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## Changes to the Military Lending Act (10 U.S.C. § 987)

\*\*\*These changes apply to “covered borrowers”. \*\*\*

A “covered borrower” is someone who, at the time he or she enter into the contract or agreement for credit, is a member of the armed forces who is serving on -

- (i) Active duty pursuant to title 10, title 14, or title 32, United States Code, under a call or order that does not specify a period of 30 days or fewer;
- (ii) Active Guard and Reserve duty, as that term is defined in 10 U.S.C. 101(d)(6); or
- (iii) Is a dependent, as defined by 10 U.S.C. 1072(2), of service member that falls into category (i) or (ii)

To help close loopholes, the U.S. Department of Defense has revamped SCRA military protections associated with another law – the Military Lending Act – in order to offer more comprehensive financial protections for service members.

- A 36 percent Annual Percentage Rate limit has been placed on debt. This cap, which is referred to as the Military Annual Percentage Rate or MAPR, covers all interest and fees associated with the loan. This limit now includes charges for most ancillary “add-on” products such as credit default insurance and debt suspension plans. *See* 32 CFR 232.4.
- The MLA prohibits creditors from requiring service members to:
  - submit to mandatory arbitration and onerous legal notice requirements;
  - waive their rights under the Service Members’ Civil Relief Act (though service members may still elect to waive);
  - provide a payroll allotment as a condition of obtaining credit (other than from relief societies);
  - secure credit using a post-dated check, access to a bank account (other than at an interest rate of less than 36 percent MAPR), or a car title (other than with a bank, savings association or credit union); or
  - refinance payday loans with new loans. *See* 32 CFR 232.8.

The changes to definitions of credit in the MLA rules bring any closed or open-end loan within the scope of the regulation, to include all payday loans, vehicle title loans,

refund anticipation loans, deposit advance loans, installment loans, and credit cards extended to service members.

\*\*\* Residential mortgages and purchase-money loans (to buy items like vehicles) are excluded from the MLA's definition of "consumer credit." *See* 32 CFR 232.3. \*\*\*

The term "vehicle" means any self-propelled vehicle primarily used for personal, family, or household purposes for on-road transportation. The term **does not** include motor homes, recreational vehicles (RVs), golf carts, motor scooters, or boats.

## MLA REQUIREMENTS

The MLA requires disclosures to alert service members to their rights. For example, they must provide:

- Statement of the MAPR applicable to the extension of consumer credit;
- Any disclosure required by Regulation Z of the Truth in Lending Act, which shall be provided only in accordance with the requirements of Regulation Z that apply to that disclosure; and
- A clear description of the payment obligation of the covered borrower, as applicable. Note that a payment schedule (in the case of closed-end credit) or account-opening disclosure (in the case of open-end credit) provided pursuant to Regulation Z satisfies this requirement. *See* 32 CFR 232.6.

Previously, creditors could ask service members to waive their rights to SCRA protections. That gave more leeway to the lenders, who could then include unfavorable terms, high fees, interest rates and charges without being limited by the SCRA. That is no longer the case, as service members have total control over whether or not they sign a SCRA waiver before acquiring a loan.

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