

STRICKEN AS OF 9/8/2011

Intro. Res. No. 1124-2011
Introduced by Legislator Schneiderman

Laid on Table 3/8/2011

**RESOLUTION NO. -2011, ADOPTING LOCAL LAW
NO. -2011, A LOCAL LAW TO CHANGE THE FORMULA FOR
DISTRIBUTION OF FUNDS AND FEES GENERATED FROM
THE SEIZURE AND FORFEITURE OF VEHICLES**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on _____, 2011, a proposed local law entitled "**A LOCAL LAW TO CHANGE THE FORMULA FOR DISTRIBUTION OF FUNDS AND FEES GENERATED FROM THE SEIZURE AND FORFEITURE OF VEHICLES;**" and said local law in final form is the same as when presented and introduced; now, therefore be it

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

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

**A LOCAL LAW TO CHANGE THE FORMULA FOR DISTRIBUTION
OF FUNDS AND FEES GENERATED FROM THE SEIZURE AND
FORFEITURE OF VEHICLES**

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

Section 1. Legislative Intent.

This Legislature finds that the County of Suffolk has enacted local laws which authorize the seizure and forfeiture of motor vehicles under various circumstances.

This Legislature further finds that the Suffolk County Police District may charge reasonable and customary towing, maintenance and storage fees when it seizes a vehicle. However, when a law enforcement agency outside the Police District seizes a vehicle pursuant to Suffolk County Local Laws, that entity may receive a maximum reimbursement of \$300.00 from forfeiture proceeds, even if its actual towing and storage costs are much higher.

This Legislature also finds that authorizing towns and villages to receive a greater share of towing and storage funds from the seizure and forfeiture of vehicles is more equitable and will encourage stronger enforcement of the County's seizure and forfeiture laws in areas outside the County Police District.

Therefore, the purpose of this law is to increase the share of towing and storage funds received by outside law enforcement agencies in connection with the seizure and forfeiture of vehicles.

Section 2. Amendments.

- I. Article IV of Chapter 270 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Article IV, Forfeiture of Property Used in or Obtained Through Crime

* * *

§ 270-28. Disposition of forfeited assets and proceeds.

* * *

- B. Distribution of funds generated by sale or forfeiture of property or assets.
- (1) Any funds generated by the disposition of seized property or assets as described in this article, minus the reasonable and necessary expenses incurred in connection with towing, maintenance, and storage of the assets seized in accordance with this article, shall be distributed as set forth in this section. These funds shall include all fees received from the towing, maintenance, and storage of the assets seized by another law enforcement agency and thereafter transferred to the Suffolk County Police impound facility. Whenever an outside law enforcement agency shall transfer a seized asset to the Suffolk County Police impound facility it shall be entitled to :

(a) the first \$300.00 collected as reimbursement of all costs actually incurred for towing the seized property or asset to and from its impound area, maintenance and for paid storage [, up to a maximum of \$300, upon disposal of said seized asset,]; and [but said reimbursement shall not exceed money actually received by the Suffolk County Police Department for its disposition.]

(b) [I]n the event the fees collected [by the police department] for all costs actually incurred for towing the seized property or asset to and from its impound area, maintenance and for paid storage, upon disposal of said seized asset, exceed [the actual towing costs incurred, or the \$300 maximum, whichever is less, as the case may be,] \$300.00, such excess shall be [retained] shared equally by the Suffolk County Police Department and the outside law enforcement agency which transferred said seized property or asset to the Suffolk County Police impound facility.

All reasonable and necessary expenses collected pursuant to this subsection shall be transferred into a police asset forfeiture fund in a separate nonlapsing appropriation for law enforcement purposes.

* * * *

- II. Article III of Chapter 467 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Article III. Seizure of Vehicles Used in Commission of Offense

* * * *

§ 467-15. Civil Authority.

* * *

J. All property seized pursuant to this article is subject to reasonable and customary towing, maintenance and daily storage fees as may be established by the Suffolk County Police Commissioner. Such fees shall be payable to the seizing agency, or in the event the instrumentality of the offense has been transferred to the custody of the Suffolk County Police Department by the seizing agency, such fees shall be payable to the Suffolk County Police Department, prior to release of said property. [The seizing agency, if other than the Suffolk County Police Department, shall be reimbursed up to \$300 for towing and storage expense actually incurred, upon disposal of said instrumentality of the offenses by the claiming authority, but said reimbursement shall not exceed money actually received by the Suffolk County Police Department for its disposition.] Whenever an outside law enforcement agency shall transfer a seized asset to the Suffolk County Police impound facility it shall be entitled to:

(a) the first \$300.00 collected as reimbursement of all costs actually incurred for towing the seized property or asset to and from its impound area, maintenance and for paid storage; and

(b) in the event the fees collected for all costs actually incurred for towing the seized property or asset to and from its impound area, maintenance and for paid storage, upon disposal of said seized asset, exceed \$300.00, such excess shall be shared equally by the Suffolk County Police Department and the outside law enforcement agency which transferred said seized property or asset to the Suffolk County Police impound facility.

All [towing, storage and maintenance fees] reasonable and necessary expenses collected pursuant to this subsection shall be [retained by the Suffolk County Police Department and shall be] transferred into a police asset forfeiture fund in a separate nonlapsing appropriation for law enforcement purposes.

* * * *

III. Article IV of Chapter 467 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Article IV, Unlawful Speed Contests and Races

* * *

§ 467-23. Civil authority.

* * *

J. All property seized pursuant to this article is subject to reasonable and customary towing, maintenance and daily storage fees as may be established by the Suffolk County Police Commissioner. Such fees shall be payable to the seizing agency, or in the event the instrumentality of the offense has been transferred to the custody of the Suffolk County Police Department by the seizing agency, such fees shall be payable to the Suffolk County Police Department, prior to release of

said property. [The seizing agency, if other than the Suffolk County Police Department, shall be reimbursed up to \$300 for towing and storage expense actually incurred, upon disposal of said instrumentality of the offenses by the claiming authority, but said reimbursement shall not exceed money actually received by the Suffolk County Police Department for its disposition.] Whenever an outside law enforcement agency shall transfer a seized asset to the Suffolk County police impound facility it shall be entitled to:

(a) the first \$300.00 collected as reimbursement of all costs actually incurred for towing the seized property or asset to and from its impound area, maintenance and for paid storage; and

(b) in the event the fees collected for all costs actually incurred for towing the seized property or asset to and from its impound area, maintenance and for paid storage, upon disposal of said seized asset, exceed \$300.00, such excess shall be shared equally by the Suffolk County Police Department and the outside law enforcement agency which transferred said seized property or asset to the Suffolk County Police impound facility.

All [towing, storage and maintenance fees] reasonable and necessary expenses collected pursuant to this subsection shall be [retained by the Suffolk County Police Department and shall be] transferred into a police asset forfeiture fund in a separate nonlapsing appropriation for law enforcement purposes.

* * *

- IV. Article VI of Chapter 467 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Article VI, Seizure of Vehicles Engaged in Unlawfully Fleeing Police Officers

* * *

§ 467-39. Civil action to forfeit property or recover money judgment.

* * *

- J. All property seized pursuant to this article is subject to reasonable and customary towing, maintenance and daily storage fees as may be established by the Suffolk County Police Commissioner. Such fees shall be payable to the seizing agency, or in the event the instrumentality of the offense has been transferred to the custody of the Suffolk County Police Department by the seizing agency, such fees shall be payable to the Suffolk County Police Department, prior to release of said property. [The seizing agency, if other than the Suffolk County Police Department, shall be reimbursed up to \$300 for towing and storage expense actually incurred, upon disposal of said instrumentality of the offenses by the claiming authority, but said reimbursement shall not exceed money actually received by the Suffolk County Police Department for its disposition.] Whenever an outside law enforcement agency shall transfer a seized asset to the Suffolk County police impound facility it shall be entitled to:

(a) the first \$300.00 collected as reimbursement of all costs actually incurred for towing the seized property or asset to and from its impound area, maintenance and for paid storage; and

(b) in the event the fees collected for all costs actually incurred for towing the seized property or asset to and from its impound area, maintenance and for paid storage, upon disposal of said seized asset, exceed \$300.00, such excess shall be shared equally by the Suffolk County Police Department and the outside law enforcement agency which transferred said seized property or asset to the Suffolk County police impound facility.

All [towing, storage and maintenance fees] reasonable and necessary expenses collected pursuant to this subsection shall be [retained by the Suffolk County Police Department and shall be] transferred into a police asset forfeiture fund in a separate nonlapsing appropriation for law enforcement purposes.

* * *

Section 3. Applicability.

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

Section 4. 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 5. 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 6. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: