

STRICKEN AS OF 9/27/2012
AMENDED COPY AS OF 5/24/2012

Intro. Res. No. 1341-2012

Laid on Table 3/27/2012

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. -2012, ADOPTING LOCAL LAW
NO. -2012, A LOCAL LAW TO AMEND THE PROMPT
PAYMENT POLICY FOR ALL NOT-FOR-PROFIT CONTRACT
AGENCIES**

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on March 27, 2012, a proposed local law entitled, "**A LOCAL LAW TO AMEND THE PROMPT PAYMENT POLICY FOR ALL NOT-FOR-PROFIT CONTRACT AGENCIES**"; 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. -2012, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO AMEND THE PROMPT PAYMENT POLICY
FOR ALL 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 and Local Law No. 41-2010 respectively, established a County payment policy to pay child care providers and all not-for-profit contract agencies in a prompt manner.

This Legislature also finds that adherence to this policy in a period of fiscal crisis on the federal, State and County levels will escalate the challenges confronting the County in its efforts to equitably allocate its limited revenues in a timely manner.

This Legislature further finds and determines that pursuant to his authority under Suffolk County Charter § C4-27 the County Executive has declared a fiscal emergency and has formally notified the County Legislature that there is a funding deficiency for 2012 and available revenues will be less than total amounts appropriated for the current fiscal year.

This Legislature also finds that the County is currently facing a 3-year deficit of \$530 million and funding does not exist to meet penalty interest payments required by the County payment policy in the event that an invoice is paid later than is required by the policy.

This Legislature further finds that it is the policy of the County to promptly pay all child care providers and not-for-profit contract agencies, however, during a fiscal crisis, it is imprudent to charge penalties to the County if it is unable to comply with this policy.

Therefore, the purpose of this law is to amend the County's prompt payment policy to add an exception to compliance when the County Executive has declared a County funding deficiency.

Section 2. Amendments.

- I. Article IX of Chapter 189 of the SUFFOLK COUNTY CODE is hereby amended as follows:

**Article IX.
Payments to Child-Care Providers**

§ 189-46. Prompt payment policy.

- A. Notwithstanding the provisions of any other law to the contrary, the County shall make payment for services rendered by a child-care provider pursuant to a contract or letter of approval within 30 days of the Department's receipt of invoice, provided, however, for any year in which notice of a funding deficiency has been given by the County Executive to the County Legislature, then for the period beginning with the date of the funding deficiency notice and ending on the last day of the fiscal year in which the notice was issued, the County shall make payment no later than 60 days after the 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 child-care provider 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 § 1096 of the New York Tax Law.

- II. Article XI of Chapter 189 of the SUFFOLK COUNTY CODE is hereby amended as follows:

**Article XI.
Payment Policy for Nonprofit Contract Agencies**

§ 189-56. 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 30 days of the administering department's receipt of invoice, provided, however, for any year in which notice of a funding deficiency has been given by the County Executive to the County Legislature, then for the period beginning with the date of the funding deficiency notice and ending on the last day of the fiscal year in which the notice was issued, the County shall make payment no later than 60 days after the 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 Subdivision (e) of § 1096 of the New York State Tax Law. The interest payment shall not reduce the amount payable to the contract agency under the terms of the subject contract and invoice.

Section 3. Applicability.

This law shall apply to 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 effect, 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 judgment or order shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environment 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) 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.

[] Brackets denote deletion of existing language.

___ Underlining denotes addition of new language.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: