

Military Lending Act for Pawnbrokers

Presentation by

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John Warner National Defense Authorization Act for Fiscal Year 2007—Military Lending Act (MLA)

- Covered member of armed forces and dependents
- 36% annual interest rate cap (Military Annual Percentage Rate)
- Mandatory oral and written disclosures
- No rollovers, renewals, refinances by same Creditor
- No waivers of protection
- No mandatory arbitration
- No loans secured by personal check, bank account or vehicle title
- No mandatory allotments
- No prepayment penalties

“Limitations on Terms of Consumer Credit Extended to Service Member and Dependents” 10 U.S.C. § 987 (effective October 17, 2006) and amended by National Defense Authorization Act for Fiscal Year 2013.

Initial Credit Products Regulated

- Payday loans
 - Closed end
 - 91 days or fewer
 - Does not exceed \$2000
- Vehicle title loans
 - Closed end
 - 181 days or fewer
- RAL
- Too many creative workarounds

Final rules published 72 Fed. Reg. 50580, effective October 1, 2007

Why Change MLA?

- Extend protections for active duty service members and their dependents to a wider range of credit products
- Streamline disclosures
- Improve identification of Covered Members
- Improve financial stability, readiness and mission focus
 - Debt deteriorates troop morale and increases stress
- Each separation costs DOD \$58,250

“The current rules under the Military Lending Act are akin to sending a soldier into battle with a flak jacket but no helmet. To give our troops full-cover protection, the rules need to be expanded.”

CFPB Director Richard Cordray, December 29, 2014 press release

Covered Borrowers

- Active duty armed forces, National Guardsmen and Reservists
- Spouse
- Children (under 21, or under 23 full-time college student, or incapable of self-support)
- Parent or parent-in-law (dependent and residency)
- Unmarried person (under 21, or under 23 full-time college student, or incapable of self support)
- 1.35 million active duty military personnel (as of 2/29/16)

See 10 U.S.C. § 1072(2)(A), (D), (E), and (I)

New Definition of “Consumer Credit”

- Credit offered or extended to a covered borrower
- Primarily for personal, family, or household purposes
- Subject to a finance charge, or
- Payable in more than 4 monthly installments by a written agreement

80 Fed. Reg. 43560 at 43607

Regulated Credit Products in the Amended MLA

- Payday loans (any amount or duration)
- Vehicle title loans (any duration)
- RALs
- Deposit advance loans
- Installment loans
- **Pawn loans!**
- Unsecured open-end lines of credit
- Credit cards

MLA Does Not Apply To:

- Residential mortgage loans
- Loans used to finance the purchase a car or personal property, when
- The loan is secured by the car or personal property
- Transactions exempt from Reg Z (business, commercial, agricultural, loans over threshold amount, public utility credit, securities or commodities accounts, home fuel budget plans, student loan programs, employer-sponsored retirement plans, partial exemption for junior liens like OHFA)
- Transactions where creditor determines consumer not covered by running a safe harbor check

New Definition of MAPR

- Any charge that is a “finance charge” under Reg Z
- Includes ancillary products even if voluntarily agreed to (credit insurance, debt cancellation contract and debt suspension agreement)
- Includes application fees, participation fees, service charges and annual fees (Some exceptions apply. See Federal Register for details.)

MAPR Does Not Include:

- Bona fide late payments, default, delinquency fees
- Taxes or fees paid to government recorders for perfecting or releasing liens
- Tax return preparation fees for RALs

Compliance Timetable

- Effective date: October 1, 2015
- Compliance date:

October 3, 2016

for consumer credit transactions established or
consummated on or after October 3, 2016

Mandatory Loan Disclosures to Covered Borrowers Only

- Clear and conspicuous deleted, but...
- Oral and written required
 - Toll free number for oral disclosures
- Statement of MAPR
 - A description of the charges, not numeric
 - Use model statement
- Reg Z disclosure
- A clear description of the payment obligation
 - Payment schedule (closed-end)
 - Account opening disclosure (open-end)

Model Statement of MAPR

“Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36 percent. This rate must include, as applicable to the credit transaction or account: The costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit account).”

Delivering the Model Statement

- In writing in a form the borrower can keep; **and**
- Orally, either
 - In person or
 - Via a toll-free telephone number on the
 - Loan application form
 - Model statement form
- Refinancing or renewal of the loan requires new disclosure of the MAPR statement if there are new Reg Z disclosures

Identifying Covered Borrowers

- No restriction on how to check, but...
- ***Safe harbor*** available only for the following methods:
 - MLA Database
 - Last name, date of birth, SSN
 - Consumer report from nationwide consumer reporting agency
- Maintain records of your MLA checks! (How long? Stay tuned)

How Often Should I Check?

**Every Time the Customer
Takes out a Pawn Loan!**

This is not “one and done”!

MLA Website

- <https://mla.dmdc.osd.mil>

[50 USC Appx. §§301 et seq. as amended] The services provided on this site are FREE

Welcome to the Official
Military Lending Act (MLA)
Website

Home **Single Record Request** Multiple Record Requests User's Guide FAQs News My Account

News and Alerts [See all news](#)

07/31/2014 - Testing to see that the welcome text is from the correct source.

Welcome to MLA

MLA is a program that provides certain protections in lending for servicemembers who are called to Active Duty. From this site:

Users may submit a [Single Record Request](#) to obtain a report certifying Title 10 active duty status for provisions under MLA. This report is also called a Certificate. No account is required to use the Single Record Request.

Users may also request [Multiple Record Requests](#) of multiple individuals (or multiple dates for a single individual) to determine Title 10 active duty status for provisions under MLA. An account is required to use the Multiple Record Request. These users will be able to:

- Create and manage an account in order to retrieve information
- Upload 'Request' files for Multiple Record Requests
- Download 'Result' file(s)
- Download Certificates for Multiple Record Request(s)

Resources


- [Help with Browser Certificate Error](#)
- [Download Adobe Reader](#)
- [What is an MLA Certificate?](#)

Privacy Notice No Fear Act Notice USA Gov MLA 2.0



Single Record Request

[10 USC Appx. §987 et seq. as amended]

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Single Record Request

Use this page to request a Certificate verifying Active Duty Status for an individual on a specified date.

*** Indicates a required field**

* SSN

* Repeat SSN

* Birth Date

MM/DD/YYYY(e.g., 09/16/2012)

* Last Name

First Name

Middle Name

Clear

Submit

Tips & Notes

- Without a Social Security Number, DMDC cannot authoritatively assert that this is the same individual that your query refers to. Name and date of birth alone do not uniquely identify an individual.
- Check your data entry before submitting it.
- Response may take up to 15 seconds after clicking "Submit".

Resources

[Download Adobe Reader](#)

[Unexpected results?](#)

Privacy Notice

MLA 2.0

Record Request Certificate

Department of Defense Manpower Data Center

Results as of : Apr-01-2016 03:44:33 PM

MLA 2.0



Status Report Pursuant to Military Lending Act

Last Name: MALLETT

First Name:

Middle Name:

Status As Of: Apr-01-2016

Status
Based on the information you provided DMDC does not possess information indicating that the individual is either on active duty for more than 30 days or a family member of a service member on active duty for more than 30 days based on the Status Inquiry Date.

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the Status Inquiry Date as to the following branches: Army, Navy, Marine Corps, Air Force, and Coast Guard.

A handwritten signature in black ink that reads "Mary M. Snavelly-Dixon".

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
4800 Mark Center Drive, Suite 04E25
Arlington, VA 22350

This inquiry system has been designed to support identification of borrowers covered by 32 C.F.R. Part 232, which legally protects covered military personnel and their family members from excessive interest rates. This Federal regulation, which implements 10 U.S.C. 987, defines covered borrowers as: (1) A regular or reserve member of the Army, Navy, Marine Corps, Air Force, or Coast Guard, serving on active duty under a call or order that does not specify a period of 30 days or less, or such a member serving on Active Guard and Reserve duty as that term is defined in 10 U.S.C. 101(d)(6), (2) the member's spouse, (3) the member's child defined in 38 USC 101(4), or (4) an individual for whom the member provided more than one-half of the individual's support for 180 days immediately preceding an extension of consumer credit covered by 32 C.F.R. Part 232.

This inquiry system checks the enrollment of individuals in the centralized database of identity, military medical eligibility and enrollment, and benefits verification data on members of the DoD Components, members of the Uniformed Services, and other personnel as designated by the Department of Defense, and their eligible family members (called the Defense Enrollment and Eligibility Reporting System (DEERS) database).

The Defense Manpower Data Center (DMDC) is the Department of Defense organization that maintains the DEERS database. The data in DEERS is sent to DMDC from the Uniformed Services and DoD Components. The data is as current as the information received. The DEERS database can consistently identify most individuals included in the definition of covered borrowers with the exception of (4) above: an individual for whom the member provided more

Certificate (close up)

Status
Based on the information you provided DMDC does not possess information indicating that the individual is either on active duty for more than 30 days or a family member of a service member on active duty for more than 30 days based on the Status Inquiry Date.

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the Status Inquiry Date as to the following branches: Army, Navy, Marine Corps, Air Force, and Coast Guard.

Mary M. Snively-Dixon

Multiple Record Request

[50 USC Appx. §§501 et seq. as amended] The services provided on this site are FREE

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Multiple Record Request

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Login

Login is required in order to request information on multiple individuals or dates, or to check on the status of a previous multiple record inquiry. If you do not have an account, you may [Create an Account](#) now.

* Username

[Forgot username?](#)


* Password

[Forgot password?](#)

Security Check

Enter **both** words below, **separated by a space**.
Can't read the words below? Try different words or an audio captcha.

*



Login

Need an Account?

Create an Account

Tips & Notes

- If you do not see the Security Check (reCAPTCHA) window, check your browser settings to make sure Javascript is enabled.
- The Security Check is required to login or create an account.

Resources

User's Guide
Privacy Notice
Annotated Request
Annotated Result
Example Upload File

The Enforcers

- CFPB
- FTC
- DoD
- Prudential regulators for depository institutions
- State regulators—The DoD “intends to rely on federal and state regulators to oversee or enforce compliance with the [MLA] to the extent possible under their statutory authority, for their creditors.” 72 Fed. Reg. 50589 (2007).
- Federal private right of action **New!**

Harsh Penalties

- Pawn ticket will be void
- Civil liability to covered borrowers for violations with actual damages ***not less than \$500 per violation***, punitive damages, costs of action and attorneys fees **New!**
- Criminal—fines and/or up to one year in prison
- Defense for non-intentional bona fide errors notwithstanding procedures reasonably adapted to avoid errors **New!**

CFPB's Enforcement

- Office of Servicemember Affairs—Holly Petraeus
- Recovered more than \$1.6 million for 17,000 servicemembers, veterans and their families in 2014 (Office of Servicemember Affairs, April 2015 Report)

Legal Risks

- UDAAP
- Class actions (Class certification upheld in *Cox v. Comty. Loans of America, Inc.*, 625 Fed. Appx. 453 (11th Cir. Aug. 28, 2015)).
- FDCPA
- FCRA
- Servicemembers Civil Relief Act (6% per year)
- State military lending laws (e.g. Florida, Ohio)
- Reputational risk (YUGE!)

Jurisdiction, Venue, Statute of Limitations

- For civil actions
 - U.S. District Court without regard to amount in controversy or
 - Other court of competent jurisdiction
 - Case must be brought by the earlier of:
 - 2 years after violation discovered or
 - 5 years after date of violation
- For administrative actions
 - No statute of limitations applies to administrative enforcement actions by CFPB per PHH decision

Certificate Retention

- How long should I retain the Certificates?
- There is no statute of limitations for CFPB administrative cases!

Action Plan

- Add MLA to compliance management systems
- Designate adequate compliance staff and point person (cross-functional project management group: marketing, sales, IT, compliance/legal)
- Draft new policies and procedures to meet requirements of rule
- Create new lending programs for Covered Borrowers?
- If yes, adjust software systems to calculate MAPR
- If yes, modify pawn tickets (and arbitration agreements)
- If yes, develop new disclosures—oral and written
- Train staff on new procedures to identify Covered Borrowers
- Establish record retention and destruction procedures
- New audit procedures to check compliance

Questions?

Contact

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