

United States Code, as added by subsection (a), applies with respect to persons dying after January 1, 1997.”

REGULATIONS

Pub. L. 109-163, div. A, title VI, § 662(d)(2), Jan. 6, 2006, 119 Stat. 3316, provided that: “The Secretary of Defense shall prescribe regulations to ensure that a person is not interred in any military cemetery under the authority of the Secretary of a military department or provided funeral honors under section 1491 of title 10, United States Code, unless a good faith effort has been made to determine whether such person is ineligible for such interment or honors by reason of being a person described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment or honors under Federal law.”

[§ 986. Repealed. Pub. L. 110-181, div. A, title X, § 1072(b)(1), Jan. 28, 2008, 122 Stat. 329]

Section, added Pub. L. 106-398, § 1 [[div. A], title X, § 1071(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-275; amended Pub. L. 107-107, div. A, title X, § 1048(c)(3), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 108-375, div. A, title X, § 1062, Oct. 28, 2004, 118 Stat. 2056, prohibited the Department of Defense from granting or renewing security clearances for certain persons.

EFFECTIVE DATE OF REPEAL

Pub. L. 110-181, div. A, title X, § 1072(b)(3), Jan. 28, 2008, 122 Stat. 330, provided that: “The amendments made by this subsection [repealing this section] shall take effect on January 1, 2008.”

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

(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 any consumer credit or loans higher than the legal limit for residents of the State; or

(B) permit violation or waiver of any State consumer lending protections covering consumer credit for the benefit of residents of the State on the basis of nonresident or military status of a covered member or dependent of such a member, regardless of the member’s or dependent’s domicile or permanent home of record.

(e) LIMITATIONS.—It shall be unlawful for any creditor to extend consumer credit to a covered member or a dependent of such a member with respect to which—

(1) the creditor rolls over, renews, repays, refinances, or consolidates any consumer credit extended to the borrower by the same creditor with the proceeds of other credit extended to the same covered member or a dependent;

(2) the borrower is required to waive the borrower’s right to legal recourse under any otherwise applicable provision of State or Federal law, including any provision of the Servicemembers Civil Relief Act;

(3) the creditor requires the borrower to submit to arbitration or imposes onerous legal notice provisions in the case of a dispute;

(4) the creditor demands unreasonable notice from the borrower as a condition for legal action;

(5) the creditor uses a check or other method of access to a deposit, savings, or other financial account maintained by the borrower, or the title of a vehicle as security for the obligation;

(6) the creditor requires as a condition for the extension of credit that the borrower establish an allotment to repay an obligation; or

(7) the borrower is prohibited from prepaying the loan or is charged a penalty or fee for prepaying all or part of the loan.

(f) PENALTIES AND REMEDIES.—

(1) MISDEMEANOR.—A creditor who knowingly violates this section shall be fined as provided in title 18, or imprisoned for not more than one year, or both.

(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this sec-

tion are in addition to and do not preclude any remedy otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

(3) **CONTRACT VOID.**—Any credit agreement, promissory note, or other contract prohibited under this section is void from the inception of such contract.

(4) **ARBITRATION.**—Notwithstanding section 2 of title 9, or any other Federal or State law, rule, or regulation, no agreement to arbitrate any dispute involving the extension of consumer credit shall be enforceable against any covered member or dependent of such a member, or any person who was a covered member or dependent of that member when the agreement was made.

(5) **CIVIL LIABILITY.**—

(A) **IN GENERAL.**—A person who violates this section with respect to any person is civilly liable to such person for—

- (i) any actual damage sustained as a result, but not less than \$500 for each violation;
- (ii) appropriate punitive damages;
- (iii) appropriate equitable or declaratory relief; and
- (iv) any other relief provided by law.

(B) **COSTS OF THE ACTION.**—In any successful action to enforce the civil liability described in subparagraph (A), the person who violated this section is also liable for the costs of the action, together with reasonable attorney fees as determined by the court.

(C) **EFFECT OF FINDING OF BAD FAITH AND HARASSMENT.**—In any successful action by a defendant under this section, if the court finds the action was brought in bad faith and for the purpose of harassment, the plaintiff is liable for the attorney fees of the defendant as determined by the court to be reasonable in relation to the work expended and costs incurred.

(D) **DEFENSES.**—A person may not be held liable for civil liability under this paragraph if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

(E) **JURISDICTION, VENUE, AND STATUTE OF LIMITATIONS.**—An action for civil liability under this paragraph may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

- (i) two years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or
- (ii) five years after the date on which the violation that is the basis for such liability occurs.

(6) **ADMINISTRATIVE ENFORCEMENT.**—The provisions of this section (other than paragraph

(1) of this subsection) shall be enforced by the agencies specified in section 108 of the Truth in Lending Act (15 U.S.C. 1607) in the manner set forth in that section or under any other applicable authorities available to such agencies by law.

(g) **SERVICEMEMBERS CIVIL RELIEF ACT PROTECTIONS UNAFFECTED.**—Nothing in this section may be construed to limit or otherwise affect the applicability of section 207 of the Servicemembers Civil Relief Act (50 U.S.C. App. 527).¹

(h) **REGULATIONS.**—(1) The Secretary of Defense shall prescribe regulations to carry out this section.

(2) Such regulations shall establish the following:

(A) Disclosures required of any creditor that extends consumer credit to a covered member or dependent of such a member.

(B) The method for calculating the applicable annual percentage rate of interest on such obligations, in accordance with the 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, and not less often than once every two years thereafter, 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 Bureau of Consumer Financial Protection.
- (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 person described in subparagraph (A), (D), (E), or (I) of section 1072(2) of this title.

(3) **INTEREST.**—The term “interest” includes all cost elements associated with the exten-

¹ See References in Text note below.

sion of credit, including fees, service charges, renewal charges, credit insurance premiums, any ancillary product sold with any extension of credit to a servicemember or the servicemember's dependent, as applicable, and any other charge or premium with respect to the extension of consumer credit.

(4) ANNUAL PERCENTAGE RATE.—The term “annual percentage rate” has the same meaning as in section 107 of the Truth and Lending Act (15 U.S.C. 1606), as implemented by regulations of the Board of Governors of the Federal Reserve System. For purposes of this section, such term includes all fees and charges, including charges and fees for single premium credit insurance and other ancillary products sold in connection with the credit transaction, and such fees and charges shall be included in the calculation of the annual percentage rate.

(5) CREDITOR.—The term “creditor” means a person—

(A) who—

(i) is engaged in the business of extending consumer credit; and

(ii) meets such additional criteria as are specified for such purpose in regulations prescribed under this section; or

(B) who is an assignee of a person described in subparagraph (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.

(Added Pub. L. 109-364, div. A, title VI, §670(a), Oct. 17, 2006, 120 Stat. 2266; amended Pub. L. 112-239, div. A, title VI, §§661(a), (b), 662(a), (b), 663, Jan. 2, 2013, 126 Stat. 1785, 1786.)

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 (§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, which was classified to section 501 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 50 (§3901 et seq.) of Title 50. Section 207 of the Act is classified to section 3937 of Title 50. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2013—Subsec. (d)(2)(A). Pub. L. 112-239, §661(a)(1), inserted “any consumer credit or” before “loans”.

Subsec. (d)(2)(B). Pub. L. 112-239, §661(a)(2), inserted “covering consumer credit” after “State consumer lending protections”.

Subsec. (f)(5), (6). Pub. L. 112-239, §662(a), (b), added pars. (5) and (6).

Subsec. (h)(3). Pub. L. 112-239, §661(b)(1), inserted “and not less often than once every two years there-

after,” after “under this subsection,” in introductory provisions.

Subsec. (h)(3)(E). Pub. L. 112-239, §661(b)(2), added subpar. (E) and struck out former subpar. (E) which read as follows: “The Office of Thrift Supervision.”

Subsec. (i)(2). Pub. L. 112-239, §663, amended par. (2) generally. Prior to amendment, par. (2) defined the term “dependent”.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title VI, §661(c), Jan. 2, 2013, 126 Stat. 1785, provided that:

“(1) MODIFICATION OF REGULATIONS.—The Secretary of Defense shall modify the regulations prescribed under subsection (h) of section 987 of title 10, United States Code, to take into account the amendments made by subsection (a) [amending this section].

“(2) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on—

“(A) the date that is one year after the date of the enactment of this Act [Jan. 2, 2013]; or

“(B) such earlier date as the Secretary shall specify in the modification of regulations required by paragraph (1).

“(3) PUBLICATION OF EARLIER DATE.—If the Secretary specifies an earlier effective date for the amendments made by subsection (a) pursuant to paragraph (2)(B), the Secretary shall publish notice of such earlier effective date in the Federal Register not later than 90 days before such earlier effective date.”

Pub. L. 112-239, div. A, title VI, §662(c), Jan. 2, 2013, 126 Stat. 1786, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to consumer credit extended on or after the date of the enactment of this Act [Jan. 2, 2013].”

EFFECTIVE DATE

Pub. L. 109-364, div. A, title VI, §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.”

MEETINGS WITH PRIVATE SECTOR USERS OF SYSTEMS

Pub. L. 114-92, div. A, title V, §594(b)(3), Nov. 25, 2015, 129 Stat. 834, provided that: “The Director of the Defense Manpower Data Center shall meet regularly with private sector users of Defense Manpower Data Center systems used to identify covered borrowers and covered policyholders under military consumer protection laws to learn about issues facing such users and to develop ways of addressing such issues. The first meeting pursuant to this requirement shall take place with [within] three months after the date of the enactment of this Act [Nov. 25, 2015].”

INTERIM REGULATIONS

Pub. L. 109-364, div. A, title VI, §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 super-

seded 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.”

CHAPTER 50—MISCELLANEOUS COMMAND RESPONSIBILITIES

- Sec.
991. Management of deployments of members and measurement and data collection of unit operating and personnel tempo.
992. Financial literacy training: financial services.
993. Notification of permanent reduction of sizable numbers of members of the armed forces.
994. Military working dogs: veterinary care for retired military working dogs.

AMENDMENTS

2015—Pub. L. 114-92, div. A, title VI, § 661(e)(2), Nov. 25, 2015, 129 Stat. 858, substituted “Financial literacy training: financial services” for “Consumer education: financial services” in item 992.

2013—Pub. L. 112-239, div. A, title III, § 371(b)(2), Jan. 2, 2013, 126 Stat. 1706, added item 994.

2011—Pub. L. 112-81, div. A, title V, § 522(d)(2), div. B, title XXVIII, § 2864(b), Dec. 31, 2011, 125 Stat. 1401, 1702, substituted “Management of deployments of members and measurement and data collection of unit operating and personnel tempo” for “Management of deployments of members” in item 991 and added item 993.

2006—Pub. L. 109-163, div. A, title V, § 578(a)(2), Jan. 6, 2006, 119 Stat. 3276, added item 992.

§ 991. Management of deployments of members and measurement and data collection of unit operating and personnel tempo

(a) MANAGEMENT RESPONSIBILITIES.—(1) The deployment (or potential deployment) of a member of the armed forces shall be managed to ensure that the member is not deployed, or continued in a deployment, on any day on which the total number of days on which the member has been deployed—

(A) out of the preceding 365 days would exceed the one-year high-deployment threshold; or

(B) out of the preceding 730 days would exceed the two-year high-deployment threshold.

(2) In this subsection:

(A) The term “one-year high-deployment threshold” means—

(i) 220 days; or

(ii) a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness.

(B) The term “two-year high-deployment threshold” means—

(i) 400 days; or

(ii) a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness.

(3) A member may be deployed, or continued in a deployment, without regard to paragraph (1) if the deployment, or continued deployment, is approved by the Secretary of Defense. The authority of the Secretary under the preceding sentence may only be delegated to—

(A) a civilian officer of the Department of Defense appointed by the President, by and

with the advise and consent of the Senate, or a member of the Senior Executive Service; or

(B) a general or flag officer in that member’s chain of command (including an officer in the grade of colonel, or in the case of the Navy, captain, serving in a general or flag officer position who has been selected for promotion to the grade of brigadier general or rear admiral (lower half) in a report of a selection board convened under section 611(a) or 14101(a) of this title that has been approved by the President).

(4) The Secretary of Defense shall prescribe a policy that addresses the amount of dwell time a member of the armed forces or unit remains at the member’s or unit’s permanent duty station or home port, as the case may be, between deployments.

(b) DEPLOYMENT DEFINED.—(1) For the purposes of this section, a member of the armed forces shall be considered to be deployed or in a deployment on any day on which, pursuant to orders, the member is performing service in a training exercise or operation at a location or under circumstances that make it impossible or infeasible for the member to spend off-duty time in the housing in which the member resides when on garrison duty at the member’s permanent duty station or homeport, as the case may be.

(2) In the case of a member of a reserve component who is performing active service pursuant to orders that do not establish a permanent change of station, the housing referred to in paragraph (1) is any housing (which may include the member’s residence) that the member usually occupies for use during off-duty time when on garrison duty at the member’s permanent duty station or homeport, as the case may be.

(3) For the purposes of this section, a member is not deployed or in a deployment when the member is—

(A) performing service as a student or trainee at a school (including any Government school);

(B) performing administrative, guard, or detail duties in garrison at the member’s permanent duty station; or

(C) unavailable solely because of—

(i) a hospitalization of the member at the member’s permanent duty station or homeport or in the immediate vicinity of the member’s permanent residence; or

(ii) a disciplinary action taken against the member.

(4) The Secretary of Defense may prescribe a definition of deployment for the purposes of this section other than the definition specified in paragraphs (1) and (2). Any such definition may not take effect until 90 days after the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the revised standard definition of deployment.

(c) RECORDKEEPING.—(1) The Secretary of Defense shall—

(A) establish a system for tracking and recording the number of days that each member of the armed forces is deployed;