

# STATE OF NEW YORK

9588

## IN ASSEMBLY

March 22, 2024

Introduced by M. of A. HUNTER -- read once and referred to the Committee on Banks

AN ACT to amend the banking law, in relation to the regulation of buy-now-pay-later lenders

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The banking law is amended by adding a new article 14-B to  
2 read as follows:

3 ARTICLE XIV-B  
4 BUY-NOW-PAY-LATER LENDERS

- 5 Section 735. Short title.  
6 736. Definitions.  
7 737. License.  
8 738. Conditions precedent to issuing a license; procedure where  
9 application is denied.  
10 739. License provisions and posting.  
11 740. Application for acquisition of control of buy-now-pay-later  
12 lender by purchase of stock.  
13 741. Ground for revocation or suspension of license; procedure.  
14 742. Superintendent authorized to examine.  
15 743. Licensee's books and records; reports.  
16 744. Acts prohibited.  
17 745. Limitation on charges on buy-now-pay-later loans.  
18 746. Consumer protections.  
19 747. Authority of superintendent.  
20 748. Penalties.  
21 749. Severability.  
22 § 735. Short title. This article shall be known and may be cited as  
23 the "Buy Now Pay Later act".  
24 § 736. Definitions. As used in this article, the following terms shall  
25 have the following meanings:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 1. "Consumer" means an individual who is a resident of the state of  
2 New York.

3 2. "Buy-now-pay-later loan" means credit provided to a consumer at the  
4 time of purchase in connection with such consumer's particular purchase  
5 of goods and/or services, other than a motor vehicle as defined under  
6 section one hundred twenty-five of the vehicle and traffic law, provided  
7 that the consumer shall not be subject to any interest, penalty,  
8 discount, or consideration in connection with such credit provided.

9 3. "Buy-now-pay-later lender" means a person who offers buy-now-pay-  
10 later loans in this state. For purposes of the preceding sentence,  
11 "offer" means offering to make a buy-now-pay-later loan by extending  
12 credit directly to a consumer or operating a platform, software or  
13 system with which a consumer interacts and the primary purpose of which  
14 is to allow third parties to offer buy-now-pay-later loans, or both. A  
15 person who sells goods or services to a consumer and extends credit to  
16 such consumer in connection with such consumer's particular purchase of  
17 such goods and/or services shall not be considered a buy-now-pay-later  
18 lender with respect to such transactions. A person shall not be consid-  
19 ered a buy-now-pay-later lender on the basis of isolated, incidental or  
20 occasional transactions which otherwise meet the definitions of this  
21 section.

22 4. "Exempt organization" means any banking organization or foreign  
23 banking corporation licensed by the superintendent or the comptroller of  
24 the currency to transact business in this state, national bank, federal  
25 savings bank, federal savings and loan association, or federal credit  
26 union. Subject to such regulations as may be promulgated by the super-  
27 intendent, "exempt organization" may also include any subsidiary of such  
28 entities.

29 5. "Licensee" means a person who has been issued a license pursuant to  
30 this article.

31 6. "Person" means an individual, partnership, corporation, association  
32 or any other business organization.

33 § 737. License. 1. No person or other entity, except an exempt organ-  
34 ization as defined in this article, shall act as a buy-now-pay-later  
35 lender without first obtaining a license from the superintendent.

36 2. An application for a license shall be in writing, under oath, and  
37 in the form and containing such information as the superintendent may  
38 require.

39 3. At the time of filing an application for a license, the applicant  
40 shall pay to the superintendent a fee as prescribed pursuant to section  
41 eighteen-a of this chapter.

42 4. A license granted pursuant to this article shall be valid unless  
43 revoked or suspended by the superintendent or unless surrendered by the  
44 licensee and accepted by the superintendent.

45 5. In connection with an application for a license, the applicant  
46 shall submit an affidavit of financial solvency noting such capitaliza-  
47 tion requirements and access to such credit as may be prescribed by the  
48 regulations of the superintendent.

49 § 738. Conditions precedent to issuing a license; procedure where  
50 application is denied. 1. After the filing of an application for a  
51 license accompanied by payment of the fee pursuant to subdivision three  
52 of section seven hundred thirty-seven of this article, it shall be  
53 substantively reviewed. After the application is deemed sufficient and  
54 complete, if the superintendent finds that the financial responsibility,  
55 including meeting any capital requirements as established pursuant to  
56 subdivision three of this section, experience, character and general

1 fitness of the applicant or any person associated with the applicant are  
2 such as to command the confidence of the community and to warrant the  
3 belief that the business will be conducted honestly, fairly and effi-  
4 ciently within the purposes and intent of this article, the superinten-  
5 dent shall issue the license. For the purpose of this subdivision, the  
6 applicant shall be deemed to include all the members of the applicant if  
7 it is a partnership or unincorporated association or organization, and  
8 all the stockholders, officers and directors of the applicant if it is a  
9 corporation.

10 2. If the superintendent refuses to issue a license, the superinten-  
11 dent shall notify the applicant of the denial and retain the fee paid  
12 pursuant to subdivision three of section seven hundred thirty-seven of  
13 this article.

14 3. The superintendent may issue regulations setting capital require-  
15 ments to ensure the solvency and financial integrity of licensees and  
16 their ongoing operations, taking into account the risks, volume of busi-  
17 ness, complexity, and other relevant factors regarding such licensees.  
18 Further, the superintendent may issue rules and regulations prescribing  
19 a methodology to calculate capital requirements with respect to licen-  
20 sees or categories thereof.

21 § 739. License provisions and posting. 1. A license issued under this  
22 article shall state the name and address of the licensee, and if the  
23 licensee be a co-partnership or association, the names of the members  
24 thereof, and if a corporation the date and place of its incorporation.

25 2. Such license shall be kept conspicuously posted on the mobile  
26 application, website, or other consumer interface of the licensee, as  
27 well as listed in the terms and conditions of any buy-now-pay-later loan  
28 offered or entered into by the licensee. The superintendent may provide  
29 by regulation an alternative form of notice of licensure.

30 3. A license issued under this article shall not be transferable or  
31 assignable.

32 § 740. Application for acquisition of control of buy-now-pay-later  
33 lender by purchase of stock. 1. It shall be unlawful except with the  
34 prior approval of the superintendent for any action to be taken which  
35 results in a change of control of the business of a licensee. Prior to  
36 any change of control, the person desirous of acquiring control of the  
37 business of a licensee shall make written application to the superinten-  
38 dent and pay an investigation fee as prescribed pursuant to section  
39 eighteen-a of this chapter to the superintendent. The application shall  
40 contain such information as the superintendent, by regulation, may  
41 prescribe as necessary or appropriate for the purpose of making the  
42 determination required by subdivision two of this section.

43 2. The superintendent shall approve or disapprove the proposed change  
44 of control of a licensee in accordance with the provisions of section  
45 seven hundred thirty-eight of this article.

46 3. For a period of six months from the date of qualification thereof  
47 and for such additional period of time as the superintendent may  
48 prescribe, in writing, the provisions of subdivisions one and two of  
49 this section shall not apply to a transfer of control by operation of  
50 law to the legal representative, as hereinafter defined, of one who has  
51 control of a licensee. Thereafter, such legal representative shall  
52 comply with the provisions of subdivisions one and two of this section.  
53 The provisions of subdivisions one and two of this section shall be  
54 applicable to an application made under such section by a legal repre-  
55 sentative.

1 4. The term "legal representative," for the purposes of this section,  
2 shall mean one duly appointed by a court of competent jurisdiction to  
3 act as executor, administrator, trustee, committee, conservator or  
4 receiver, including one who succeeds a legal representative and one  
5 acting in an ancillary capacity thereto in accordance with the  
6 provisions of such court appointment.

7 5. As used in this section, the term "control" means the possession,  
8 directly or indirectly, of the power to direct or cause the direction of  
9 the management and policies of a licensee, whether through the ownership  
10 of voting stock of such licensee, the ownership of voting stock of any  
11 person which possesses such power or otherwise. Control shall be  
12 presumed to exist if any person, directly or indirectly, owns, controls  
13 or holds with power to vote ten per centum or more of the voting stock  
14 of any licensee or of any person which owns, controls or holds with  
15 power to vote ten per centum or more of the voting stock of any licen-  
16 see, but no person shall be deemed to control a licensee solely by  
17 reason of being an officer or director of such licensee or person. The  
18 superintendent may in the superintendent's discretion, upon the applica-  
19 tion of a licensee or any person who, directly or indirectly, owns,  
20 controls or holds with power to vote or seeks to own, control or hold  
21 with power to vote any voting stock of such licensee, determine whether  
22 or not the ownership, control or holding of such voting stock consti-  
23 tutes or would constitute control of such licensee for purposes of this  
24 section.

25 § 741. Ground for revocation or suspension of license; procedure. 1. A  
26 license granted pursuant to this section may be revoked or suspended by  
27 the superintendent upon a finding that:

28 (a) The licensee has violated any applicable law or regulation;

29 (b) Any fact or condition exists which, if it had existed at the time  
30 of the original application for such license, clearly would have  
31 warranted the superintendent's refusal to issue such license; or

32 (c) The licensee has failed to pay any sum of money lawfully demanded  
33 by the superintendent or to comply with any demand, ruling or require-  
34 ment of the superintendent.

35 2. Any licensee may surrender any license by delivering to the super-  
36 intendent written notice that the licensee thereby surrenders such  
37 license. Such surrender shall be effective upon its acceptance by the  
38 superintendent, and shall not affect such licensee's civil or criminal  
39 liability for acts committed prior to such surrender.

40 3. Every license issued hereunder shall remain in force and effect  
41 until the same shall have been surrendered, revoked or suspended, in  
42 accordance with the provisions of this article, but the superintendent  
43 shall have authority to reinstate suspended licenses or to issue a new  
44 license to a licensee whose license has been revoked if no fact or  
45 condition then exists which clearly would have warranted the superinten-  
46 dent's refusal to issue such license.

47 4. Whenever the superintendent shall revoke or suspend a license  
48 issued pursuant to this article, the superintendent shall forthwith  
49 execute a written order to that effect, which order may be reviewed in  
50 the manner provided by article seventy-eight of the civil practice law  
51 and rules. Such special proceeding for review as authorized by this  
52 section must be commenced within thirty days from the date of such order  
53 of suspension or revocation.

54 5. The superintendent may, for good cause, without notice and a hear-  
55 ing, suspend any license issued pursuant to this article for a period  
56 not exceeding thirty days, pending investigation. "Good cause," as used

1 in this subdivision, shall exist only when the licensee has engaged in  
2 or is likely to engage in a practice prohibited by this article or the  
3 regulations promulgated thereunder or engages in dishonest or inequita-  
4 ble practices which may cause substantial harm to the public.

5 § 742. Superintendent authorized to examine. 1. The superintendent  
6 shall have the power to make such investigations as the superintendent  
7 shall deem necessary to determine whether any buy-now-pay-later lender  
8 or any other person has violated any of the provisions of this article  
9 or any other applicable law, or whether any licensee has conducted  
10 itself in such manner as would justify the revocation of its license,  
11 and to the extent necessary therefor, the superintendent may require the  
12 attendance of and examine any person under oath, and shall have the  
13 power to compel the production of all relevant books, records, accounts,  
14 and documents.

15 2. The superintendent shall have the power to make such examinations  
16 of the books, records, accounts and documents used in the business of  
17 any licensee as the superintendent shall deem necessary to determine  
18 whether any such licensee has violated any of the provisions of this  
19 chapter or any other applicable law or to secure information lawfully  
20 required by the superintendent.

21 § 743. Licensee's books and records; reports. 1. A buy-now-pay-later  
22 lender shall keep and use in its business such books, accounts and  
23 records as will enable the superintendent to determine whether such  
24 buy-now-pay-later lender is complying with the provisions of this arti-  
25 cle and with the rules and regulations lawfully made by the superinten-  
26 dent hereunder. Every buy-now-pay-later lender shall preserve such  
27 books, accounts and records for at least six years after making the  
28 final entry in respect to any buy-now-pay-later loan recorded therein;  
29 provided, however, the preservation of photographic or digital reproduc-  
30 tions thereof or records in photographic or digital form shall consti-  
31 tute compliance with this requirement.

32 2. By a date to be set by the superintendent, each licensee shall  
33 annually file a report with the superintendent giving such information  
34 as the superintendent may require concerning the licensee's business and  
35 operations during the preceding calendar year within the state under the  
36 authority of this article. Such report shall be subscribed and affirmed  
37 as true by the licensee under the penalties of perjury and be in the  
38 form prescribed by the superintendent. In addition to such annual  
39 reports, the superintendent may require of licensees such additional  
40 regular or special reports as the superintendent may deem necessary to  
41 the proper supervision of licensees under this article. Such additional  
42 reports shall be in the form prescribed by the superintendent and shall  
43 be subscribed and affirmed as true under the penalties of perjury.

44 § 744. Acts prohibited. 1. No buy-now-pay-later lender shall take or  
45 cause to be taken any confession of judgment or any power of attorney to  
46 confess judgment or to appear for the consumer in a judicial proceeding.

47 2. No buy-now-pay-later lender shall make or cause to be made an  
48 advertisement for a buy-now-pay-later loan that is false, misleading, or  
49 deceptive.

50 § 745. Limitation on charges on buy-now-pay-later loans. Notwith-  
51 standing any other provision of law to the contrary, no buy-now-pay-la-  
52 ter lender shall charge, contract for, or otherwise receive from a  
53 consumer any interest, penalty, late fee, discount or other consider-  
54 ation in connection to a buy-now-pay-later loan, whether directly or  
55 indirectly.

1 § 746. Consumer protections. 1. Disclosures. A buy-now-pay-later lender shall disclose or cause to be disclosed to consumers the terms of  
2 buy-now-pay-later loans, including the cost, repayment schedule, and  
3 other material conditions, in a clear and conspicuous manner.

4  
5 2. Ability to repay. Subject to regulations to be promulgated by the  
6 superintendent, a buy-now-pay-later lender shall, before providing or  
7 causing to be provided a buy-now-pay-later loan to a consumer, make, or  
8 cause to be made, a reasonable determination that such consumer has the  
9 ability to repay the buy-now-pay-later loan.

10 3. Credit reporting prohibition. A buy-now-pay-later lender shall not  
11 report any consumer data obtained through a buy-now-pay-later loan to  
12 any credit reporting agency.

13 4. Returns, refunds and credits. A buy-now-pay-later lender shall  
14 handle or cause to be handled returns of and refunds and credits for  
15 goods or services purchased in connection with a buy-now-pay-later loan  
16 in a manner that is fair, transparent, and not unduly burdensome to  
17 consumers. A buy-now-pay-later lender shall maintain or cause to be  
18 maintained policies and procedures regarding such handling of returns,  
19 refunds, and credits. A buy-now-pay-later lender shall disclose or cause  
20 to be disclosed to consumers in a clear and conspicuous manner the proc-  
21 ess by which they can return and obtain refunds or credits for goods or  
22 services they have purchased with a buy-now-pay-later loan. Consumer  
23 claims for returns, refunds, and credits shall only be fulfilled by the  
24 buy-now-pay-later lender upon receipt of the returned good or product  
25 subject to the buy-now-pay-later loan from the seller, or the cancella-  
26 tion of the service subject to the buy-now-pay-later loan from the sell-  
27 er.

28 5. Consumer disputes. A buy-now-pay-later lender shall resolve or  
29 cause to be resolved disputes in a manner that is fair and transparent  
30 to consumers. A buy-now-pay-later lender shall create or cause to be  
31 created a readily available and prominently disclosed method for consum-  
32 ers to bring a dispute to the buy-now-pay-later lender. A buy-now-pay-  
33 later lender shall maintain policies and procedures for handling consum-  
34 er disputes.

35 6. Use of consumer data. A buy-now-pay-later lender shall clearly and  
36 conspicuously disclose or cause to be disclosed to a consumer to which  
37 it provides a loan how such consumer's data may be used by the buy-now-  
38 pay-later lender. The buy-now-pay-later lender shall provide the consum-  
39 er the opportunity to provide consent to such collection and use of  
40 consumer data, provided that without such consent the buy-now-pay-later  
41 lender shall not collect or use such consumer data. The superintendent,  
42 in their discretion, may by regulation prohibit certain uses of consumer  
43 data if such use poses an undue risk to consumers.

44 7. Unauthorized use. The superintendent may issue rules and regu-  
45 lations regarding treatment of unauthorized use, so that consumers are  
46 liable for use of buy-now-pay-later loans in their name only under  
47 circumstances where such liability would be fair and reasonable.

48 8. Void buy-now-pay-later loans. Any buy-now-pay-later loan made by a  
49 person not licensed under this article, other than an exempt organiza-  
50 tion, shall be void, and such person shall have no right to collect or  
51 receive any principal, interest or charge whatsoever.

52 § 747. Authority of superintendent. The superintendent is authorized  
53 to promulgate such general rules and regulations as may be appropriate,  
54 in their sole discretion, to implement the provisions of this article,  
55 protect consumers, and ensure the solvency and financial integrity of  
56 buy-now-pay-later lenders. The superintendent is further authorized to

1 make such specific rulings, demands, and findings as may be necessary  
2 for the proper conduct of the business authorized and licensed under and  
3 for the enforcement of this article, in addition hereto and not incon-  
4 sistent herewith.

5 § 748. Penalties. 1. Any person, including any member, officer, direc-  
6 tor or employee of a buy-now-pay-later lender, who violates or partic-  
7 ipates in the violation of section seven hundred thirty-seven of this  
8 article, or who knowingly makes any incorrect statement of a material  
9 fact in any application, report or statement filed pursuant to this  
10 article, or who knowingly omits to state any material fact necessary to  
11 give the superintendent any information lawfully required by the super-  
12 intendent or refuses to permit any lawful investigation or examination,  
13 shall be guilty of a misdemeanor and, upon conviction, shall be fined  
14 not more than five hundred dollars or imprisoned for not more than six  
15 months or both, in the discretion of the court.

16 2. Without limiting any power granted to the superintendent under any  
17 other provision of this chapter, the superintendent may, in a proceeding  
18 after notice and a hearing require a buy-now-pay-later lender, whether  
19 or not a licensee, to pay to the people of this state a penalty for any  
20 violation of this chapter, any regulation promulgated thereunder, any  
21 final or temporary order issued pursuant to section thirty-nine of this  
22 chapter, any condition imposed in writing by the superintendent in  
23 connection with the grant of any application or request, or any written  
24 agreement entered into with the superintendent, and for knowingly making  
25 any incorrect statement of a material fact in any application, report or  
26 statement filed pursuant to this article, or knowingly omitting to state  
27 any material fact necessary to give the superintendent any information  
28 lawfully required by the superintendent or refusing to permit any lawful  
29 investigation or examination. As to any buy-now-pay-later lender that is  
30 not a licensee or an exempt organization, the superintendent is author-  
31 ized to impose a penalty in the same amount authorized in section  
32 forty-four of this chapter for a violation of this chapter by any person  
33 licensed, certified, registered, authorized, chartered, accredited,  
34 incorporated or otherwise approved by the superintendent pursuant to  
35 this chapter.

36 3. No buy-now-pay-later lender shall make, directly or indirectly,  
37 orally or in writing, or by any method, practice or device, a represen-  
38 tation that such buy-now-pay-later lender is licensed under the banking  
39 law except that a licensee under this chapter may make a representation  
40 that the licensee is licensed as a buy-now-pay-later lender under this  
41 chapter.

42 § 749. Severability. If any provision of this article or the applica-  
43 tion thereof to any person or circumstances is held to be invalid, such  
44 invalidity shall not affect other provisions or applications of this  
45 article which can be given effect without the invalid provision or  
46 application, and to this end the provisions of this article are severa-  
47 ble.

48 § 2. Subdivision 1 of section 36 of the banking law, as amended by  
49 chapter 146 of the laws of 1961, is amended to read as follows:

50 1. The superintendent shall have the power to examine every banking  
51 organization, every bank holding company and any non-banking subsidiary  
52 thereof (as such terms "bank holding company" and "non-banking subsid-  
53 iary" are defined in article three-A of this chapter) and every licensed  
54 lender and licensed buy-now-pay-later lender at any time prior to its  
55 dissolution whenever in his judgment such examination is necessary or  
56 advisable.

1 § 3. Subdivision 10 of section 36 of the banking law, as amended by  
2 section 2 of part L of chapter 58 of the laws of 2019, is amended to  
3 read as follows:

4 10. All reports of examinations and investigations, correspondence and  
5 memoranda concerning or arising out of such examination and investi-  
6 gations, including any duly authenticated copy or copies thereof in the  
7 possession of any banking organization, bank holding company or any  
8 subsidiary thereof (as such terms "bank holding company" and "subsidi-  
9 ary" are defined in article three-A of this chapter), any corporation  
10 or any other entity affiliated with a banking organization within the  
11 meaning of subdivision six of this section and any non-banking subsid-  
12 iary of a corporation or any other entity which is an affiliate of a  
13 banking organization within the meaning of subdivision six-a of this  
14 section, foreign banking corporation, licensed lender, licensed buy-now-  
15 pay-later lender, licensed casher of checks, licensed mortgage banker,  
16 registered mortgage broker, licensed mortgage loan originator, licensed  
17 sales finance company, registered mortgage loan servicer, licensed  
18 student loan servicer, licensed insurance premium finance agency,  
19 licensed transmitter of money, licensed budget planner, any other person  
20 or entity subject to supervision under this chapter, or the department,  
21 shall be confidential communications, shall not be subject to subpoena  
22 and shall not be made public unless, in the judgment of the superinten-  
23 dent, the ends of justice and the public advantage will be subserved by  
24 the publication thereof, in which event the superintendent may publish  
25 or authorize the publication of a copy of any such report or any part  
26 thereof in such manner as may be deemed proper or unless such laws  
27 specifically authorize such disclosure. For the purposes of this subdi-  
28 vision, "reports of examinations and investigations, and any correspond-  
29 ence and memoranda concerning or arising out of such examinations and  
30 investigations", includes any such materials of a bank, insurance or  
31 securities regulatory agency or any unit of the federal government or  
32 that of this state any other state or that of any foreign government  
33 which are considered confidential by such agency or unit and which are  
34 in the possession of the department or which are otherwise confidential  
35 materials that have been shared by the department with any such agency  
36 or unit and are in the possession of such agency or unit.

37 § 4. Subdivisions 3 and 5 of section 37 of the banking law, as amended  
38 by chapter 360 of the laws of 1984, are amended to read as follows:

39 3. In addition to any reports expressly required by this chapter to be  
40 made, the superintendent may require any banking organization, licensed  
41 lender, licensed buy-now-pay-later lender, licensed casher of checks,  
42 licensed mortgage banker, foreign banking corporation licensed by the  
43 superintendent to do business in this state, bank holding company and  
44 any non-banking subsidiary thereof, corporate affiliate of a corporate  
45 banking organization within the meaning of subdivision six of section  
46 thirty-six of this article and any non-banking subsidiary of a corpo-  
47 ration which is an affiliate of a corporate banking organization within  
48 the meaning of subdivision six-a of section thirty-six of this article  
49 to make special reports to him at such times as he may prescribe.

50 5. The superintendent may extend at his discretion the time within  
51 which a banking organization, foreign banking corporation licensed by  
52 the superintendent to do business in this state, bank holding company or  
53 any non-banking subsidiary thereof, licensed casher of checks, licensed  
54 mortgage banker, private banker, licensed buy-now-pay-later lender or  
55 licensed lender is required to make and file any report to the super-  
56 intendent.

1 § 5. Section 39 of the banking law, as amended by section 3 of part L  
2 of chapter 58 of the laws of 2019, is amended to read as follows:

3 § 39. Orders of superintendent. 1. To appear and explain an apparent  
4 violation. Whenever it shall appear to the superintendent that any bank-  
5 ing organization, bank holding company, registered mortgage broker,  
6 licensed mortgage banker, licensed student loan servicer, registered  
7 mortgage loan servicer, licensed mortgage loan originator, licensed  
8 lender, licensed buy-now-pay-later lender, licensed cashier of checks,  
9 licensed sales finance company, licensed insurance premium finance agen-  
10 cy, licensed transmitter of money, licensed budget planner, out-of-state  
11 state bank that maintains a branch or branches or representative or  
12 other offices in this state, or foreign banking corporation licensed by  
13 the superintendent to do business or maintain a representative office in  
14 this state has violated any law or regulation, he or she may, in his or  
15 her discretion, issue an order describing such apparent violation and  
16 requiring such banking organization, bank holding company, registered  
17 mortgage broker, licensed mortgage banker, licensed student loan servi-  
18 cer, licensed mortgage loan originator, licensed lender, licensed buy-  
19 now-pay-later lender, licensed cashier of checks, licensed sales finance  
20 company, licensed insurance premium finance agency, licensed transmitter  
21 of money, licensed budget planner, out-of-state state bank that main-  
22 tains a branch or branches or representative or other offices in this  
23 state, or foreign banking corporation to appear before him or her, at a  
24 time and place fixed in said order, to present an explanation of such  
25 apparent violation.

26 2. To discontinue unauthorized or unsafe and unsound practices. When-  
27 ever it shall appear to the superintendent that any banking organiza-  
28 tion, bank holding company, registered mortgage broker, licensed mort-  
29 gage banker, licensed student loan servicer, registered mortgage loan  
30 servicer, licensed mortgage loan originator, licensed lender, licensed  
31 buy-now-pay-later lender, licensed cashier of checks, licensed sales  
32 finance company, licensed insurance premium finance agency, licensed  
33 transmitter of money, licensed budget planner, out-of-state state bank  
34 that maintains a branch or branches or representative or other offices  
35 in this state, or foreign banking corporation licensed by the super-  
36 intendent to do business in this state is conducting business in an  
37 unauthorized or unsafe and unsound manner, he or she may, in his or her  
38 discretion, issue an order directing the discontinuance of such unau-  
39 thorized or unsafe and unsound practices, and fixing a time and place at  
40 which such banking organization, bank holding company, registered mort-  
41 gage broker, licensed mortgage banker, licensed student loan servicer,  
42 registered mortgage loan servicer, licensed mortgage loan originator,  
43 licensed lender, licensed buy-now-pay-later licensed, licensed cashier of  
44 checks, licensed sales finance company, licensed insurance premium  
45 finance agency, licensed transmitter of money, licensed budget planner,  
46 out-of-state state bank that maintains a branch or branches or represen-  
47 tative or other offices in this state, or foreign banking corporation  
48 may voluntarily appear before him or her to present any explanation in  
49 defense of the practices directed in said order to be discontinued.

50 3. To make good impairment of capital or to ensure compliance with  
51 financial requirements. Whenever it shall appear to the superintendent  
52 that the capital or capital stock of any banking organization, bank  
53 holding company or any subsidiary thereof which is organized, licensed  
54 or registered pursuant to this chapter, is impaired, or the financial  
55 requirements imposed by subdivision one of section two hundred two-b of  
56 this chapter or any regulation of the superintendent on any branch or

1 agency of a foreign banking corporation or the financial requirements  
2 imposed by this chapter or any regulation of the superintendent on any  
3 licensed lender, licensed buy-now-pay-later lender, registered mortgage  
4 broker, licensed mortgage banker, licensed student loan servicer,  
5 licensed casher of checks, licensed sales finance company, licensed  
6 insurance premium finance agency, licensed transmitter of money,  
7 licensed budget planner or private banker are not satisfied, the super-  
8 intendent may, in the superintendent's discretion, issue an order  
9 directing that such banking organization, bank holding company, branch  
10 or agency of a foreign banking corporation, registered mortgage broker,  
11 licensed mortgage banker, licensed student loan servicer, licensed lend-  
12 er, licensed buy-now-pay-later lender, licensed casher of checks,  
13 licensed sales finance company, licensed insurance premium finance agen-  
14 cy, licensed transmitter of money, licensed budget planner, or private  
15 banker make good such deficiency forthwith or within a time specified in  
16 such order.

17 4. To make good encroachments on reserves. Whenever it shall appear to  
18 the superintendent that either the total reserves or reserves on hand of  
19 any banking organization, branch or agency of a foreign banking corpo-  
20 ration are below the amount required by or pursuant to this chapter or  
21 any other applicable provision of law or regulation to be maintained, or  
22 that such banking organization, branch or agency of a foreign banking  
23 corporation is not keeping its reserves on hand as required by this  
24 chapter or any other applicable provision of law or regulation, he or  
25 she may, in his or her discretion, issue an order directing that such  
26 banking organization, branch or agency of a foreign banking corporation  
27 make good such reserves forthwith or within a time specified in such  
28 order, or that it keep its reserves on hand as required by this chapter.

29 5. To keep books and accounts as prescribed. Whenever it shall appear  
30 to the superintendent that any banking organization, bank holding compa-  
31 ny, registered mortgage broker, licensed mortgage banker, licensed  
32 student loan servicer, registered mortgage loan servicer, licensed mort-  
33 gage loan originator, licensed lender, licensed buy-now-pay-later lend-  
34 er, licensed casher of checks, licensed sales finance company, licensed  
35 insurance premium finance agency, licensed transmitter of money,  
36 licensed budget planner, agency or branch of a foreign banking corpo-  
37 ration licensed by the superintendent to do business in this state, does  
38 not keep its books and accounts in such manner as to enable him or her  
39 to readily ascertain its true condition, he or she may, in his or her  
40 discretion, issue an order requiring such banking organization, bank  
41 holding company, registered mortgage broker, licensed mortgage banker,  
42 licensed student loan servicer, registered mortgage loan servicer,  
43 licensed mortgage loan originator, licensed lender, licensed buy-now-  
44 pay-later lender, licensed casher of checks, licensed sales finance  
45 company, licensed insurance premium finance agency, licensed transmitter  
46 of money, licensed budget planner, or foreign banking corporation, or  
47 the officers or agents thereof, or any of them, to open and keep such  
48 books or accounts as he or she may, in his or her discretion, determine  
49 and prescribe for the purpose of keeping accurate and convenient records  
50 of its transactions and accounts.

51 6. As used in this section, "bank holding company" shall have the same  
52 meaning as that term is defined in section one hundred forty-one of this  
53 chapter.

54 § 6. Subdivision 1 of section 42 of the banking law, as amended by  
55 chapter 65 of the laws of 1948, is amended to read as follows:

1 1. The name and the location of the principal office of every proposed  
2 corporation, private banker, licensed lender, licensed buy-now-pay-later  
3 lender and licensed cashier of checks, the organization certificate,  
4 private banker's certificate or application for license of which has  
5 been filed for examination, and the date of such filing.

6 § 7. Subdivision 2 of section 42 of the banking law, as amended by  
7 chapter 553 of the laws of 1960, is amended to read as follows:

8 2. The name and location of every licensed lender, licensed buy-now-  
9 pay-later lender and licensed cashier of checks, and the name, location,  
10 amount of capital stock or permanent capital and amount of surplus of  
11 every corporation and private banker and the minimum assets required of  
12 every branch of a foreign banking corporation authorized to commence  
13 business, and the date of authorization or licensing.

14 § 8. Subdivision 3 of section 42 of the banking law, as amended by  
15 chapter 553 of the laws of 1960, is amended to read as follows:

16 3. The name of every proposed corporation, private banker, branch of a  
17 foreign banking corporation, licensed lender, licensed buy-now-pay-later  
18 lender and licensed cashier of checks to which a certificate of authori-  
19 zation or a license has been refused and the date of notice of refusal.

20 § 9. Subdivision 4 of section 42 of the banking law, as amended by  
21 chapter 60 of the laws of 1957, is amended to read as follows:

22 4. The name and location of every private banker, licensed lender,  
23 licensed cashier of checks, sales finance company, licensed buy-now-pay-  
24 later lender and foreign corporation the authorization certificate or  
25 license of which has been revoked, and the date of such revocation.

26 § 10. Subdivision 5 of section 42 of the banking law, as amended by  
27 chapter 249 of the laws of 1968, is amended to read as follows:

28 5. The name of every banking organization, licensed lender, licensed  
29 cashier of checks, licensed buy-now-pay-later lender and foreign corpo-  
30 ration which has applied for leave to change its place or one of its  
31 places of business and the places from and to which the change is  
32 proposed to be made; the name of every banking organization which has  
33 applied to change the designation of its principal office to a branch  
34 office and to change the designation of one of its branch offices to its  
35 principal office, and the location of the principal office which is  
36 proposed to be redesignated as a branch office and of the branch office  
37 which is proposed to be redesignated as the principal office.

38 § 11. Subdivision 6 of section 42 of the banking law, as amended by  
39 chapter 249 of the laws of 1968, is amended to read as follows:

40 6. The name of every banking organization, licensed lender, licensed  
41 cashier of checks, licensed buy-now-pay-later lender and foreign corpo-  
42 ration authorized to change its place or one of its places of business  
43 and the date when and the places from and to which the change is author-  
44 ized to be made; the name of every banking organization authorized to  
45 change the designation of its principal office to a branch office and to  
46 change the designation of a branch office to its principal office, the  
47 location of the redesignated principal office and of the redesignated  
48 branch office, and the date of such change.

49 § 12. Paragraph (a) of subdivision 1 of section 44 of the banking law,  
50 as amended by section 4 of part L of chapter 58 of the laws of 2019, is  
51 amended to read as follows:

52 (a) Without limiting any power granted to the superintendent under any  
53 other provision of this chapter, the superintendent may, in a proceeding  
54 after notice and a hearing, require any safe deposit company, licensed  
55 lender, licensed buy-now-pay-later lender licensed cashier of checks,  
56 licensed sales finance company, licensed insurance premium finance agen-

1 cy, licensed transmitter of money, licensed mortgage banker, licensed  
2 student loan servicer, registered mortgage broker, licensed mortgage  
3 loan originator, registered mortgage loan servicer or licensed budget  
4 planner to pay to the people of this state a penalty for any violation  
5 of this chapter, any regulation promulgated thereunder, any final or  
6 temporary order issued pursuant to section thirty-nine of this article,  
7 any condition imposed in writing by the superintendent in connection  
8 with the grant of any application or request, or any written agreement  
9 entered into with the superintendent.

10 § 13. This act shall take effect one year after it shall have become a  
11 law. Effective immediately, the addition, amendment and/or repeal of  
12 any rule or regulation authorized to be made by the superintendent  
13 pursuant to this act is authorized to be made and completed on or before  
14 such effective date.