

**RESOLUTION NO. 500 -2010, ADOPTING LOCAL LAW
NO. 41 -2010, A LOCAL LAW TO EXTEND PROMPT PAYMENT
POLICY FOR NOT-FOR-PROFIT CONTRACT AGENCIES**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on April 27, 2010, a proposed local law entitled, "**A LOCAL LAW TO EXTEND PROMPT PAYMENT POLICY FOR NOT-FOR-PROFIT CONTRACT AGENCIES**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 41 -2010, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO EXTEND PROMPT PAYMENT POLICY FOR
NOT- FOR-PROFIT CONTRACT AGENCIES**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that Local Law No. 2-2008 established a County policy to pay child care providers in a prompt manner.

This Legislature also finds that the County Legislature enacted this "prompt payment" policy because the County's failure to pay its child care providers for services rendered within a reasonable time period threatened the very existence of these agencies.

This Legislature determines that the County has successfully complied within the requirements of Local Law No. 2-2008 and promptly paid child care providers since the law's enactment.

This Legislature finds that this County's other contract agencies continue to deal with the County's failure to pay promptly, often receiving payment many months after submitting vouchers/invoices to the County for services rendered. The County's failure to pay promptly causes cash flow problems for the agencies providing vital services to Suffolk County residents.

This Legislature continues to believe that Suffolk County government, like any person or entity, has an obligation to pay its debts in a reasonably timely manner and the failure to do so is inexcusable.

Therefore, the purpose of this local law is to extend the County's prompt payment policy to all not-for-profit contract agencies.

Section 2. Definitions.

As used in this law, the following terms shall have the meanings indicated:

ADMINISTERING DEPARTMENT - the department, office or agency of Suffolk County government responsible for administering a contract with a contract agency.

CONTRACT AGENCY - any not-for-profit corporation or entity which the County of Suffolk contracts with to render human services directly to the residents of Suffolk County including services related to health, welfare/social services, parks/recreation, economic development, cultural affairs, veterans' affairs, handicapped programs, public safety, youth, aging, senior citizens' programs, minority affairs, women's affairs, labor/employment services and education.

CONTRACT - any agreement, upon sufficient consideration, entered into by the County of Suffolk for an amount in excess of \$10,000.

COUNTY - the County of Suffolk and any department, office, or agency of Suffolk County government.

PROPER INVOICE - a written request for payment that is submitted by a contract agency setting forth services delivered or rendered as the price for said services, in such form and supported by such other documentation as the County of Suffolk may require.

RECEIPT OF INVOICE - the date on which a proper invoice is actually received by the administering department.

SET-OFF - a reduction by the County of payment due to a contract agency by an amount equal to the amount of an unpaid legally enforceable debt owed by the contract agency to the County.

Section 3. Prompt Payment Policy.

- A. Notwithstanding the provisions of any other law to the contrary, the County shall make payment for services rendered by a contract agency pursuant to a contract within thirty (30) days of the administering department's receipt of invoice. Should the County fail to make payment by the required payment date, the County shall make an interest payment to the affected contract agency on the amount of the payment due. Interest shall be computed at the rate equal to the overpayment rate set by the New York State Commissioner of Taxation and Finance pursuant to subsection (e) of section one thousand ninety-six of NEW YORK TAX LAW. The interest payment shall not reduce the amount payable to the contract agency under the terms of the subject contract and invoice.
- B. The County shall not be required to make payment within thirty (30) days of receipt of invoice when:
 - 1. the necessary appropriation required to authorize payment has not been enacted;
 - 2. the County is entitled to a set-off against the invoice amount;

3. statutory or contractual provisions, if any, make payment within 30 days impossible; or
 4. some or all of the invoice amount must be withheld to satisfy claims, liens or judgments against the contract agency; any remaining amount due the contract agency provide shall be paid within 30 days of receipt of invoice.
- C. The County may, within fifteen (15) days after receipt of invoice, notify a contract agency of defects in the delivered services; defects in the invoice; or other suspected improprieties. The existence of such defects or improprieties shall toll the commencement of the time period specified in subsection (A) of this section. If the County fails to provide reasonable grounds for its contention that a defect or impropriety exists, the date by which contract payment must be made in order for the County not to become liable for interest payments shall be calculated from the date of receipt of invoice.

Section 4. Applicability.

This law shall apply to actions occurring on or after the effective date of this law.

Section 5. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 6. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 7. Effective Date.

This law shall take effect on January 1, 2011.

DATED: June 8, 2010

VETOED BY COUNTY EXECUTIVE ON JULY 9, 2010

VETO OVERRIDE ADOPTED ON AUGUST 3, 2010

After a public hearing duly held on June 21, 2010
Filed with the Secretary of State on August 23, 2010