



October 20, 2020

## **Servicemembers' Civil Relief Act - What You Need to Know**

By **Angela L. Beblo**

Between the Civil War and 1940, the United States periodically had legislation that prevented lawsuits against soldiers and sailors during times of conflict. Then, the Soldiers' and Sailors' Civil Relief Act of 1940 was enacted to protect the millions of soldiers that were fighting in World War II.

Since that time, the United States has consistently maintained laws that protect servicemembers. The Soldiers' and Sailors' Civil Relief Act of 1940 has been amended more than 19 times between 1940 and 2015 and is currently known as the Servicemembers' Civil Relief Act, 50 U.S.C. §§ 3901-4043 (2015) (the "SCRA") (previously located at 50 U.S.C. App. §§ 501-597b).

The SCRA provides a myriad of protections for those fighting for their country in times of war and national emergency. Among other items, its provisions ease financial burden during those times so that servicemembers do not worry about issues at home while serving their country.

Click [here](#) to read the entire article.

---

## **SBA Offers Total Forgiveness for Loans of \$50,000 or Less, Helping PPP Small Business Borrowers**

*"Now, small- and micro-business borrowers of \$50,000 or less will have their loan wiped out entirely, even if they had to cut employees or wages."*

**Why this is important:** Business owners who borrowed \$50,000 or less under the Small Business Administration's Paycheck Protection Program ("PPP"), recently were informed that their debts will be forgiven if they fill out the one-page [Form 3508S](#). Now, even if these small business owners had to cut employees or wages, they will still be entitled to have their PPP loan forgiven. While small business owners will welcome this relief, the tax implications of the debt forgiveness remain up in the air. According to David Zalles, a Blue Bell certified public accountant, it is currently unknown whether the money will be taxable or tax free. Zalles believes that this uncertainty needs addressed through new legislation, or in the following stimulus bill. Despite the lack of clarity regarding tax implications, PPP small business borrowers certainly will be encouraged by the announcement of PPP loan forgiveness through a simplified one-page form. --- [Wesley A. Shumway](#)

---

## **Clair, a Social-Impact Fintech Raises \$4.5M Seed Round to Disrupt the Payday Lending Industry by Providing Free Instant Pay to Hourly and Gig Workers**

*"Clair, an early stage fintech startup based in New York City, wants America's 82 million hourly workers and 57 million gig workers to get paid as quickly as Uber pays their drivers today: instantly."*

**Why this is important:** As a result of the pandemic, "nearly 40% of Americans [say] they would struggle to cover an unexpected \$250 expense." When faced with an unexpected expense, some turn to payday loans, which the article criticizes as being more ubiquitous than McDonald's and requiring large interest rates to borrow money. At the same time, a 2019 report showed that 85 percent of skilled gig workers would work more often if they were paid faster. Clair steps into this void. It is an early stage startup that offers instant payment to workers through a Clair debit card that acts as an advance on their wages. It hopes this service can take the place of America's 82 million hourly workers and 57 million gig workers resorting to payday loans. --- [Nicholas P. Mooney II](#)

---

## **The Ultra-Rich are Using Giant Home Loans to Access Cheap Credit**

*"Lenders are increasingly providing credit to their most valuable clients after central banks slashed interest rates to protect the economy from the effects of the Covid-19 pandemic."*

**Why this is important:** With debt being so cheap, the world's wealthiest are taking advantage of low interest rates to invest in stock markets, cryptocurrencies, or real estate, even as a rising number of out-of-work homeowners are falling behind on their payments. This surge in high dollar lending benefits an already affluent segment of the population that doesn't necessarily need new investment opportunities. While these large investments likely do help protect the economy, they may also be contributing to an even wider financial gap between the super-rich and the poor. --- [Tai Shadrick Kluemper](#)

---

## **U.S. Department of Justice Files Complaint Against Reverse Mortgage Company**

*"The United States Department of Justice has filed a complaint against a reverse mortgage company for allegedly forging certifications and using unqualified underwriters to approve Federal Housing Administration-backed Home Equity Conversion Mortgage loans originated between 2008 and 2010."*

**Why this is important:** The Department of Justice filed a complaint against a reverse mortgage company for reverse mortgages backed by the federal housing authority and placed between 2008 and 2010 in which the company in some cases used unqualified underwriters to approve loans and in other cases forged the signatures of underwriters to appear as if they were qualified. The significance of the complaint is that the DOJ is taking seriously threats to the integrity of reverse mortgage programs. The targeted company responded claiming that not only are the claims stale because of the lapse of time, but also are based on ambiguous regulations that existed at the time the loans were underwritten. The complaint is being brought, in part, based on the federal false Claims Act, which allows for treble damages and attorney fees if successful. --- [Bryan S. Neft](#)

---

## **Venmo Launches Its First Credit Card**

*"Like Venmo accounts, Venmo cards will have a unique QR code on the front that others can scan with their phone camera to send or request money."*

**Why this is important:** As contactless payment becomes more popular due to COVID-19 concerns, the launch of Venmo's first Visa card is no surprise. Users of the Venmo app will be pleased to learn that they can track purchases, make payments, and even earn cash back with the Venmo credit card via the familiar platform. The Venmo credit card is not entirely touch-free, however, with a physical card arriving in the mail after approval. While retailers continue to move toward contactless payment, cardholders will still be able to benefit from the same perks even when shopping at places that are not yet equipped to accept virtual payment. --- [Megan W. Mullins](#)

---

## **What Will Mortgage Regulation and Enforcement Look Like in 2021?**

*"As regulation and enforcement continue to fluctuate on a federal level, states have begun to take it upon themselves to expand consumer protection with a more local focus."*

**Why this is important:** For more than a decade, mortgage industry participants have made extensive investments to adapt operations and programs to comply with federal regulations. States now are seeking to add to the consumer protections that may result in additional costs to make it that much

harder for a service provider to really be able to serve consumers with little to no additional benefit in terms of consumer protection. On the enforcement side, a federal election in November will play a major role in future enforcement. A Biden White House, perceived as a more consumer protection and enforcement friendly advocate, could provide much more enforcement and resources to states seeking to add regulation and oversight. --- [Bryce J. Hunter](#)

---

## **COVID Accelerates FinTech Adoption for Users and Companies**

*"The coronavirus pandemic encouraged Americans to begin relying more on fintech for things like check deposits and money transfers."*

**Why this is important:** This is another example of an issue we reported on in other presentations; that is, the COVID-19 pandemic is increasing the adoption of technology in the financial area. The recent Harris Poll found that 73 percent of those surveyed agreed that "managing money with fintech [financial technology] is the 'new normal.'" Interestingly, 48 percent of those surveyed admitted that they had not used any form of digital banking prior to the pandemic. Couple that with the fact that the poll and other commentators suggest this new adoption of financial technology won't stop after the pandemic is over. Fintech is here to stay, and one of the pressing issues now is the regulations that will govern this technology. --- [Nicholas P. Mooney II](#)

---

## **Reverse Mortgages Get a New Look in Pandemic Times**

*"When it looked like Covid-19 might wreck the retirement plans of older Americans, some turned to these mortgages to tap a new source money."*

**Why this is important:** In the early days of the coronavirus pandemic, senior citizens tapped equity in their homes through reverse mortgages to replace retirement funds lost through the collapse of the stock market. This article reports on a paper that criticizes reverse mortgages for what it sees as "high fees, dicey sales practices, and the potential of retirees to lose their home if things go badly." The article reports that reverse mortgages fell out of favor after the 2008 recession due to tighter underwriting. Although homeowners do not make "payments" on reverse mortgages, defaults often happen on reverse mortgages when borrowers fail to pay property taxes and insurance. Regardless, the paper reports that up to 25 percent of borrowers who are denied forward mortgages have sufficient home equity to obtain a reverse mortgage. Finally, the article reports that, despite increased interest in reverse mortgages, they still remain limited vehicles for most individuals, a fact which the article attributes to the cost and underwriting of a reverse mortgage. --- [Bryan S. Neft](#)

---

## **Speeding Up the Loan Process Through Intelligent Automation**

*"When asked what the biggest challenge for mortgage professionals in processing loan applications is, 62% responded that it involves collecting documents from borrowers, while 56% of bankers found the manual collection and waiting for documents from clients is most challenging."*

**Why this is important:** This article is important because it reports on benefits to the use of technology in home mortgage loan originations. The article summarizes the results of a survey of mortgage loan originators in which 62 percent stated that the biggest challenge in loan originations is "collecting documents from borrowers." Fifty-six percent responded that "manual collection and waiting for documents from clients" is the biggest challenge. The article addresses the benefits of seeking documents from clients during the first meeting. It also discusses the importance of using intelligent document capture software in originations and how this software must be part of a completely interoperable system in order to increase loan originations and address these challenges. --- [Nicholas P. Mooney II](#)

---

## **Featured Attorney Spilman Profile**

**[Nicholas P. Mooney II](#)**

Member

304.340.3860

[nmooney@spilmanlaw.com](mailto:nmooney@spilmanlaw.com)



Nick is a Member in our Charleston, West Virginia office. He's the West Virginia State Chair for ACA International and the Mid-Atlantic Collectors Association. Nick also serves on the National Creditors Bar Association's Amicus Brief Committee and Defense Bar Committee.

He's been practicing law since 1996, devoting the last two decades to representing creditors and collectors in litigation in federal courts, state courts, and arbitration as well as in government investigations. He has a vast amount of experience litigating issues regarding federal and state financial and consumer protection statutes.

Nick also is a co-chair of Spilman's Technology Law Practice Group where he focuses on the intersection of financial services and technology.

Nick is lifelong resident of West Virginia and a graduate of Marshall University and West Virginia University.



This is an attorney advertisement. Your receipt and/or use of this material does not constitute or create an attorney-client relationship between you and Spilman Thomas & Battle, PLLC or any attorney associated with the firm. This e-mail publication is distributed with the understanding that the author, publisher and distributor are not rendering legal or other professional advice on specific facts or matters and, accordingly, assume no liability whatsoever in connection with its use.

Responsible Attorney: Michael J. Basile, 800-967-8251