

Assembly Joint Resolution No. 5

RESOLUTION CHAPTER 207

Assembly Joint Resolution No. 5—Relative to the Military Lending Act.

[Filed with Secretary of State September 25, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 5, Medina. Military Lending Act

This measure would urge Congress to prevail upon the Department of Defense to realign its criteria for the safe harbor provision in order to avoid the requirement of a social security number.

WHEREAS, On October 17, 2006, Congress passed the Military Lending Act (MLA) to protect service members and their families from certain predatory lending practices; and

WHEREAS, A creditor violating the provisions of the MLA can be subject to administrative, civil, and criminal liability, unless the creditor shows that the violation was not intentional and resulted from a bona fide error; and

WHEREAS, The MLA vests in the Department of Defense the authority to promulgate regulations to implement the MLA; and

WHEREAS, The first regulations, adopted in 2007, provided a safe harbor process known as “self-certification,” that required a creditor to present to the applicant a clear and unambiguous “covered borrower identification statement” wherein the applicant affirmed in writing whether the applicant was or was not a covered borrower; and

WHEREAS, On July 22, 2015, the Department of Defense published a revised set of regulations replacing the self-certification rules and instead require a lender to obtain the full name, date of birth, and social security number of the applicant to check with the Department of Defense MLA database; and

WHEREAS, There is a significant population in California without a social security number; and

WHEREAS, California’s Unruh Civil Rights Act guarantees access to business services offered to the public and a violation arises if a person is denied access to a business service based on his or her immigration status; and

WHEREAS, By requiring lenders to ask for a social security number in order to meet the safe harbor provisions of the MLA, the revised regulations expose businesses to liability under the Unruh Civil Rights Act and unnecessarily burden many segments of California’s immigrant communities; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly,
That the Legislature urges Congress to prevail upon the Department of

Defense to realign their criteria for the safe harbor provision in order to avoid the requirement of a social security number; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.

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