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10 USC Sec. 987

01/03/2012 (112-90)

-EXPCITE-

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART II - PERSONNEL

CHAPTER 49 - MISCELLANEOUS PROHIBITIONS AND PENALTIES

-HEAD-

Sec. 987. Terms of consumer credit extended to members and dependents: limitations

-STATUTE-

(a) Interest. - A creditor who extends consumer credit to a covered member of the armed forces or a dependent of such a member shall not require the member or dependent to pay interest with respect to the extension of such credit, except as -

(1) agreed to under the terms of the credit agreement or promissory note;

(2) authorized by applicable State or Federal law; and

(3) not specifically prohibited by this section.

(b) Annual Percentage Rate. - A creditor described in subsection (a) may not impose an annual percentage rate of interest greater than 36 percent with respect to the consumer credit extended to a covered member or a dependent of a covered member.

(c) Mandatory Loan Disclosures. -

(1) Information required. - With respect to any extension of

consumer credit (including any consumer credit originated or extended through the internet) to a covered member or a dependent of a covered member, a creditor shall provide to the member or dependent the following information orally and in writing before the issuance of the credit:

(A) A statement of the annual percentage rate of interest applicable to the extension of credit.

(B) Any disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.).

(C) A clear description of the payment obligations of the member or dependent, as applicable.

(2) Terms. - Such disclosures shall be presented in accordance with terms prescribed by the regulations issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act (15 U.S.C. 1601 et seq.).

(d) Preemption. -

(1) Inconsistent laws. - Except as provided in subsection (f)(2), this section preempts any State or Federal law, rule, or regulation, including any State usury law, to the extent that such law, rule, or regulation is inconsistent with this section, except that this section shall not preempt any such law, rule, or regulation that provides protection to a covered member or a dependent of such a member in addition to the protection provided by this section.

(2) Different treatment under state law of members and dependents prohibited. - States shall not -

(A) authorize creditors to charge covered members and their dependents annual percentage rates of interest for loans higher than the legal limit for residents of the State; or

(B) permit violation or waiver of any State consumer lending

limit established under this section.

(C) A maximum allowable amount of all fees, and the types of fees, associated with any such extension of credit, to be expressed and disclosed to the borrower as a total amount and as a percentage of the principal amount of the obligation, at the time at which the transaction is entered into.

(D) Definitions of "creditor" under paragraph (5) and "consumer credit" under paragraph (6) of subsection (i), consistent with the provisions of this section.

(E) Such other criteria or limitations as the Secretary of Defense determines appropriate, consistent with the provisions of this section.

(3) In prescribing regulations under this subsection, the Secretary of Defense shall consult with the following:

- (A) The Federal Trade Commission.
- (B) The Board of Governors of the Federal Reserve System.
- (C) The Office of the Comptroller of the Currency.
- (D) The Federal Deposit Insurance Corporation.
- (E) The Office of Thrift Supervision.
- (F) The National Credit Union Administration.
- (G) The Treasury Department.

(i) Definitions. - In this section:

(1) Covered member. - The term "covered member" means a member of the armed forces who is -

(A) on active duty under a call or order that does not specify a period of 30 days or less; or

(B) on active Guard and Reserve Duty.

(2) Dependent. - The term "dependent", with respect to a covered member, means -

(A) the member's spouse;

(A) with respect to any consumer credit extended.

(6) Consumer credit. - The term "consumer credit" has the meaning provided for such term in regulations prescribed under this section, except that such term does not include (A) a residential mortgage, or (B) a loan procured in the course of purchasing a car or other personal property, when that loan is offered for the express purpose of financing the purchase and is secured by the car or personal property procured.

-SOURCE-

(Added Pub. L. 109-364, div. A, title VI, Sec. 670(a), Oct. 17, 2006, 120 Stat. 2266.)

-REFTEXT-

REFERENCES IN TEXT

The Truth in Lending Act, referred to in subsec. (c)(1)(B), (2), is title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146, as amended, which is classified generally to subchapter I (Sec. 1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Servicemembers Civil Relief Act, referred to in subsecs. (e)(2) and (g), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

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EFFECTIVE DATE

Pub. L. 109-364, div. A, title VI, Sec. 670(c), Oct. 17, 2006, 120 Stat. 2269, provided that:

"(1) In general. - Except as provided in paragraph (2), section 987 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2007, or on such earlier date as may be prescribed by the Secretary of Defense, and shall apply with respect to extensions of consumer credit on or after such effective date.

"(2) Authority to prescribe regulations. - Subsection (h) of such section shall take effect on the date of the enactment of this Act [Oct. 17, 2006].

"(3) Publication of earlier effective date. - If the Secretary of Defense prescribes an effective date for section 987 of title 10, United States Code, as added by subsection (a), earlier than October 1, 2007, the Secretary shall publish that date in the Federal Register. Such publication shall be made not less than 90 days before that earlier effective date."

INTERIM REGULATIONS

Pub. L. 109-364, div. A, title VI, Sec. 670(d), Oct. 17, 2006, 120 Stat. 2269, provided that: "The Secretary of Defense may prescribe interim regulations as necessary to carry out such section [this section]. For the purpose of prescribing such interim regulations, the Secretary is excepted from compliance with the notice-and-comment requirements of section 553 of title 5, United States Code. All interim rules prescribed under the authority of this subsection that are not earlier superseded by final rules shall expire no later than 270 days after the effective date of section 987 of title 10, United States Code [see Effective Date note above], as added by this section."