



Consumer Federation of America

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CFA Report Finds Military Lending Act Has Curbed Some Abusive Loans Servicemembers Still Exposed to Dangerous Financial Practices

Washington, DC – Five years after landmark legislation took effect to protect servicemembers and their families from predatory lending, a new study released today by Consumer Federation of America has found that the Military Lending Act (MLA) has reduced some forms of abusive credit but allows some equally harmful loans to flourish. The MLA, enacted as part of the John Warner National Defense Authorization Act of 2007, delivered servicemember protections recommended by a 2006 Department of Defense study on the impact of predatory lending on military families and readiness. The law set a 36 percent inclusive rate cap on credit and banned loans secured by the servicemember's bank account, vehicle or pay check. Under rules adopted by the DoD, MLA protections apply to payday loans, car title loans, and tax refund anticipation loans, but not to military installment loans, rent-to-own transactions or retail sales financing.

“Servicemembers are safer today from predatory small loans due to the Military Lending Act,” stated Jean Ann Fox, CFA director of financial services. “The law’s protections should be extended to more forms of credit and loopholes must be closed to achieve the full protections intended by Congress to protect servicemembers and their families.”

Report Findings

The MLA has largely succeeded in curbing some abusive loans. It has reduced predatory payday, car title and tax refund lending to servicemembers, to the extent that these products meet DoD definitions of what types of loans are covered by the law. State regulators, military charities, and financial counselors report a sharp drop in payday lending to covered servicemembers. Mapping of high-cost lenders around bases shows a reduction in the concentration of high-cost lenders around some military bases since enactment of the MLA. Servicemember requests for assistance from military charities due to debt trouble with covered loans have declined, but not disappeared. Refund anticipation loans are not being offered to servicemembers as a result of the MLA and enforcement by bank regulators. However, it appears that some car title lenders are still making loans to servicemembers in violation of MLA protections, based on recent litigation.

Predatory lenders are exploiting definitional loopholes in the MLA to offer abusive loans the DoD attempted to prohibit. Payday and car title lenders circumvent DoD definitions by making loans that are “open-ended” (without a fixed ending date) or longer-in-term than the DoD definitions of those products. For example, MilitaryFinancial.com charges 586% APR for

their open-end version of a payday loan. A 32 month-long car title loan in South Carolina cost a servicemember 400% APR. If these loans were closed-end loans or for a shorter term, they would be prohibited by the MLA.

Some problematic credit products targeted at servicemembers are not covered by DoD rules.

Servicemembers are still exposed to high interest rates and abusive practices by military installment lenders, retail installment sales companies, and rent-to-own firms. CFA found examples of high finance charges, unfair contract terms, and mandatory payment by allotment of military pay that would be prohibited, if the DoD applied MLA protections to all the products that it expressed concern about in its 2006 Report.

Servicemembers are not protected from bank credit products that are similar to payday lending. DoD rules exclude several bank credit products that put servicemember ownership of bank accounts at risk and create a debt trap for consumers in the same way that payday lending does, including overdraft and direct-deposit advance loans. Over 90 percent of banks with branches on military bases allow or encourage servicemembers to “opt-in” to overdraft loans for debit card transactions, charging servicemembers up to \$36 for a small overdraft loan that could be denied for no fee. A \$100 overdraft repaid in two-weeks for \$36 would cost almost 1,000% APR, if computed as a closed-end payday loan. Three of the largest banks with direct deposit-advance loans that cost 365% APR for the typical 10-day term have branches on bases and make these payday loans available to servicemembers with accounts. Because bank direct deposit advances are structured as open-end credit, these payday loan products are not banned by the Military Lending Act.

MLA protections extended by Congress with bi-partisan support have yet to be fully implemented. Congress prohibited loans secured by allotments, which are direct payments of debts made by the Defense Finance and Accounting Service before paychecks are deposited to servicemembers’ bank accounts. However, DoD has not defined as “consumer credit” the types of loans and credit sales typically repaid by allotments. Allotments put loan companies and retail creditors at the head of the line to be paid first out of servicemembers’ wages and enable lenders to extend credit without fully determining ability-to-repay. The CFA report notes that guaranteed payment via allotment encourages creditors to cluster around the gates of major military bases and offer credit with few questions asked.

Enforcement tools need to be strengthened to improve compliance with the law. The MLA should grant clear enforcement authority to all federal agencies that supervise and enforce federal laws that cover bank and non-bank financial service providers. It should also allow civil penalties for MLA violations, which would encourage private enforcement of the law. The MLA was intended to ensure that non-resident servicemembers stationed in states get the same credit protections as residents of the state. The law should clarify that state protections apply to all forms of credit under state supervision, not just those defined by DoD.

To evaluate the impact of the Military Lending Act, CFA conducted case studies with financial counselors and credit available at three military bases, commissioned maps of lenders around major bases, surveyed banks with branches on military bases, spoke to federal bank regulators and state authorities about enforcement efforts, and monitored credit products marketed online to members of the military. CFA was not able to survey servicemembers directly about their experiences.

“It is time for the Department of Defense to conduct a new study measuring the impact of the Military Lending Act rules and protections and to learn about credit products and practices that are currently putting stress on service members and their families,” Fox noted. “MLA protections should also be extended to returning troops and veterans to stop rate gouging and unfair credit practices.”

CFA Report: The Military Lending Act Five Years Later,
www.consumerfed.org/pdfs/Studies.MilitaryLendingAct.5.29.12.pdf

CFA Factsheet: Predatory Lending Protections for Service Members
<http://www.consumerfed.org/pdfs/MIL-Fact-Sheet-Final-Regs.pdf>

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The Consumer Federation of America is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education.