

## Chapter 3

# Military Lending Act





Servicemembers are vulnerable to predatory lending practices because they receive regular paychecks that are typically directly deposited. Also, many servicemembers have jobs that require a security clearance. Late payments on debts can cause servicemembers to lose their clearance and subsequently their jobs. This means servicemembers usually try very hard to pay their debts on time. Because servicemembers are so vulnerable to predatory lenders, the Department of Defense (DOD) conducted a study of the impact of predatory lending on their troops. The DOD found that “[p]redatory lending undermines military readiness, harms the morale of troops and their families, and adds to the cost of fielding an all-volunteer fighting force.”<sup>11</sup>

Because of those findings by the DOD, the law which came to be known as the Military Lending Act (MLA)<sup>12</sup> was passed. Payday loans, vehicle title loans, and tax refund anticipation loans are covered by this law. The MLA says covered loans may not have an annual percentage rate (APR) of more than 36%. The MLA defines a payday loan as a loan that qualifies as closed-end credit,<sup>13</sup> has a term of 91 days or less, does not exceed \$2,000, and the borrower must provide a check or give permission for automatic debit authorization that is deferred for one or more days. A vehicle title loan is defined as closed-end credit, has a term of 181 days or less, and is secured by a car licensed to operate on roadways. In addition to the 36% military APR cap, the MLA requires lenders to include a disclosure statement in loan applications to identify borrowers. The MLA covers borrowers who are regular or reserve members of the Army, Navy, Marine Corps, Air Force and Coast Guard serving on active duty under a call or order that specifies longer than 30 days, as well as their card-carrying dependents.

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11 “Report on Predatory Lending Practices Directed at Members of the Armed Forces and Their Dependents” August 9, 2006, available at [www.defense.gov/pubs/pdfs/report\\_to\\_congress\\_final.pdf](http://www.defense.gov/pubs/pdfs/report_to_congress_final.pdf) (last visited November 20, 2013).

12 Military Lending Act, 10 U.S.C. § 987 (2013); Department of Defense Military Lending Act Regulations, 32 C.F.R. pt. 232 (2013).

13 Under the MLA, “closed-end credit” means all consumer credit other than “open-end credit” as defined in the Truth in Lending Act (TILA). 12 C.F.R. pt. 226.2. Under the TILA, “open-end credit” means consumer credit extended by a creditor under a plan in which: (i) the creditor reasonably contemplates repeated transactions; (ii) the creditor may impose a finance charge from time to time on an outstanding unpaid balance; and (iii) the amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

It is crucial that servicemembers are aware of the MLA because of the protections it provides; however, lenders have found ways around it to take advantage of servicemembers. Because the MLA is limited to closed-end credit transactions, these lenders simply offer revolving lines of credit, much like a credit card. A revolving line of credit has an overall cap on borrowing, and the servicemember can borrow up to the cap, then pay down the loan, and then borrow money again up to the cap, at any time. Some lenders charge as much as 500% for an open ended payday loan. The MLA helps servicemembers avoid costly financial mistakes; however, some gaps in the law's ability to protect servicemembers remain.

The National Defense Authorization Act for Fiscal Year 2013 (NDAA) includes provisions that address federal enforcement of the MLA. The NDAA makes clear that the Consumer Financial Protection Bureau (CFPB) has enforcement authority under the MLA. Further, the NDAA gives the CFPB an opportunity to weigh in on how MLA laws will work, including what they will cover. The NDAA adds the CFPB to the list of agencies with which the DOD must consult about how the MLA works and provides that such consultation must occur at least every two years. These changes add new force to the MLA and provide additional support for the CFPB and DOD to work together on servicemember protection issues.