

Layaway Making a Comeback? Retailers Beware

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With so much of the economy still struggling, credit harder to come by, and consumers being more conservative with their spending, various commentators have suggested that [layaway programs](#) are poised to make a comeback. However, retailers should be careful before implementing layaway programs, especially if they are doing so on a national basis.

Several states have statutes specifically regulating layaway transactions, setting forth the maximum service charges, the refund policies, and other terms required by law. In some cases, the penalties for noncompliance can be severe, including statutory penalties or multiples of actual damages. Maryland, Ohio, Rhode Island, and the District of Columbia, among others, have statutes which specify terms that must be included in all layaway transactions, and in some cases those terms may be such that it is no longer profitable for the retailer to offer layaways. In particular, retailers may be seriously restricted in their ability to charge service fees or impose penalties for noncompliance with the terms of the agreement. As a result, some retailers are specifically excluding certain jurisdictions, or providing for alternative contractual terms in those jurisdictions. For example, the layaway program for Toys 'R Us and Babies 'R Us stores is apparently [not available in Maryland](#) and is subject to different terms in Ohio and Rhode Island.

Layaway may very well prove to be a reliable business model for bringing consumers into stores (or onto websites) but its also an area where a patchwork of local laws can create dangerous legal minefields.