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New Law Requires New York State Chartered Banks and Trust Companies to Provide Notice to Customers Regarding Alternative Payment Schedules

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[With Corrected Version of Statute]

A new law in New York requires New York State chartered banks and trust companies to provide a notice to customers that acceptance of an alternative payment schedule on a loan may have a negative impact on the customer's credit score or rating. This requirement is effective February 1, 2022.

Governor Kathy Hochul signed legislation on November 3, 2021 adding Section 129-a to the New York Banking Law. This new section reads as follows:

> 129-a. Requirement of disclosure; alternative payment schedules. In the event that any bank or trust company shall permit a customer to establish an alternative payment schedule for an existing loan, the bank or trust company shall provide written notification that accepting such alternative payment schedule may have a negative impact on such customer's credit score or rating. Such notification shall be provided at the time a loan application is made, at the time a loan is granted and at the time a customer requests that an alternative payment schedule be established for a loan, but prior to the actual establishment of an alternative payment schedule.

The sponsor's memo provides the following justification for the new law:

> This legislation addresses the practice some banks use by which they arrange an alternative payment schedule with a customer and leave the customer with the impression that this arrangement will prevent the financial institution from hurting the customer's credit rating. When an alternative payment schedule is arranged, a bank may still report a customer as being late on their payments even though they have worked out a compromised alternative. Most customers are unaware of this and don't [know] that the alternative payment schedule is really not helping them preserve their credit rating.

This new law only applies to New York State chartered banks and trust companies; it does not apply to other New York State chartered institutions (such as savings banks, savings and loan associations and credit unions), and does not apply to federally chartered institutions.

Please note that this advisory is a general overview of the new law and is not intended as legal advice. If you have any questions regarding the new law, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at **jsimon@cullenllp.com**, Elizabeth A. Murphy at (516) 296-9154, or via email at **emurphy@cullenllp.com**, or Mandy Xu at (516) 357-3850 or via email at **mxu@cullenllp.com**.

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