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COMMENTARY

*New York Leads the Charge Against Buy Now Pay Later After
Federal Retreat*

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Introduction

Buy Now, Pay Later (“BNPL”) financing options have rapidly risen to prominence in the consumer financing market, allowing consumers to postpone payments for their purchases of everyday items. With the rise in use of this new form of credit also comes an increase in regulatory challenges and controversies. In 2025, the federal government under the Trump administration announced that they would not enforce regulatory schemes imposed on BNPL providers by the previous administration.

In the wake of this rollback, states have considered stepping in to regulate the emerging method of consumer financing. In the first move of its kind, in February 2026, New York proposed regulations for BNPL providers to protect consumers. This move may serve as a model for other states, many of whom are already in the process of formulating their own regulations.

What is “Buy Now, Pay Later”?

BNPL is a short-term financing option that allows consumers to make purchases while only paying a portion of the total price up front and postponing the rest to a preset installment schedule. This usually works by splitting the total cost into 4 payments – one at the time of purchase and then another 25% of the purchase price every two weeks. The appeal of BNPL financing options is significant and includes the ability to put off payment without interest, no hard credit check, and instant approval for credit. The option is easy to use and is often found at

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the checkout of online retailers. The system of financing is so pervasive that 1 in 4 shoppers paid using BNPL in November 2025,¹ and 52% of Americans have ever used it.²

The use of BNPL, however, comes with downsides. The most apparent is the financing of everyday, non-necessary, purchases that consumers may not be able to afford. This often leads to consumers who cannot afford the future installments. Missing payments will lead to the accrual of late charges and can negatively impact credit score. There are also often problems with charge disputes and return ability with little regulation holding the providers accountable. The ease with which anyone can use the system, and the lack of credit checks, has led many to view BNPL as predatory and in need of regulation.

Federal Regulations

Under the Biden Administration, the Consumer Financial Protection Agency (“CFPA”), issued an interpretative ruling subjecting BNPL providers to certain provisions of the Truth and Lending Act.³ The interpretive rule found that BNPL providers were “card issuers” and were creditors under the rule subjecting them to certain requirements. When the ruling was issued in July 2024, it was quickly challenged by BNPL providers who sued the CFPA claiming the rules were implemented without proper procedure. The federal government's regulatory course of action was reversed under the Trump administration. In May 2025, the CFPA announced it would not prioritize enforcement of the ruling, effectively deregulating the system of financing.⁴

States Pick up the Torch

Following the announcement that BNPL would no longer be regulated at the federal level, states have begun to eye their own regulatory schemes to protect consumers. The state that has gone the furthest as of now is New York, where proposed regulations have been released. The regulations would establish a licensing and supervision network for BNPL providers, prohibit excessive fees and limit what can be charged as a late fee or penalty, require lenders to disclose the credit reporting status of the providers loans, impairments rules for resolution of disputes between consumers and providers, and protect consumer purchasing data.⁵

¹ Spencer Soper, *US Holiday Shoppers Are Flocking to Buy Now, Pay Later Apps Like Klarna and Affirm*, BLOOMBERG (Dec. 22, 2025, at 4:00 AM MST), <https://www.bloomberg.com/news/articles/2025-12-22/us-holiday-shoppers-flock-to-buy-now-pay-later-apps-klarna-affirm>.

² Bob Jaworski, Leonard A. Bernstein, & Paul Libretta, *Know Now or Pay Later: Navigating New York's Buy-Now-Pay-Later Act*, HOLLAND & KNIGHT (July 8, 2025), <https://www.hklaw.com/en/insights/publications/2025/07/know-now-or-pay-later-navigating-new-yorks-buy-now-pay-later-act>.

³ *Truth in Lending (Regulation Z); Use of Digital User Accounts to Access Buy Now, Pay Later Loans*, 89 Fed. Reg. 47,068 (May 31, 2024).

⁴ MacKenzie Sigalos, *Trump's CFPB Drops Enforcement of BNPL as Consumer Protections Decline*, CNBC (May 6, 2025, at 5:18 PM EDT), <https://www.cnbc.com/2025/05/06/trumps-cfpb-drops-enforcement-of-bnpl-as-consumer-protections-decline.html>.

⁵ Governor Kathy Hochul, *Governor Hochul Announces New Nation-Leading Regulation to Establish Comprehensive Consumer Protections for Buy Now, Pay Later Loans*, N.Y. State Dep't of Fin. Servs. (Feb. 23, 2026), <https://www.governor.ny.gov/news/governor-hochul-announces-new-nation-leading-regulation-establish-comprehensive-consumer>.

This regulation would allow the state to protect consumers from what could be considered predatory lending practices by BNPL companies. This system is meant to inform the consumer so they can make the most educated decision about whether to finance using BNPL and impose licensing requirements so that providers can be held accountable for predatory behavior.

In December 2025, six state attorney generals sent letters to BNPL providers seeking information on their products, fees, and services.⁶ The increased interest in regulation of BNPL is apparent and New York may serve as a model to other states worried about their own consumers. State regulation in this area is not unexpected as states have often been left to regulate their own consumer protection policy how they see fit. This includes state regulation of payday loans, deceptive trade practices, debt collection practices, and consumer privacy.

Conclusion

With the withdrawal of the federal government from the regulation of BNPL companies, it is time for states to take the reins, and New York is leading the way showing how states can protect consumers. While this will not get rid of BNPL, it will help to inform consumers about what the financing option really means for them and will limit the more exploitative aspects of the business for consumers that are postponing their payment obligations on everyday purchases. These kinds of regulations may soon be found across the country as many states have initiated their own investigations toward BNPL providers and have been given an example of how to limit the harm in the New York regulation.

⁶ Hal Bundrick, *Buy Now, Pay Later Is Booming, and Experts Say the Risks Are Growing*, YAHOO FINANCE (Dec. 4, 2025), <https://finance.yahoo.com/personal-finance/banking/article/buy-now-pay-later-is-booming-and-experts-say-the-risks-are-growing-191250499.html>.