

June 24, 2013

The Honorable Charles Timothy Hagel
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, DC 20301-3010

Re: Department of Defense Rules Implementing the Military Lending Act
(Docket ID: DoD-2013-OS-0133)

Dear Mr. Secretary:

The undersigned Attorneys General write in response to the Advanced Notice of Proposed Rulemaking concerning “Limitations on Terms of Consumer Credit Extended to Service Members and Dependents” issued by the Department of Defense (the “Department”) and published in the Federal Register on June 17, 2013.

Our military servicemembers are disproportionately targeted by predatory lenders. Military bases are surrounded by storefront predatory lenders, many of which charge triple-digit annual percentage rates. Servicemembers, fearful of losing their security clearance, may resort to these non-traditional lenders rather than seek financial advice and assistance from their commands, or from the Department’s existing family support and financial readiness programs. High-cost loans are extremely difficult for financially-strapped servicemembers to repay, resulting in additional loans with ever-increasing interest rates and fees. The result is an increasing spiral of debt for the military borrower. As the chief consumer protectors in each of our states, we encourage the Department to implement more robust protections of our nation’s servicemembers against the proliferation of predatory consumer lending practices.

In 2007, the Department adopted rules implementing certain statutorily required consumer protections under the Military Lending Act (“MLA”). Although those regulations were a positive step forward at that time, much more can be done to ensure that the men and women serving our country are adequately protected from abusive lending practices. The Department now has the unique opportunity to re-write its rules under the MLA, with the benefit of

hindsight, to dramatically enhance consumer protections for the men and women serving our country.

The Department's existing rules limit the types of "consumer credit" that are subject to MLA protection to the following three narrow categories:

- Payday Loans are covered, but limited to closed-end loans of up to \$2,000, for a term of 91 days or less
- Vehicle Title Loans are covered, but limited to closed-end loans secured by a motor vehicle title, for a term of 181 days or less (except to purchase the car); and
- Tax Refund Anticipation Loans are covered, but limited to closed-end loans

For those lending products that fall within these narrow categories, servicemembers and their dependents may not be charged interest and fees that exceed 36% annually. Furthermore, lenders may not secure loans with personal checks or automatic bank account authorizations. Nor may they require mandatory arbitration clauses or other language waiving legal rights.

While the MLA has been largely successful in curbing abusive lending in those categories covered by the Department's current rules, the narrow categories and definitions create large loopholes that permit lenders to fashion abusive or predatory transactions that avoid the MLA's protections. For example, by requiring that payday loans be for a minimum of \$2,001, or have a minimum repayment period of 92 days, a lender can avoid the MLA's 36% interest cap. Other loans that are not subject to MLA protections include:

- Any open-ended or revolving payday loan;
- Any auto title loan for more than 181 days;
- Any bank loan that is secured by funds on deposit, such as overdraft loans; and
- Any retail sales credit loan or other similar rent-to-own transaction (including those where the loan is ostensibly "secured" by personal property that bears no relationship to the amount of the credit advanced).

The Department should modify the definitions of consumer credit to provide more comprehensive protections against abusive lending practices. For example, new rules should ensure that payday and car title loans given to servicemembers are subject to the MLA's 36% cap and other protections, regardless of the loan's amount, structure or duration. The rules should also apply uniformly to the full range of consumer credit loans that present dangers similar to those already covered, including rent-to-own transactions and overdraft loans. Such changes are necessary to protect military borrowers from predatory lenders who purposefully structure loan transactions so as to avoid the strictures of the MLA.

Our offices are actively working to combat predatory practices directed at servicemembers in our respective states. In considering how to improve the protections offered by the MLA, we strongly encourage the Department to engage in an open and transparent

collaboration with the states attorneys general to create more robust MLA protections. We further suggest that this be done expeditiously, so that we can begin to offer more comprehensive protection to our servicemembers as soon as practicable. Those who have served our country deserve the strongest protections our government can provide.

Sincerely,



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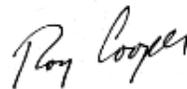
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