

**MILITARY LENDING ACT (MLA)**  
AMENDMENTS TO THE DEPARTMENT OF DEFENSE'S  
AUGUST 2016 INTERPRETIVE RULE

<b>Motor Vehicle and Personal Property Purchase Loans with Cash-Out</b>			
<b>Previous</b>	Any motor vehicle or personal property purchase loan with additional cash-out financing is not eligible for the exception under §232.3 and is thus subject to the requirements of the MLA.		
<b>Amended</b>	<p>Whether the motor vehicle or personal property purchase loan with additional cash-out financing qualifies for the exception will depend on what the additional funds are being used for:</p> <table border="1" style="width: 100%;"> <tr> <td> <p><u>Qualifies for the exception</u></p> <ul style="list-style-type: none"> <li>• Costs expressly related to the object being purchased, e.g. an extended warranty covering the motor vehicle being purchased or costs for delivery and installation of the personal property being purchased</li> <li>• Negative equity: funds used to repay any outstanding balance on the trade-in vehicle</li> </ul> </td> </tr> <tr> <td> <p><u>Does NOT qualify for the exception</u></p> <ul style="list-style-type: none"> <li>• Costs associated with financing a credit-related product or service, e.g. GAP insurance</li> <li>• True cash-out: when loan funds are being used for a purpose unrelated to the motor vehicle or personal property being purchased</li> </ul> </td> </tr> </table>	<p><u>Qualifies for the exception</u></p> <ul style="list-style-type: none"> <li>• Costs expressly related to the object being purchased, e.g. an extended warranty covering the motor vehicle being purchased or costs for delivery and installation of the personal property being purchased</li> <li>• Negative equity: funds used to repay any outstanding balance on the trade-in vehicle</li> </ul>	<p><u>Does NOT qualify for the exception</u></p> <ul style="list-style-type: none"> <li>• Costs associated with financing a credit-related product or service, e.g. GAP insurance</li> <li>• True cash-out: when loan funds are being used for a purpose unrelated to the motor vehicle or personal property being purchased</li> </ul>
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<b>Security Interest in the Covered Borrower's Share Accounts</b>	
<b>Previous</b>	A covered borrower may grant the credit union a security interest in his/her share accounts so long as it is not otherwise prohibited by applicable law <b>and the credit union complies with the MLA regulation.</b>
<b>Amended</b>	<p>There is no real change here. The amended guidance states that a consensual security interest may be granted by the borrower so long as it is not otherwise prohibited by applicable law <b>and the credit union complies with the MLA regulation.</b> CUNA has interpreted this statement to mean that such a security interest may only be granted in accordance with §232.8(e)(3) of the MLA. This provision provides that the credit union may take a security interest in funds deposited:</p> <ul style="list-style-type: none"> <li>• After the extension of credit; and</li> <li>• In an account established in connection with the consumer credit transaction.</li> </ul> <p>The DOD's specific reference to §232.8(e)(3) in the amended guidance seems to support that a consensual security interest may only be granted in funds deposited after the extension of credit in an account established in connection with the transaction.</p>

## AMENDMENTS TO THE DEPARTMENT OF DEFENSE'S AUGUST 2016 INTERPRETIVE RULE

<b>Statutory Lien Rights</b>	
<b>Previous</b>	Nothing in the MLA impedes a credit union from exercising a statutory lien right so long as it is not otherwise prohibited by applicable law <b>and the credit union complies with the MLA regulation.</b>
<b>Amended</b>	Again, there is no real change here. The amended guidance states that nothing in the MLA impedes a credit union from exercising a statutory lien right so long as it is not otherwise prohibited by applicable law <b>and the credit union complies with the MLA regulation.</b> CUNA has interpreted this statement to mean that a credit union's statutory lien right may only be exercised against funds deposited after the extension of credit in an account established in connection with the consumer credit transaction (pursuant to §232.8(e)(3) of the MLA).

<b>Determining Covered Borrower Status</b>	
<b>Previous</b>	N/A
<b>New</b>	<p>This represents new guidance from the DOD related to the safe harbor for determining covered borrower status. §232.5(b) of the MLA provides two methods with which a credit union may <i>conclusively</i> determine covered borrower status. One of these methods is to perform a covered borrower check against the DOD's MLA database.</p> <p>The amended interpretive rule provides that a credit union may perform the covered borrower check:</p> <ul style="list-style-type: none"> <li>• At the time the loan is originated;</li> <li>• At the time of application; OR</li> <li>• Up to 30 days prior.</li> </ul>