



Consumer Federation of America

Predatory Lending Protections for Service Members The Military Lending Act

In 2006 Congress enacted the Talent-Nelson amendment to the John Warner Defense Authorization Act of 2007 to provide landmark federal protections against predatory lending for Active duty Service members and their eligible family members. The Department of Defense issued final regulations for the Military Lending Act (MLA), effective for loans written on or after October 1, 2007.

Creditors and Consumer Credit Covered by Rules

The Department narrowly defined three types of loans as “consumer credit” to be subject to the protections of the MLA.

- **Payday Loans** (at stores or made via the Internet or telephone/fax)
 - Loans up to \$2,000 (one or more loans)
 - Closed-end (single advance of credit over fixed term)
 - Term of 91 days or less
 - Based on check held for future deposit or electronic access to account for future payment
- **Vehicle Title Loans**
 - Term of 181 days or less
 - Closed-end
 - Secured by title to a registered motor vehicle owned by a covered borrower (except to buy the car)
- **Tax Refund Anticipation Loans**
 - Closed-end credit
 - Tax refund goes to creditor to repay loan

Credit Not Covered per Military Lending Act or Regulations

1. Residential mortgages, including refinancing, home equity loans or lines of credit, and reverse mortgages.
2. Credit to finance the purchase or lease of a vehicle, and secured by the vehicle being purchased or leased.

3. Open-end credit, including all credit cards, bank overdraft lines of credit, and any truly open-end payday or vehicle title loans. (“Open end” involves repeat use of credit without approval necessary, no fixed term to repay, charge based on outstanding balance)
4. Any debt to a bank that can be paid by set-off of deposited funds, such as overdraft loans. (Set-off means the bank withdraws payment directly from account per standard account contract terms.)
5. Any credit not subject to Truth in Lending Act disclosures, such as overdraft loans. (FRB regulations currently exempt bank overdraft loans from TILA cost disclosures, though pending legislation H.R. 946 would reverse this.)
6. Installment loans with terms longer than 91 days, including all military installment lenders, or all installment loans not secured by a check or electronic access to an account.
7. Rent to own transactions.
8. Any credit transaction to finance the purchase or lease of personal property when the credit is secured by the property being purchased.
9. Credit secured by a qualified retirement account.

Covered Borrowers

1. Regular or reserve member of the **Army, Navy, Marine Corps, Air Force or Coast Guard**
2. Serving on active duty under a call or order that specifies longer than 30 days
3. Member serving on Active Guard and Reserve Duty (10 U.S.C. 101(d)(6))
4. Card-carrying dependent of active duty military. (Member’s spouse, child (38 U.S.C. 101(4)), or individual who gets over half support for 180 days immediately preceding an extension of credit)

Protections That Apply to Covered Credit: Payday Loans, Car Title Loans, Tax Refund Loans

36% Annual Interest Rate Cap, including most fees (but not late or default fees) and insurance premiums, called the Military Annual Percentage Rate (MAPR)

Ban on securing loan with a personal check or other access to bank account, title to a personal vehicle, or military allotment. (Service member can choose to pay other types of credit by allotment.)

No Prepayment penalties

No Roll-overs, renewals, refinancing or consolidation unless the renewal is at better terms for the borrower, such as a lower cost.

Ban on mandatory arbitration clauses, waiver of legal rights, and onerous legal notice in case of dispute (Borrower cannot sign away legal rights.)

Mandatory disclosures orally and in writing before credit is issued:

Military annual percentage rate of interest

Truth In Lending Act required disclosures

Clear description of payment obligations

For loans made via the mail or Internet, oral disclosures may be made by providing a 1-800 #.

Federal vs. State Laws

Military Lending Act and DOD regulations apply unless a state law provides additional protection to the borrower. (State rate cap can be lower than 36%, for example, or cover open-end payday loans.)

States must enforce state laws to protect non-resident Service Members stationed in their state for covered consumer credit.

Where to File Complaints

Notify the base legal office if a payday loan, title loan or tax refund loan fails to comply with the law and regulations.

File a complaint with the state credit regulator. Go to www.paydayloaninfo.org, click on State Information, then the state where the Service member got the loan. Contact information and online complaint forms for state officials are provided.

Public Law 109-364, the John Warner National Defense Authorization Act for Fiscal Year 2007, Section 670, "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents," (October 17, 2006.)

Title 32, Code of Federal Regulations, Part 232—Limitations on Terms of Consumer Credit Extended to Service Members and Dependents