

IN THE LINE OF FIRE

Financial Scams Aimed At Members of the Armed Services

Background:

Two years ago, the National Consumer Law Center (NCLC) published a report entitled "In Harm's Way—at Home: Consumer Scams and the Direct Targeting of America's Military and Veterans." This report outlines the financial abuse faced by members of the military and the common scams and fiscal exploitation they face.

As the NCLC found, military personnel are targets for consumer predators because they are low income, yet they do have more economically attractive qualities than most low income people. Long periods of deployment leave them particularly vulnerable and military conduct codes that stress the need to maintain financial stability often are leveraged against them by the quick-fix loan industry.

The NCLC report highlights a myriad of potential problems faced by members of the military including:

- **Used car dealers who sell and finance junkers** over and over by financing old used cars with a large down payment, often equal to the cars actual value. Then the customer is put on a bi-weekly plan after which the car breaks down, is repossessed and sold all over again. Another common scam is done through "yo-yo sales" where a buyer finances a car at a specific rate. This practice is enabled by a common industry practice of "spot delivery" where the buyer takes possession of the vehicle even though the financing has yet to be approved. A day or two later the dealer contacts the buyer to inform him or her that their credit was not approved and the he or she needs to come back and sign new papers for a higher interest rate.
- **Payday loans** or other quick cash loans. These services are often advertised in the military "Times" newspaper which may appear to be an official publication of the military but are actually privately published and they do not guarantee the authenticity of the advertising within its pages.
- **Benefits cash outs** which involve the "advanced funding" of benefits in exchange for handing over the monthly payment of benefits over a

predetermined amount of time. These deals offer only dimes on the dollar and contain so many hidden fees that the actual loan amount may become more than the actual benefit amount.

- **Finance companies** that group credit application questions regarding reserve status with other questions relating to lawsuits and bankruptcy. This information is then used to charge a higher interest rate up front to circumvent federal protections that cap interest rates at 6% on loan debt in the event of deployment.
- **Military ID Theft** of service members deployed in foreign operations. Long international deployments leave military personnel particularly vulnerable to identity theft. An ID thief could steal the personal information of a service member and use it for months without raising any alarms of criminal activity. Not only does ID theft affect a soldier's credit ratings, but also their possible security clearance and opportunity for promotion. This problem has been identified by the Department of Defense (DoD) as having a direct impact on readiness and moral.

The aforementioned examples are some of the ways in which our military personnel are taken advantage of. They receive a steady income, yet are burdened with possible deployment and the mandate to maintain financial stability.

The payday loan industry is a booming business, increasing in volume nationwide to \$40 billion a year from 1999 to 2003. A recent study from Stephens Inc., a public finance underwriter and research firm, found that at least nine million households used payday loans in 2002. It is estimated that 2% of those households are military families, or approximately 180,000 people. Furthermore, recent studies have shown that payday loan customers average more than 10 loans per year.

The city of Oceanside, California, the home of Camp Pendleton Marine Corps Base, has more payday lenders than anywhere else in the state. Many pawnshops have lower interest rates than payday lenders.

As previously mentioned, payday lending is not the only financial trap that befalls the men and women of the armed forces. Unnecessary life insurance policies are marketed as having a military connection or approval. For example, one such company, Pioneer Services uses an American flag background on its brochure with quotes on the inside from retired military figures.

This is a common rip-off reported all around the country. These costly and excessive life insurance policies are often targeted at members with premiums of more than \$100 per month. All military members have access whole-life insurance through the government sponsored Servicemembers' Group Life Insurance for premium of around \$12 per month.

CURRENT LAW:

In most cases, current state and federal law provides minimal financial protections for the armed forces. The Service Members Civil Relief Act of 2003 (SCRA), previously known as the Soldiers and Sailors Relief Act of 1940, protects active duty personnel under specified circumstances. The SCRA covers such issues as rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings and income tax payments.

The most widely known aspect of SCRA is the 6% rule, which allow service members to reduce pre-service consumer debt and mortgage interest rates to 6%. Protections under most parts of SCRA are not automatic. These protections, such as the 6% rule, must be requested during the member's military duty or within 30-180 days after military service ends. Furthermore, the member must be able to show that military service has had a "material effect" on their legal or financial status.

If a creditor disputes the "material effect" of military service then the burden is on the creditor to prove that the member's ability to repay a debt has not been affected.

The United States Congress is addressing the shameful targeting of service members with HR 97 (Graves, R-Missouri) that is currently in the House Committee on Veteran's Affairs. HR 97 would cap the annual percentage rate at no more than 36% for consumer credit extended to service members or their dependents. It also requires that lenders disclose to service members the annual percentage rate and a clear outline of the payment terms. HR 97 would prevent the automatic renewal or refinancing of previously extended credit without the execution of new loan documents. These provisions are designed to regulate the interaction of service members with payday lenders.

California law provides that no person shall discriminate against any member of the armed forces, whether they are state or national. Specific state law regulating financial practices that target service members is limited to §394(f) of the Military and Veterans Code, that states:

"No person who provides lending or financing shall discriminate against any person with respect to the terms of a loan or financing, including, but not limited to, the finance charge, based on that person's membership in the military or naval forces of this state or of the United States."

Violation of §394(f) is a misdemeanor and also incurs civil liability including actual damages and attorney's fees.

California has recognized the hardships of military deployment with the implementation of vehicle code §9560 which provides that the Department of Motor Vehicles shall waive penalties associated with the late payment of registration renewal fees for deployed service members.

In addressing the issues surrounding egregious payday lenders, a recent California law (California Deferred Deposit Transaction Law) that went into effect just this year, caps the face value of a check for payday loan at \$300. In addition, fees are prohibited from exceeding 15%. This law will help alleviate the stress of payday loans for service members and the general public.

This year, in response to the military ID theft of active duty personnel, many serving in foreign deployments, the Chair of Banking and Finance Committee has introduced AB 1566 (Calderon), which makes it a penalty to a year in jail and a \$2000 fine for anyone who steals the identity of a deployed service member.

SOLUTIONS:

Often, many of the more creative solutions to the aforementioned problems involve the military command structure or non-profit educational groups. For example, the Joint Command of the San Diego/Orange County area has made businesses that charge high fees for goods or services "off limits" to military personnel.

The Navy-Marine Corps Relief Society (NMCRS), a private non-profit charitable organization started in 1904, provides financial, educational and other assistance to members of the Naval Services and their family members. The NMCRS provides financial assistances in the form of interest free loans and grants and needs based scholarships for educational purposes. Furthermore, they offer financial counseling services and provide recommendations to state government in ways to curb various financial scams.

The Federal Deposit Insurance Corporation (FDIC) has started a program called Money Smart to address the lack of financial education available to service members. The FDIC is working with all branches of the armed services so that the Money Smart

program can be provided on an ongoing basis to service members. The program is designed to use 10 modules to guide people through the most important parts of financial stability. The program is administered from an instructor based prospective, or online at the personal learning pace of the participant.

The Federal Trade Commission (FTC) and DoD have partnered together to create a program and website called Military Sentinel, located at <http://www.consumer.gov/military/>. Military Sentinel allows service members to enter consumer complaints directly into a database that is accessible by over 500 law enforcement entities in the United States, Canada, and Australia. Information from Military Sentinel can be used by Judge Advocate General staff and DoD to protect service members and their families.

With thousands of soldiers from California, deployed around the world fighting conflicts of various durations, the financial security issues of our service members will not go away. The United States is currently engaged in a pre-emptive forward deterrence strategy the will likely lead to future deployments making our service members vulnerable to further financial manipulation.

We must recognize that when soldiers receive deployment orders they have a limited amount of time to prepare for such a complete alteration of their lives. During this time they undergo tremendous stress and may forget the importance of protecting their financial status at home, or they may lack the time needed to square away personal finances. It is a tremendous burden and sacrifice that we demand of our young men and women in uniform. While they fight for us overbroad we should ensure that that they are protected at home from the stress, worry and legal problems associated with financial scams.