial institution returns such portion of the CARES Act Recovery Rebate to the customer’s account; or
  - c. after receiving notice of the Order, the financial institution subjected a customer’s CARES Act Recovery Rebate to Garnishment due to bona fide operational limitations (e.g., the inability of the financial institution’s technology systems to identify CARES Act Recovery Rebates as such), provided that the financial institution (i) returns such portion of the CARES Act Recovery Rebate to the customer’s account, and (ii) makes all reasonable efforts to eliminate, or develop work-arounds for such operational limitations, to enable the financial institution to comply with the Order.
2. **Overdrawn Accounts.** If a customer’s CARES Act Recovery Rebate is deposited in an account that is overdrawn, application of such deposit to the negative balance in that account is not considered the exercise of a lien or right of setoff for purposes of paragraph II.b of the Order.
3. **Applicability to Credit Unions.** For avoidance of doubt, paragraph II.a of the Order applies to both federally-chartered and state-chartered credit unions.

*This Interpretive Guidance maybe revised or rescinded at any time. Citizens are urged to consult with their own legal counsel for advice about the application of the Order and this Interpretive Guidance to their particular facts and circumstances.*