

**STRICKEN AS OF END OF YEAR**

Intro. Res. No. 1605-2011

Laid on Table 6/21/2011

Introduced by Legislators Montano and Romaine

**RESOLUTION NO. -2011, ADOPTING LOCAL LAW  
NO. -2011, A LOCAL LAW TO EXTEND PROMPT PAYMENT  
POLICY TO ATTORNEYS PROVIDING SERVICES PURSUANT  
TO ARTICLE 18-B OF NEW YORK COUNTY LAW**

**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 EXTEND PROMPT PAYMENT POLICY TO ATTORNEYS PROVIDING SERVICES PURSUANT TO ARTICLE 18-B OF THE NEW YORK STATE COUNTY LAW;**" 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 EXTEND PROMPT PAYMENT POLICY TO  
ATTORNEYS PROVIDING SERVICES PURSUANT TO ARTICLE 18-  
B OF THE NEW YORK STATE COUNTY LAW**

**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 the County of Suffolk has enacted local laws to ensure its vendors are paid in a reasonably prompt manner.

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

This Legislature further finds that Local Law No. 41-2010 established a County policy to pay not-for-profit contract agencies promptly.

This Legislature finds that Suffolk County is obligated to have a plan to provide counsel to persons charged with a crime or who are entitled to counsel pursuant to certain sections of the Family Court Act, the Corrections Law, the Surrogate's Court Procedure Act and the Mental Hygiene Law.

This Legislature further finds that the County of Suffolk contracts with an administrator to screen attorneys for the 18-B panel. Judges select the attorneys who will be assigned to these cases. The 18-B attorneys do not submit their vouchers for payment until the case they are handling is concluded.

This Legislature determines that a judge reviews the attorney's voucher before it is sent to the 18-B Program Administrator.

This Legislature further finds that 18-B attorneys can wait for up to a full year after submitting their vouchers to receive payment from the County.

This Legislature also determines 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 law is to extend the County's prompt payment policy to attorneys providing services pursuant to Article 18-B of New York State County Law.

## **Section 2. Definitions.**

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

"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 an attorney setting forth services delivered or rendered pursuant to Article 18-B of the New York State County Law, as well as the price for said services, 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.

"SET-OFF" – a reduction by the County of payment due to an attorney by an amount equal to the amount of an unpaid legally enforceable debt owed by the attorney 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 an attorney pursuant to Article 18-B of the New York State County Law within sixty (60) days of the 18-B program administrator'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 attorney 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 STATE TAX LAW.
- B. The County shall not be required to make payment within sixty (60) 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 60 days impossible; or

4. Some or all of the invoice amount must be withheld to satisfy claims, liens or judgments against the attorney; any remaining amount due to the attorney shall be paid within 60 days of receipt of invoice.

C. The County or the 18-B Program Administrator may, within fifteen (15) days after receipt of invoice, notify an attorney 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 or Program Administrator fails to provide reasonable grounds for its contention that a defect or impropriety exists, the date by which 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 all 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 January 1, 2012.

DATED:

APPROVED BY:

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County Executive of Suffolk County

Date: