Intro. Res. No. 1834-2010 Laid on Table 8/3/2010
Introduced by Legislators Horsley, Cooper and Gregory

RESOLUTION NO. 1094 -2010, ADOPTING LOCAL LAW NO. 1 -2011, A LOCAL LAW TO STANDARDIZE HOME ENERGY AUDITS IN SUFFOLK COUNTY

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on August 3, 2010, a proposed local law entitled, "**A LOCAL LAW TO STANDARDIZE HOME ENERGY AUDITS IN SUFFOLK COUNTY**"; now, therefore be it

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

LOCAL LAW NO. 1 -2011, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO STANDARDIZE HOME ENERGY AUDITS IN SUFFOLK COUNTY

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 homeowners across the nation are seeking ways to improve the energy efficiency of their homes.

This Legislature also finds and determines that energy efficiency improvements are important to our environment and economy, as they facilitate reduced energy use, reduced burdens on the environment that are associated with energy use, and mitigate the need for new energy supply, while promoting the growth of a locally emerging energy efficiency industry.

This Legislature further finds and determines that prior to contracting for major energy efficiency improvements, homeowners would benefit greatly by first obtaining a home energy audit to determine what measures will best improve their home's energy efficiency

This Legislature finds that, currently, the home energy efficiency industry is not regulated.

This Legislature also finds that while each home is unique in its energy use, certain components of a basic home energy audit should conform to uniform standards and be conducted by qualified home energy auditors.

This Legislature further finds that standardization of requirements for home energy audits and home energy auditors will ensure that homeowners seeking to contract for major improvements to their home to make it more energy efficient will receive consistent value from their home energy improvement investment.

This Legislature also determines that home energy auditors should register with the County to ensure that all home energy audits are performed by trained, qualified persons.

Therefore, the purpose of this law is to register home energy auditors and establish standard requirements for all home energy audits.

Section 2. Definitions.

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

"HOME ENERGY AUDIT" shall mean a comprehensive measurement based diagnostic analysis of a home's energy performance, performed by an individual accredited to perform home energy audits by any of the following organizations: the Building Performance Institute (BPI) the Residential Energy Services Network (RESNET), Home Energy Rating System (HERS), the American Society for Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), or certified or accredited by the Association of Energy Engineers, or other certifying entity approved or certified by a State or Federal agency authorized to certify home energy auditors. A licensed architect or engineer may also perform home energy audits.

"HOME ENERGY AUDITOR" shall mean any person, as defined in this law, which advertises or provides the service of performing a home energy audit as defined herein. Any partnership, company, association, firm, corporation or other entity or business providing home energy audits in Suffolk County must employ at least one (1) natural person certified or accredited to provide home energy audits who has registered as a home energy auditor pursuant to this law.

"PERSON" shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business of any kind.

Section 3. Registration of Home Energy Auditors.

Any person who provides, or who advertises to the public the service of providing, a home energy audit in Suffolk County must register with the Department of Consumer Affairs and must provide proof at the time of registration that they meet the standards necessary to provide home energy audits. Registration shall be valid for a period of three (3) years. Upon the expiration of registration, any person continuing to provide home energy audits shall re-register and provide proof that they continue to meet all necessary standards to provide home energy audits.

Section 4. Home Energy Audit Requirements.

A. At least one (1) registered home energy auditor must be present at any home energy audit conducted in Suffolk County.

B. Home energy audits are intended to be a detailed review of residential occupancies that will include empirical analysis of data collected on-site through physical test procedures and shall, at a minimum, include the following:

   (1) An interview with the homeowner/resident to determine existing comfort and energy problems, goals and priorities.

   (2) The following diagnostic tests, in accordance with applicable standards:

      i. Blower door pressure adjusted infiltration test;

ii. Combustion appliance safety testing including, but not limited to: CO tests of units with outdoor combustion air sources; sealed combustion units; and power ventilated equipment to verify that they are properly installed and operating; and

iii. Combustion safety and heating plant efficiency test, as well as ensure proper ventilation based on actuarial standards, and an evaluation of thermal envelope integrity.

(3) Computer modeling of the home's energy performance, using software accredited or approved under "besttest" standards, as governed by the Federal Environmental Protection Agency.

(4) A report provided to the homeowner containing a prioritized list of recommended repairs, upgrades and improvements for health, safety and energy conservation. All energy conservation measures listed must be rated for cost effectiveness in terms of units of energy saved – and in context to existing and proposed conditions.

(5) Any report provided to a homeowner after an initial audit performed prior to the installation of any repairs, upgrades or improvements should inform the homeowner of the importance of a second "test-out" audit performed after the completion of the work to ensure the efficacy and safety of the improvements implemented. This second audit should include a combustion safety test. Any scope of work developed as a result of a home energy audit shall include a "test-out" audit.

(6) Recommendations made as a consequence of a home energy audit will include a cost/benefit analysis that illustrates projected savings in energy, and expenditures for energy, in context to existing and proposed conditions. Components of a cost/benefit analysis shall include, at a minimum: the estimated initial cost of improvements, annual savings, and anticipated life-cycle of recommended improvements.

Section 5. Prohibitions.

No person who fails to register with the Department of Consumer Affairs as a Home Energy Auditor as required by this law shall advertise or provide energy efficiency services that include or claim to include a "home energy audit", "energy audit", "energy efficiency audit" or any other formulation that could reasonably be construed to be a Home Energy Audit as defined herein.

Section 6. Exemption from Restrictions.

Nothing in this law shall prohibit persons, corporations, partnerships, contractors, agents or employees from providing or offering home energy consulting, educational and informational services, including home energy surveys, home energy assessments or other consultation or advice on home energy efficiency, provided that the energy survey, assessment or similar such services provided or offered are not advertised, represented, referred to as, or implied to be or include a Home Energy Audit, as defined herein.

Section 7. Penalties.

A. Violations of any provision of this law shall be subject to a civil fine of up to seven hundred fifty dollars ($750.00) for a first offense and a fine of up to one thousand five hundred dollars ($1,500.00) for any subsequent offenses.

B. The Commissioner shall have the power to revoke a person's registration or deny registration renewal for persons penalized for more than one violation of this law.

C. No registration shall be revoked nor a fine imposed until after a hearing has been held before the Commissioner upon at least seven business days' notice to the person. Such notice shall be served either personally or by certified mail, return receipt requested, to the last known address of the person and shall state the date and place of the hearing as well as enumerate the grounds constituting the allegations against such person. The person may be represented by counsel and may produce witnesses on his/her/its own behalf. A record of the hearing shall be taken and preserved. For the purposes of such hearing, the Commissioner may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records or other documents deemed pertinent to the subject of the hearing.

Section 8. Promulgation of Rules and Regulations.

The Commissioner of the Suffolk County Department of Consumer Affairs is hereby authorized to promulgate all rules, regulations and procedures necessary to administer this local law on or before the effective date of this law.

Section 9. Applicability.

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

Section 10. 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 11. 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 12. Effective Date.

This law shall take effect on the one hundred twentieth (120th) day immediately subsequent to filing in the Office of the Secretary of State.

DATED: December 7, 2010

APPROVED BY:

County Executive of Suffolk County

Date: JAN 07 2011

After a public hearing duly held on December 20, 2010
Filed with the Secretary of State on January 20, 2011

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY

This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on December 7,2010 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res. 1834 Res. No. 1094 December 7, 2010

Motion:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE	✓				
2	Jay H. SCHNEIDERMAN	✓				
3	Kate M. BROWNING	✓				
4	Thomas MURATORE	✓				
6	Daniel P. LOSQUADRO	✓				
7	Jack EDDINGTON	✓				
9	Ricardo MONTANO	✓				
10	Thomas CILMI	✓				
11	Thomas F. BARRAGA	✓				
12	John M. KENNEDY, JR.	✓				
13	Lynne C. NOWICK				✓	
14	Wayne R. HORSLEY	✓				
15	DuWayne GREGORY	✓				
16	Steven H. STERN	✓				
17	Lou D'AMARO	✓				
18	Jon COOPER				✓	
5	Vivian VILORIA-FISHER, D.P.O.	✓				
8	William J. LINDSAY, P.O.	✓				
	Totals	16	—		2	—

MOTION

X Approve
___ Table: _____
___ Send To Committee
___ Table Subject To Call
___ Lay On The Table
___ Discharge
___ Take Out of Order
___ Reconsider
___ Waive Rule ___
___ Override Veto
___ Close
___ Recess

APPROVED X FAILED ___
No Motion ___ No Second ___

RESOLUTION DECLARED

X ADOPTED
___ NOT ADOPTED

Roll Call ___ Voice Vote X

Tim Laube

Tim Laube, Clerk of the Legislature