

U B A F a l l C o m p l i a n c e C o n f e r e n c e

# Lending to Servicemembers

Presenter: Julia A. Gutierrez

# Agenda

- Servicemembers Civil Relief Act
- Military Lending
- Comparison

# Servicemembers Civil Relief Act

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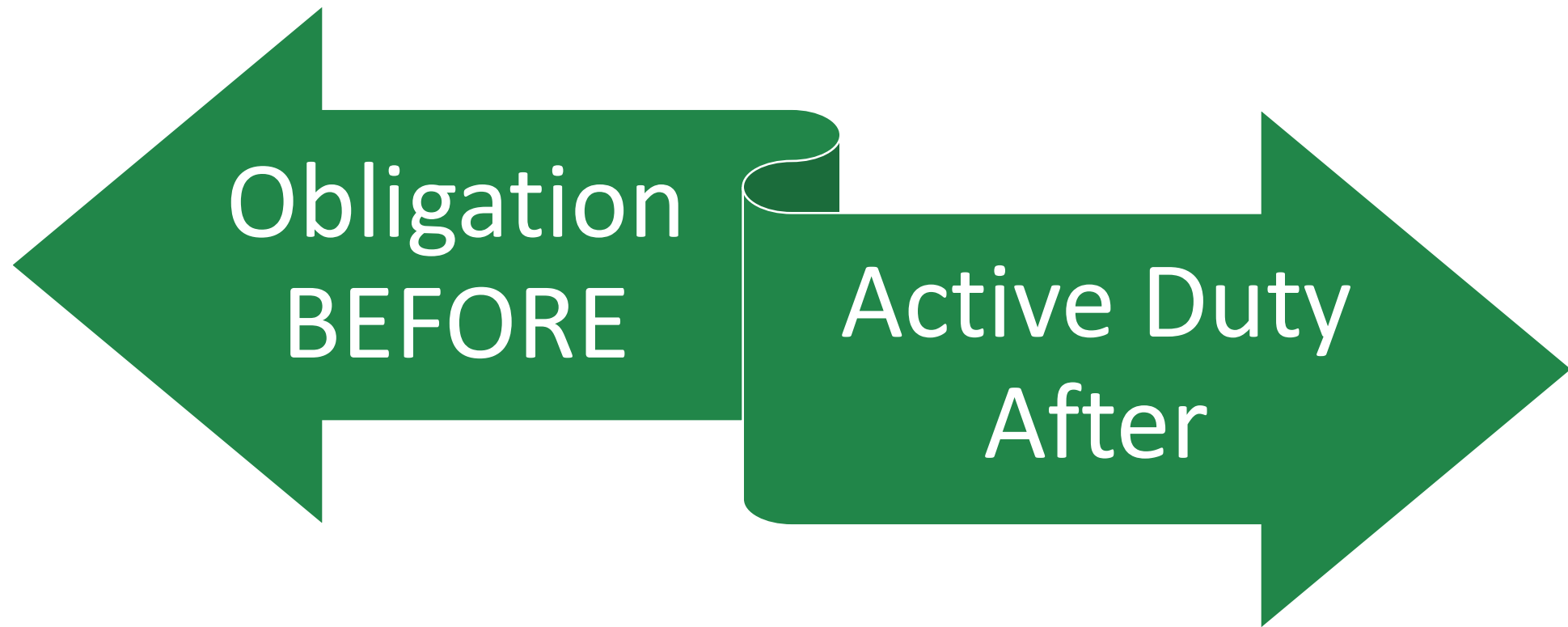
- Coverage
- Protections
- Penalties
- Amendments



# Servicemembers Civil Relief Act Coverage

- Any member of the U.S. Armed Forces on active duty
- Any member of a reserve component called to active duty
- National Guard personnel under a call or order to active duty
  - National Emergency
  - Federal Funds
- Public Health Service and National Oceanic and Atmospheric Administration Officers
- Detailed for duty with armed forces
- Dependents of active duty servicemembers (varies)
- Obligation to business or partnership (case by case)

# Servicemembers Civil Relief Act Coverage



# Servicemembers Civil Relief Act Protections

Adverse  
Action

Interest Rate  
Cap

Foreclosure  
Protection

Installment  
Contracts

Leases

Enforcement  
of Storage  
Liens

Eviction

Life Insurance

Dependents

# Adverse Action

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- Creditor cannot take adverse action against servicemember/covered obligor because they qualify or receive a SCRA protection





# Interest Rate Cap

- 6% Cap on Interest
- Servicemember and Spouse (Jointly Liable)
- Covered Loans
- SCRA Definition of Interest
  - Service Charges
  - Renewal Charges
  - Fees (Including Late Fees)
  - Other Charges Respect to Obligation of Liability  
(except bona fide insurance)





# Foreclosure/Court Actions

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- Non-Judicial Foreclosures Invalid
- Stay of Proceedings
- Active Duty + 1 year
- Representation
- HUD Notice



# Additional Protections Impacting the Bank

- **Installment Contracts** – restricts the bank from canceling or rescinding a contract
- **Leases** – allows for the termination of a lease, residential or vehicle, under certain conditions
- **Enforcement of Storage Liens** – restricts the bank from enforcing any storage liens during active duty and for 90 days after active duty ends without a court order
- **Eviction** – restricts landlord from evicting covered obligors during active duty without a court order
- **Life Insurance** - creditor cannot exercise rights under the policy during the servicemember's military service or within one year after service without a court order
- **Dependents** - when a court provides a stay or other protection, it is provided to all other obligors

# Amendments

S.2155 (The Economic Growth, Regulatory Relief and Consumer Protection Act) – Extensions for foreclosure protection made permanent

McCain Amendment – Expands type of proof of military service

2018

2020

Extension of Lease Protections  
Response to COVID-19  
Local, National, or Global Emergency

# SCRA Penalties



Fines



Prison up  
to 1 year

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## Military Lending Act

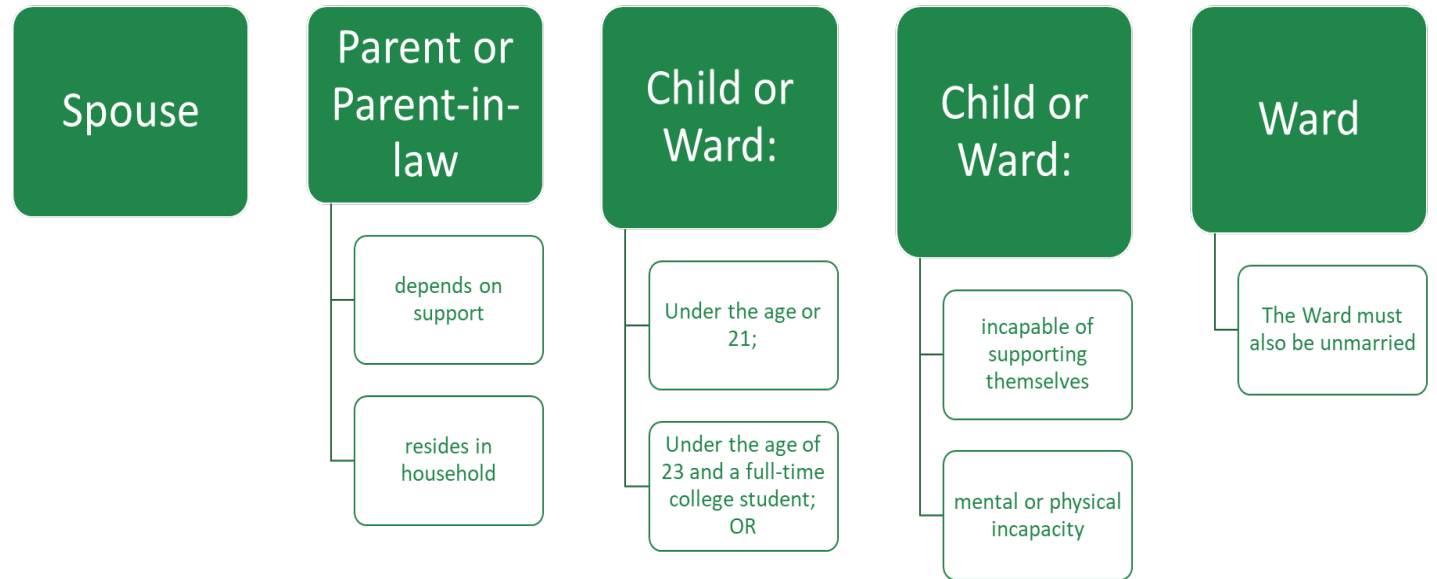
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- Coverage
- Protection
- Amendments
- Penalties



# Military Lending Act Coverage

- Any member of the armed forces who is on active duty
- Active Guard and Reserve Duty
- Dependents as defined in the regulation



# Determination of Identification

- Optional
- Safe Harbor
  - Credit Report
  - DoD Database
- Prior to Loan close
- 60 Days





# Covered Transactions

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Consumer Credit

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Regulation Z

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Open-End Loans

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Payday Loans

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Credit Cards

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Vehicle-Secured Loans

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Land-Only Loans

# Exceptions

Purchase  
Money

Vehicle  
Purchase

Residential  
Mortgages

HELOCs/HE

Reverse  
Mortgages

Initial  
Construction

Refis

Business  
Loans

# Military Lending Act Protections

- MAPR Limit
  - Rate Cap
  - Covered Transactions
- Disclosures
  - Rights
  - Arbitration Prohibition

# MAPR Cap

- 36% Cap on Interest
- Servicemember and Spouse (Jointly Liable)
- MLA Covered Loans
- Interest, Fees and Charges
  - Credit Insurance premiums and fees for debt cancellation or debt suspension agreements
  - Fees for credit-related ancillary products sold in connection with the credit transaction or account
  - Finance charges associated with consumer credit
  - Certain application and participation fees, including annual fees



# Disclosure Requirement



- Written
- Oral
- Prior to Origination
- Regulation Z

# Credit Card

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- Bona-Fide Fees
  - Periodic Interest
  - Credit Insurance Premiums
  - Debt Cancel/ Suspend
  - Ancillary fees
  - Like-Kind Fees



# Prohibited Activities

Rights Waiver

Arbitration

Unreasonable  
Notice

Checks

Allotment

Prepayment



# Amendments

Department of Defense expanded Military Lending Act



Rescinded hybrid purchase money and cash advance loans from MLA requirements

Allows ITINs to meet safe harbor requirements for searching Department's database

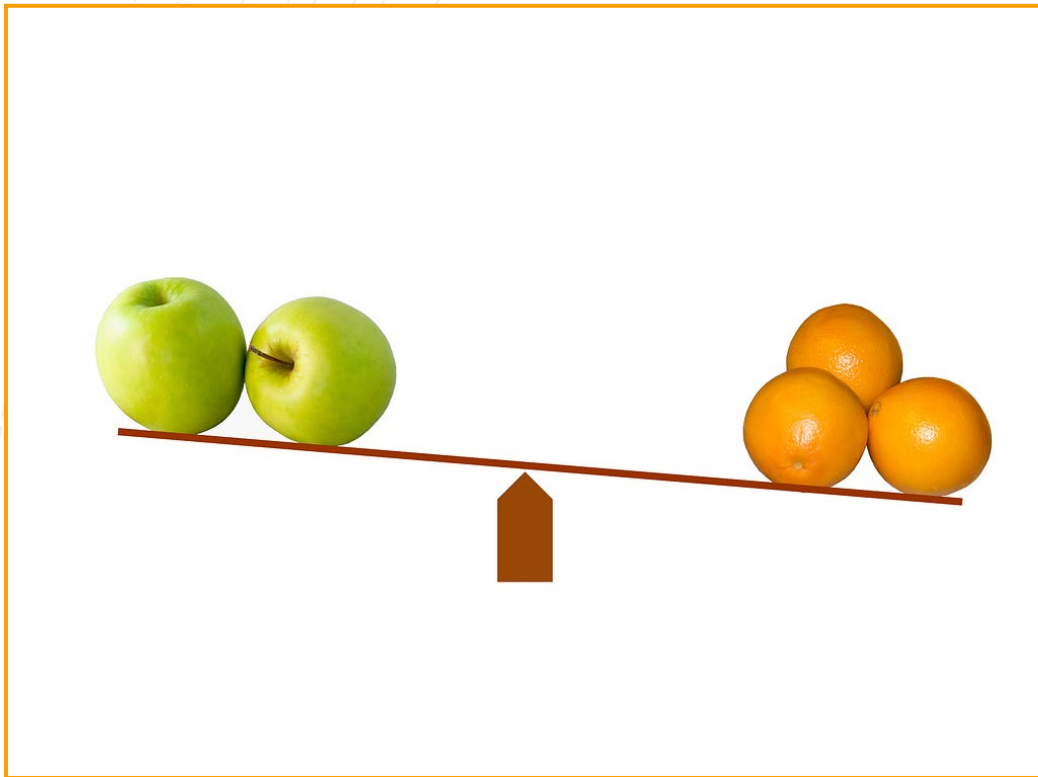
# Penalties

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- Regulatory Enforcement
- Civil Penalties
- Fines
- Criminal Penalties



# SCRA VS MLA



- Coverage
- Existing Debt/Point of Origination
- Protections
- Limitations

# Questions?

Thank you for your participation!

We hope you found today's presentation valuable.

If you have any additional questions, please contact Compliance Alliance.

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