

## The Sun Also Rises on Annual Fees for New York Licensed Lenders

August 29, 2019 | [Thomas P. Quinn, Jr.](#)

In our February issue of *Insights* we highlighted the impending sunset of provisions in the New York Licensed Lender Act permitting the assessment of annual fees on open-end lines of credit. As referenced in that article, if New York did not act the ability of licensed lenders to assess that fee would cease on June 30th of this year. And cease it did - at least technically, for two days.

On July 3rd New York enacted Chapter 82 of the 2019 Session Laws which extends the sunset date for the permissibility of line of credit annual fees for an additional two-year period (until June 30, 2021). This is generally par for the course with this statute, which has seen a series of two year bump-outs of the sunset date since the initially scheduled June 2000 termination date.

However, as a technical matter, the current extension became effective on the passage of Chapter 82 - on July 3rd. Clearly this is after the June 30, 2019 sunset date of the authorizing provision under its most recent amendment. So what of open-end accounts originated by licensed lenders on July 1st and 2nd? Or licensed lenders with existing line of credit accounts that had an annual fee due on those dates? Was the assessment of an annual fee in those instances permissible?

While the answers to these questions are ultimately unclear, licensed lenders can take some solace in the fact that this is not the first time where an apparent foot fault has occurred with extending the statute. Similar (and sometimes longer) gaps occurred with the extensions in 2007, 2009, and 2011.

Setting aside this potential concern, it appears that crisis has been averted. At least in the short term.

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