

New York Enacts Law Requiring Financial Institutions to Provide Notice Before Charging an Inactivity Fee

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New York State has enacted a new law that requires all financial institutions subject to New York's Banking Law to provide 30 days' prior written notice to a customer before imposing a fee based on account inactivity. The new law is effective on February 9, 2021.

Newly enacted Banking Law Section 9-x^[1] states as follows (in its entirety):

Notwithstanding any other provision of law or rule or regulation to the contrary, any financial institution subject to the provisions of this chapter, including any bank, trust company, savings bank, savings and loan association, credit union, mortgage broker, mortgage banker, or other investment entity, whether headquartered within or outside the state, which provides an account to a customer shall provide written notice of the pending charges to a customer thirty days prior to charging any fee based on account inactivity. Such notice shall include a telephone number and full contact information for a representative of the financial institution responsible for resolving any matter relating to the fee. A notification by electronic mail shall satisfy the writing requirement for the purposes of this section.

The term "account" is not defined, but given that the law applies to all financial institutions, including mortgage brokers and mortgage bankers, the law should be deemed to apply to both deposit and loan accounts.

If you have any questions regarding this new law, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenllp.com, Kevin Patterson at (516) 296-9196 or via email at kpatterson@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.

Please note that this is a general overview of the issues addressed and does not constitute legal advice.

Footnote

[1] There is a different Banking Law Section 9-x which addresses mortgage forbearances. The new law just enacted regarding inactivity fees has the same section number so there are now two separate and unrelated

provisions in the New York Banking Law designated as Section 9-x.

Practices

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