



The Honorable Charles Timothy Hagel  
Secretary of Defense  
U.S. Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301-3010

December 2, 2014

RE: Limitations on terms of Consumer Credit Extended to Service Members and Dependents;  
US Department of Defense Proposed Rule  
Docket ID: DOD-2013-OS-0133  
RIN 0790-AJ10

Dear Mr. Secretary,

Texas Appleseed strongly supports the U.S. Department of Defense (“the Department”) proposed rules to expand the scope of consumer credit covered under the Military Lending Act (“MLA”) to a wider range of closed-end and open-end consumer credit products. Establishing a definition of consumer credit that is consistent with the consumer credit products afforded protections under the Truth in Lending Act (“TILA”) will address important short-comings in the current MLA rules. It will also ensure that the MLA is achieving its intended purpose: to protect military personnel from “predatory lending [that] undermines military readiness, harms the morale of troops and their families, and adds to the cost of fielding an all-volunteer fighting force.”<sup>1</sup> With a veteran population of more than 1.6 million,<sup>2</sup> and an active military personnel that is among the largest in the nation,<sup>3</sup> Texas’ military families will be well-served by the proposed rules that eliminate the significant gaps and loopholes that the current, narrower definitions of “consumer credit,” allow predatory lenders to exploit.

The MLA limits the amount of interest that a creditor may charge on “consumer credit” to a maximum annual percentage rate of 36 percent.<sup>4</sup> However, in 2007 when the Department was implementing the MLA, it elected to define “consumer credit” as a narrow band of products. For example, the rules define a “payday loan,” as a “closed-end credit with a term of 91 days or fewer in which the amount does not exceed \$2,000.”<sup>5</sup> The restrictive product definitions have allowed predatory lenders to offer products to the military and military dependents that lie outside the scope of the MLA, thereby circumventing the law’s intent. In Texas, with lax regulation of payday and auto title businesses,<sup>6</sup> and some of the highest payday and auto title loan fees in the nation,<sup>7</sup>

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<sup>1</sup> US Department of Defense, “Report on Predatory Lending Practices Directed at Members of the Armed Forces and their Dependents.” (August 2006) at 53.

<sup>2</sup> See:

<http://www.census.gov/how/infographics/veterans.html?%C3%83%C2%A2%C3%A2%E2%80%9A%C2%AC%C3%A2%E2%80%9E%C2%A2%20on%20U>.

<sup>3</sup> See: <http://www.census.gov/compendia/statab/2012/tables/12s0508.pdf>.

<sup>4</sup> 10 U.S.C. § 987

<sup>5</sup> 32 C.F.R. 232.3

<sup>6</sup> See Tex. Fin. Code Ann. §393 (Texas currently has no fee caps, no limits on refinances, no loan amount limits, and minimal limits as to the terms of payday and auto title loans)

<sup>7</sup> Pew Charitable Trusts, “How State Rate Limits Affect Payday Loan Prices.” (April 2014). Available at: <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2014/04/10/how-state-rate-limits-affect-payday-loan-prices>.

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military personnel stationed within the state are particularly vulnerable to the financial harm caused by these high-cost loans.

Since Texas Appleseed submitted comments in response to the Department's Advance Notice of Proposed Rulemaking in July of 2013,<sup>8</sup> encouraging the Department to adopt expanded rules under the MLA, average loan terms for installment payday and auto title loans in Texas have increased: 152 days at 532% APR for installment payday loans and 211 days at 325% APR for installment auto title loans.<sup>9</sup> These installment loans are not covered by the current MLA rules. In addition we have encountered open-ended payday loans, also not covered under the current MLA rules, with disclosed APRs as high as 6,397%.<sup>10</sup>

### **Research Documents Continued Proliferation of Payday and Auto Title Businesses Near Texas Military Installations**

Over the past year, Texas Appleseed visited 33 payday and auto title businesses clustered around Fort Hood, Fort Bliss, and Randolph Air Force Base to document product offerings and pricing. Our investigation found:

- Payday and auto title businesses continue to cluster around military installations in Texas;
- They charge exorbitant interest rates and fees that often exceed 500 percent APR;
- At least five of Texas' largest payday and auto title lenders offer loan products that are not covered by the current MLA definition of "consumer credit; and
- Some businesses actively market these high-cost loans to military families.

These findings, which are presented in more detail below, support the need for the stronger protections included in the Department's proposed rules.

#### Fort Hood

Visits to 18 payday and auto title businesses, in Killeen, Texas, including those in the immediate vicinity of Fort Hood document the ongoing targeting of military and military-dependent customers by these high-cost lenders. Payday and auto title locations near Fort Hood, offer single payment and installment payday and auto title loan products at rates far in excess of the 36% MLA rate cap. Among the findings:

- Average APRs across the payday and auto title loan products offered ranged from 334% to 599%;
- At least 3 major companies offered loan products that were not covered by the current MLA rules.
- 10 of the payday and auto title businesses visited allowed consumers to rollover their accounts without limit;
- 3 of the 18 payday and auto title businesses would not provide information about loan fees until an application is processed.<sup>11</sup>

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<sup>8</sup> See: Texas Appleseed Comments to Docket: DoD-OS-2013-0133, submitted on July 31, 2013. Available at: [http://www.texasappleseed.net/index.php?option=com\\_docman&task=doc\\_download&gid=1169&Itemid=](http://www.texasappleseed.net/index.php?option=com_docman&task=doc_download&gid=1169&Itemid=).

<sup>9</sup> Texas Office of Consumer Credit Commissioner Credit Access Business State Quarterly Data, 2<sup>nd</sup> Quarter 2014.

<sup>10</sup> Periodic billing statement from Check-N-Go open-end line of credit for location at 2127 FM 1960 W, Houston, TX 77090, with payment due date of 8/1/2014.

<sup>11</sup> These locations being: 1) Check -N-Go at 1512 Lowes Blvd., Killeen, TX, 2) Cash America at 1518 S Ft. Hood St., Killeen, TX, and 3) First Cash Pawn at 1502 S Ft. Hood St., Killeen, TX.

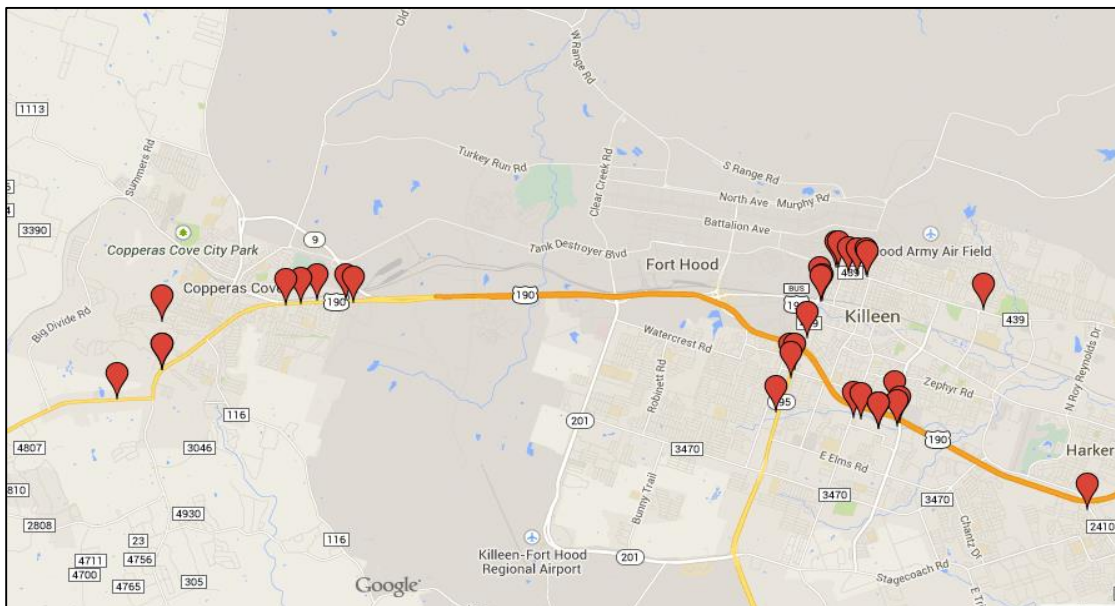
- There was active marketing to military by payday businesses. For example, the photos below document two large signs advertising: “Military Welcome.”



Photos by Texas Appleseed, Killeen, Texas, October 2013.

The map below shows, the locations of the 28 payday and auto title businesses within close proximity of Fort Hood. The chart on the following page details products and rates offered by the locations surveyed.

### Map of Payday and Auto Title Store Locations in Fort Hood Vicinity



Source: Texas Applesed analysis of credit access business licensing data from the Texas Office of Consumer Credit Commissioner (August, 2014). “Credit Access Business” is the legal designation used by most payday and auto title businesses in Texas. Red Markers indicate store locations.

### Loan Charges at Surveyed Locations in Fort Hood Vicinity

Business Name	Location	APR Payday Single Payment	APR Payday Installment	APR Auto Title Single Payment	APR Auto Title Installment
Cash Max	2501 S WS Young Dr., Killeen, TX	662%		459%	
Cash Max	402 W. Rancier, Killeen, TX	660%		374.97%-415.15%	
Advance America	2600 Trimmer Rd, Ste. 400, Killeen, TX	662%		317%	
Cash Store	1200 Lowes Blvd., Killeen, TX		581.72%		286.42% - 432.03%
E Z Money Loan Services	2500 S WS Young Dr., Killeen, TX	586%	557.53%	131.13%-376.57%	137.52%-404.90%
Ace Cash Express	205 W Rancier, Killeen, TX		275.07% - 584.56%		275.07% - 584.56%
AF Resources	2201 S WS Young Dr., Killeen, TX	662%		317%	
Cash Loans	113 W Veterans Memorial Blvd. Suite A, Killeen, TX	662%			
Cash Advance	404 Rancier Blvd., Killeen, TX	662%		509%	
1 Stop Financial Service Center	1004 W Rancier Ave., Killeen, TX	662%			
Texas Car Title and Payday Loan	2505 S Ft. Hood St., Killeen, TX	402%		286%	
The Cash Store	710 W Rancier Ave, #160		581.72%	346%	400%
First Cash Pawn	908/912 W. Rancier Ave	583%		205%	
Texas Car Title and Payday Loan	119 W. Rancier	402%		366%	
EZ Money Loan Services	2500 South WS Young	586%	557.53	131.13%-376.57%	131.52%-404.90%
<b>Average*</b>		<b>599%</b>	<b>554%</b>	<b>334%</b>	<b>346%</b>

\*The average reflects the mean of the responses under each heading. When a range of rates is provided for a single company, the mean of those two rates is used as the company rate for purposes of computing the overall average.

#### Fort Bliss

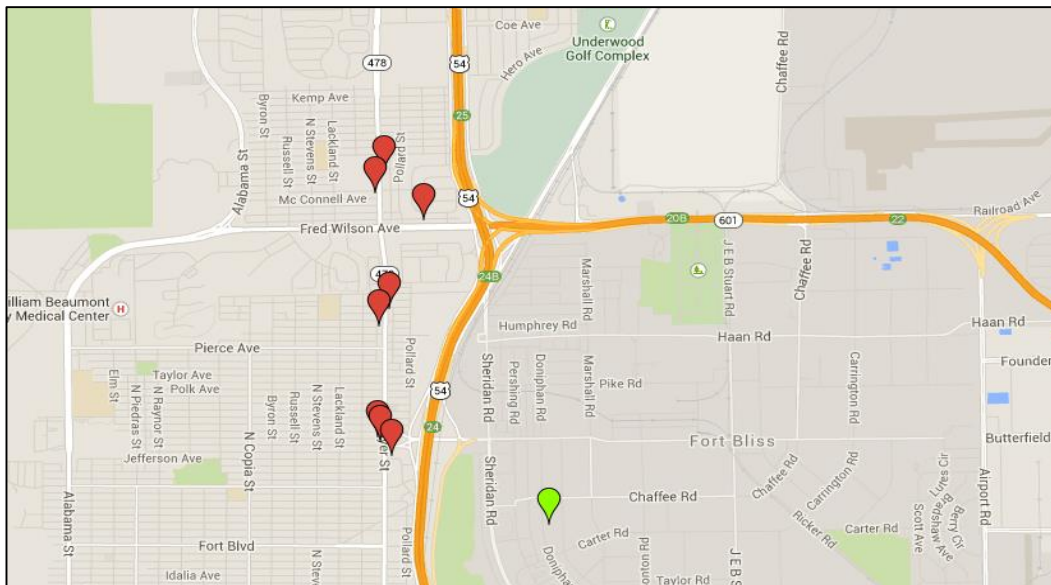
Visits to six payday and auto title businesses, in El Paso, Texas in the immediate vicinity of Fort Bliss document ongoing clustering of these high-cost lenders around the military installation. Payday and auto title locations near Fort Bliss, offer single payment and installment payday and auto title loan products at rates far in excess of the 36% MLA rate cap. Among the findings:

- Average APRs across the payday and auto title loan products offered ranged from 234% to 617%;
- At least one major company offered loan products that were not covered by the current MLA rules.

- Four of the payday and auto title businesses visited allowed consumers to rollover their accounts without limit.

The map below shows, the locations of the 8 payday and auto title businesses within close proximity to Fort Bliss. The chart below the map details products and rates offered by the surveyed payday and auto title businesses.

### Map of Payday and Auto Title Store Locations in Fort Bliss Vicinity



Source: Texas Applesed analysis of credit access business licensing data from the Texas Office of Consumer Credit Commissioner (August, 2014). “Credit Access Business is the designation used by most payday and auto title businesses in Texas. Red Markers indicate store locations. Green marker marks the location of the base.

### Loan Charges at Surveyed Locations in Fort Bliss Vicinity

Business Name	Location	APR Payday Single Payment	APR Payday Installment	APR Auto Title Single Payment	APR Auto Title Installment
TitleMax	4910 Dyer St.			194%	
Fast Cash Now	3910 Dyer St. Suite D	662%		303%	
Fast Bucks	4001 Dyer St.	688%		336%	
First Cash Pawn	4015 Dyer St.	584%		206%	
Cash America	4813 Dyer St.	533%			
Ace Cash Express	8220 Dyer St.		496%	131%	
<b>Average*</b>		<b>617%</b>	<b>496%</b>	<b>234%</b>	

\*The average reflects the mean of the responses under each heading.

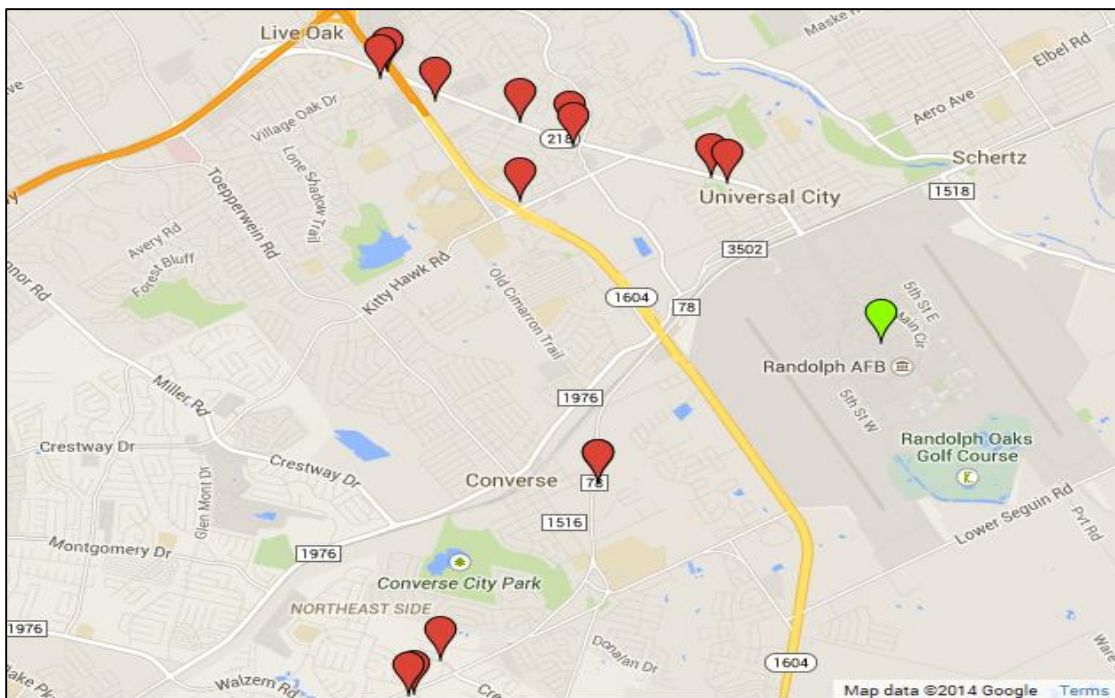
## Randolph Air Force Base

Visits to nine payday and auto title businesses, outside San Antonio, Texas, including those in the immediate vicinity of Randolph Air Force Base document the ongoing targeting of military and military-dependent customers by these high-cost lenders. Payday and auto title locations near Randolph Air Force Base offer single payment and installment payday and auto title loan products at rates far in excess of the 36% MLA rate cap. Among the findings:

- Average APRs across the payday and auto title loan products offered ranged from 201% to 592%;
- At least four surveyed companies offered loan products that were not covered by the current MLA rules.
- Two of the payday and auto title businesses visited allowed consumers to rollover their accounts without limits.

The map below shows, the locations of the 13 payday and auto title businesses within close proximity of the base. The chart below the map details products and rates offered by the surveyed payday and auto title businesses.

**Map of Payday and Auto Title Store Locations in Randolph AFB Vicinity**



Source: Texas Appressed analysis of credit access business licensing data from the Texas Office of Consumer Credit Commissioner (August, 2014). "Credit Access Business is the designation used by most payday and auto title businesses in Texas. Red Markers indicate store locations. Green marker marks the location of the base.

### Loan Charges at Surveyed Locations in Randolph AFB Vicinity

Business Name	Location	APR Payday Single Payment	APR Payday Installment	APR Auto Title Single Payment	APR Auto Title Installment
Speedy Cash	1005 Pat Booker Road		574%		335%
Advance America	2921 Pat Booker Rd Suite 124	533%		176%	
First Cash Advance	8350 Pat Booker Rd.	584%		181%	
Check N'Go	8210 Pat Booker Rd.	584%			102%
Cash America	1905 Pat Booker Rd.	533%			98%
Ace Cash Express	1918 Pat Booker Road	663%		344%	136%
Ace Cash Express	1105 Pat Booker Road	663%		344%	136%
EZ Money	2322 Pat Booker Road	585%	435%	304%	198%
The Cash Store	12000 E Loop 1604 N		582%		400%
<b>Average*</b>		<b>592%</b>	<b>530%</b>	<b>270%</b>	<b>201%</b>

\*The average reflects the mean of the responses under each heading.

### Conclusion

In summary, Texas Appleseed's research shows that the current rules are not providing the intended protections to military families. Texas Appleseed believes the Department's proposed rules will help close the loopholes Texas' payday and auto title businesses have been able to exploit, and help prevent the severe risks that these high-cost loans present to our service members and their families. The Department's proposal to expand the MLA's definition of "consumer credit" is a necessary fix to the existing rules.

Sincerely,



Ann Baddour  
Director, Fair Financial Services Project