

# of interest!

A timely digest of regulatory changes, specialized reports and important information for the consumer finance industry.

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## CARLETON RELEASES SIXTH GENERATION OF SMARTDOCS

While Carleton is most widely known for its compliant loan calculation software, companies are increasingly turning to Carleton for their document delivery software and document preparation services, SmartDocs. Companies such as Xpress Credit, MicroBilt, Automated Financial Systems and Equifax (see Summer 2006 *of interest*) have not only integrated Carleton's SmartCalcs compliant loan calculation software, but they have also chosen Carleton's SmartDocs software and document preparation services as their forms solution for their clients.

SmartDocs is Carleton's sixth generation of document preparation software. It retains the vast data capture and print functionality of past versions and now includes support to meet our client's and partner's Internet needs.

SmartDocs can be delivered as a standalone application or as a library of software subroutines. The standalone application makes it easy and quick to interface with a client's application. The SmartDocs' library can seamlessly integrate a document preparation solution into either Web- or Windows-based applications, while maintaining the state and security of the Hosting Application.

### MICROBILT

MicroBilt Corporation, based in Kennesaw, Georgia, is a strategic partner of Carleton's utilizing SmartDocs. The company

provides interfaces with the three consumer bureaus, commercial bureaus as well as other data providers for tenant screening, pre-employment screening and other decision critical searches.

"The Carleton software not only ensures that all loan computations are accurate and in compliance with all regulations," noted Walt Wojciechowski, president and CEO of Microbilt.com., "but their SmartDocs will electronically deliver and print all appropriate documents, providing our customers with a proven, fast, and easy-to-use system that will save time and money."

Adobe Reader is all that is needed to run SmartDocs. The software will produce a PDF file that includes the form and variable data for laser printing or a PDF file that only includes the variable data for completing pre-printed multi-part forms on dot matrix printers.

Just as important as the software is the customer support and document preparation services provided by Carleton. Carleton's experienced staff can handle loan document projects ranging from the simplest, single-form software applications, to jobs where the client requires the electronic recreation and data mapping for several hundred loan documents. Carleton's staff goes through an extensive quality assurance process to ensure that the data elements on all forms have been mapped appropriately and that the "form sets" have been accurately defined based on specific loan types.

### ELECTRONIC SIGNATURES – THE FUTURE IS NOW!

Carleton has integrated an electronic signature capability into its SmartDocs application, allowing for the possibility of truly paperless transactions. Carleton has had customers using electronic signature technology in the field since 2005. Its first application was for a paperless system used for selling annuities.

The beauty of Carleton's SmartDocs eSignature is its simplicity. The process is similar to the accepted practice consumers experience in a retail store when they sign an electronic signature pad to authorize their credit card payment.

The eSignature process within the SmartDocs application can embed the encrypted signature package (.SIG file) including the biometric data into the PDF or it can maintain each eSignature as a separate file. SmartDocs also provides the ability to insert the image of the signatures into the PDF at the appropriate locations to provide a visual indication that the documents have been signed.

Carleton currently supports the signature pad technology developed by Topaz Systems but can easily be modified to support other popular signature pad technology. When using an electronic pad, SmartDocs can also collect data elements such as "Yes" and "No" answers related to lending and credit insurance documents so that a true paperless solution can be attained.

According to the Electronic Transactions Act and Electronic Signature in Global and National Commerce, there are four key elements for an electronic signature to be legally binding:

- 1) The signature must be unique to each user
- 2) The signature process is under the sole control of the signer
- 3) The signature must be linked to a document in such a way as to prevent tampering, and
- 4) The signature is capable of being authenticated

Carleton's eSignature solutions assure that all four of these conditions are met.

To learn more, contact Carleton's sales department at 800-433-0090.

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Serving consumer lending and credit insurance providers with full-service, one-stop solutions.

# LENDING TO THE MILITARY 2007: THE ONLY CERTAINTY IS CHANGE

from our research dept. ...

## Carleton's Research Department Speaking Engagements:

- National Institute of Credit Management – Marquette University. June
- Student Loan Servicing Association (SLSA) Annual Conference. July
- American Financial Services Association Government Affairs Forum. September

In October of this year, the disclosure and calculations requirements of the John Warner National Defense Authorization Act for Fiscal Year 2007 (JWNDA) will go into effect.

There are a number of potential pitfalls to implementation and compliance with JWNDA by October 1, 2007, but we are going to focus on the issues related to the calculations, disclosure requirements and definition of terms in this article.

JWNDA is primarily a military appropriations bill with one four-page section that addresses "Limitations on Terms of Consumer Credit Extended to Service Members and Dependents", as the section is subtitled. The intent was to curb predatory lending practices targeted at service members. A Department of Defense (DOD) 2005 survey to service members found stress from finances a prevalent factor that was affecting service members' ability to conduct their missions.

The key element in JWNDA is the imposition of a 36% lending rate limit for transactions to active duty personnel and their dependents. The Act also creates a new disclosure item termed the "military APR" or, as it is designated in accompanying regulations, MAPR.

## Applicability of JWNDA

The requirement to limit JWNDA defined "interest" to 36% and disclose the MAPR applies to all closed-end "consumer credit", as defined in the Act, extended to "covered borrowers" except for residential mortgage transactions and transactions used to purchase personal property such as motor vehicles and other retail installment sales.

A "covered member" is any member of the armed services on active duty and their spouse, and/or dependents as defined in the Act. A concern for lenders is being able to accurately identify a potential loan applicant who is a covered member.

Recent DOD proposed regulations would give lenders a "safe harbor" provision by having the borrower sign a declaratory statement that he/she does, or does not, meet the covered member requirements. The one caveat on invoking the safe harbor status is that if the lender receives contradictory information during the application process, they must make a bona fide good faith effort to reconcile any conflicts as to the borrower's status.

The definition of "consumer credit" is a key to applicability of the Act and is the responsibility of the DOD through regulation. In recently proposed regulations, the definition of consumer credit focuses on three types of credit targeted as abusive by the 2006 predatory lending report to congress: payday loans, vehicle title loans, refund anticipation loans. It appears that traditional installment loans and similar credit products may be excluded by inference. That issue may not be clear until the final regulations are published this summer.

The "residential mortgage" exclusion in the definition of consumer credit has been clarified in the proposed regulations to include home purchase loans, home equity loans, re-financings, HELOC's and reverse mortgages.

## Required Disclosures

JWNDA requires that on loans made to covered borrowers, the lender disclose both orally and in writing, the MAPR, the total charge of the credit (labeled "interest" in the Act), and a full disclosure of the payment schedule. These disclosures are in addition to the customary Truth-in-Lending Act requirements. The payment schedule disclosure requirements for TILA can also satisfy the payment schedule requirements for JWNDA.

These disclosures are required to be made both orally and in writing prior to consummation of the credit transaction. The proposed DOD regulations allow for mail and Internet transactions to satisfy the oral disclosure requirement by providing a toll-free number for borrowers to call as long as written disclosures are presented to the potential borrower.

## Issues and Concerns

One issue that all lenders making loans subject to JWNDA will have to deal with is the disclosure of the "total charge" of the loan which will exceed the disclosed TILA finance charge. This value is defined in JWNDA as "interest" and includes all fees, charges, and insurance premiums associated with the loan. Since Regulation Z allows for the exclusion of some of these items from the TILA finance charge, lending officers will have to be well schooled in the details of both JWNDA and Truth-in-Lending.

The JWNDA definition of "interest" as the sum of all charges and fees deviates from the traditional industry definition as "the charge for the rent of money". The Warner Act definition also differs from the Soldier and Sailors Civil Relief Act definition of the same term with the latter including events subsequent to consummation such as delinquency charges.

Like "interest", the MAPR will also present a training challenge for many lenders and their staff. In many instances three rates may appear on a set of loan documents; 1) computational interest rate, 2) TILA APR, and 3) JWNDA MAPR. Again, loan offices will need to be adept at adequately explaining the differences between the three values for the almost sure to be inquisitive, and confused, borrower.

## Summary

It appears at this point that the industry may have to wait for the final regulations, due out no later than September 1, to be published to really determine which types of loans and which lenders will be directly affected by the JWNDA provisions. Consumer groups have attacked the narrow definition of "consumer credit" in the proposed regulations and are pushing for a wider scope of applicability.

Lenders who in the end are subject to JWNDA will need to re-tool their systems to produce the MAPR calculation and the "interest" disclosure amount. In addition, loan officers will need specific training to offer verbal disclosure and clearly distinguish them from the other disclosure values required by existing state and federal regulations.

## Carleton Releases SmartDocs

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XpressCredit, a leading provider of a web-based, indirect lending platform whose patent-pending solution links lenders with auto, motorcycle, RV and marine dealers nationwide, has expanded its regulatory compliance efficiencies for customers through a new relationship with Carleton to provide both SmartCalcs and SmartDocs.

According to ExpressCredit founder and CEO, Paul Gignilliat, compliance and precision are top priorities at XpressCredit. "With more than 250 state laws and regulations, we turn to partners who are tops in their field to work with us to ensure that our services in this arena are comprehensive and reliable. There is not a better partner in this arena than Carleton," said Gignilliat.



Automated Financial Systems (AFS) reached a decision in late 2006 to deploy the Carleton SmartDocs system as an integral component of the AFS Consumer Loan Origination System (LOS) to meet the needs of a large consumer finance company. The AFS LOS determines the print requirements surrounding the loan-document printing process, such as, type of loan, collateral, language indicator, and other factors. SmartDocs is dynamically called to produce the documents when the print requirements are met. Over 70 documents will be produced by the AFS LOS with SmartDocs for this particular customer.

Melissa Hofer, AFS managing director, believes the partnership with Carleton is a win-win, "This strategic partnership, and the jointly derived implementation approach for SmartDocs, further enriches both companies' product offerings, and provides further market differentiation for our mutual customer," Hofer notes.

For additional information on SmartDocs, or for a demonstration of any of Carleton's software products, please contact Carleton's sales department at 800-433-0090.

## Effective State Changes

**compliance update**

### INDIANA

The Indiana Insurance Department has issued Bulletin 144 that revises prima facie credit life and A&H rates for the three-year period beginning June 1, 2007. The new rates represent a **decrease** from those currently in use.

The new prima facie rates will be:

#### Credit Life Rates

Single MOB Rate	\$.60/\$1000/mo
Joint MOB Rate	\$1.00/\$1000/mo

If single-premium rates are developed from the above, discount for interest and mortality is 3.7% annually and .0030 monthly.

#### Credit A&H Rates

Mos.	Per \$100 of Indebtedness			
	14 Day Retroactive	14 Day Non-retroactive	30 Day Retroactive	30 Day Non-retroactive
6	\$1.39	\$.91	\$.94	\$.71
12	1.85	1.29	1.27	.95
24	2.49	1.79	1.79	1.25
36	3.07	2.35	2.32	1.68
48	3.41	2.70	2.66	1.99

#### Credit A&H Rates

Mos.	Per \$100 of Indebtedness			
	14 Day Retroactive	14 Day Non-retroactive	30 Day Retroactive	30 Day Non-retroactive
60	3.70	2.98	2.95	2.26
72	3.97	3.23	3.21	2.50
84	4.20	3.47	3.44	2.74
96	4.42	3.69	3.65	2.96
108	4.65	3.90	3.87	3.17
120	4.86	4.10	4.07	3.37

### OKLAHOMA

The dollar amount brackets and ceilings relating to maximum charges in the Oklahoma Credit Code will be adjusted and increased by 10% of the original amounts on July 1, 2007. The new maximum rate structures will be:

#### Supervised Loans and Retail Credit Sales:

The greater of:

- (A)
  - 30% of the amount financed up to \$1,260 plus
  - 21% of the excess to \$4,200 plus
  - 15% of the remainder

or

- (B)
  - 21% Simple Interest

The maximum delinquency charge will become the greater of 5% of the outstanding payment or \$21.00.

#### Section 3-508(B) Loans (Loans of \$1,260 or less)

\$ 1.00 – \$125.96	\$4.20 for each \$21.00 advanced
\$125.97 – \$147.00	Flat 10% plus \$12.60
\$147.01 – \$294.00	Flat 10% plus \$14.70
\$294.01 – \$420.00	Flat 10% plus \$16.80
\$420.01 – \$630.00	Flat 10% plus \$18.90
\$630.01 – \$1,260.00	Flat 10% plus \$21.00

The following information is presented by the Carleton Research Department. In order to keep our customers abreast of what is happening in the consumer credit and credit insurance industries, the following law changes have been compiled for your review. Please check to see if any of the listed changes will impact your operations.



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## Effective State Changes *Continued from page 3*

### NEVADA

The Department of Insurance has adopted Revised Regulation R014-06 that amends prima facie credit life and A&H rates. The new rates are effective July 1, 2007.

The new prima facie rates are as follows:

#### Credit Life

Single Decreasing Life	\$ .75/\$1000/mo
Joint Decreasing Life	\$1.15/\$1000/mo (154% of single)

Dismemberment is allowed at \$.05 per \$100 of insurance for single life coverage and \$.10 per \$100 per annum for joint life coverage.

The single premium formula included in the revised regulation is unusual in its construction and has caused a fair amount of confusion within the industry. There is no single premium rate directly stated in the published Regulation. The rate is implied from the net payoff premium calculation formula and is potentially open to interpretation. Gross payoff coverage is no longer authorized.

#### Credit A&H Rates

Mos.	Per \$100 of Indebtedness				
	7 Day Retroactive	14 Day Retroactive	14 Day Non-retro	30 Day Retroactive	30 Day Non-retro
1-12	\$2.06	\$1.51	\$.96	\$1.17	\$.55
13-24	2.75	2.06	1.51	1.72	1.10
25-36	3.44	2.61	2.06	2.27	1.65
37-48	4.12	2.95	2.40	2.61	1.99
49-60	4.81	3.23	2.68	2.89	2.27
61-72	5.50	3.50	2.95	3.16	2.54
73-84	6.18	3.78	3.23	3.44	2.82
85-96	6.87	4.05	3.50	3.71	3.09
97-108	7.56	4.33	3.78	3.98	3.37
109-120	8.24	4.60	4.05	4.26	3.64

Joint A&H coverage is authorized at 185% of single rates.

#### Credit Unemployment Rates

Credit unemployment is authorized on a single-premium basis. The single rate is \$.95/\$100/yr. Joint coverage is \$1.75/\$100/yr (185% of single).

#### Premium Refunds

The Regulation allows the use of the Sum of the Digits method for single-premium refunds. A 15/16 day rule may be employed where no premium charge is earned for the first 15 days of a period and a full month earned on the 16th day.

### TEXAS

The dollar amount brackets and ceilings subject to adjustment in the Texas Financial Code will increase to 570% of the original amounts on July 1, 2007. This latest adjustment is a 10% increase from the amounts currently in effect. The new rate structures will be:

#### Retail Installment Sales ("Other Goods") – Sec. 345.055

\$12 per \$100 per annum of the principal balance to \$2,850 plus,  
 \$10 per \$100 per annum of the excess to \$5,700 plus,  
 \$ 8 per \$100 per annum of the remainder

#### Consumer Loans

##### Sec. 342.201(a) Add-on

\$18 per annum of the cash advance to \$1,710 plus,  
 \$ 8 per annum of the excess to \$14,250

##### Sec. 342.201(e) Simple Interest

30% of the principal balance up to \$2,850 plus,  
 24% of the excess to \$5,985 plus,  
 18% of the remainder



3975 William Richardson Dr.  
 South Bend, IN 46628  
 800-433-0090  
 Fax 574-243-6060

[www.carletoninc.com](http://www.carletoninc.com)