

**STRICKEN AS OF 11/8/2012**  
**REVISED COPY AS OF 5/3/2012**

Intro. Res. No. 1522-2012

Laid on Table 5/8/2012

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO.                   -2012, ADOPTING LOCAL LAW  
NO.   -2012, A LOCAL LAW TO ENHANCE PROVISIONS FOR  
ENFORCEMENT OF CERTAIN CONSUMER PROTECTION  
LAWS**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a regular meeting held on \_\_\_\_\_, 2012, a proposed local law entitled, "**A LOCAL LAW TO ENHANCE PROVISIONS FOR ENFORCEMENT OF CERTAIN CONSUMER PROTECTION LAWS**," 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 ENHANCE PROVISIONS FOR ENFORCEMENT  
OF CERTAIN CONSUMER PROTECTION LAWS**

**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 laws of Suffolk County contain various provisions aimed at protecting Suffolk County consumers from, among other things, unfair trade practices and deceptive item pricing.

This Legislature further finds that Chapters 387 (Consumer Protection) and 542 (Item Pricing) of the Suffolk County Laws establish civil penalties to be imposed upon those persons that violate the County's laws regarding unfair trade practices and item pricing.

This Legislature further finds and determines that in order to better protect the consumers of Suffolk County during these difficult financial times and in light of the time and administrative costs to the County in overseeing compliance with the County's laws regarding unfair trade practices and item pricing, it is appropriate to authorize more stringent penalties on those persons that violate these County laws.

Therefore, the purpose of this law is to strengthen and harmonize the penalty and waiver provisions of Chapters 387 and 542 of the Laws of Suffolk County.

**Section 2. Amendments.**

I.) Chapter 387 of the LAWS OF SUFFOLK COUNTY is hereby amended to read as follows:

**Chapter 387**

## CONSUMER PROTECTION

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### § 387-4. Penalties for offenses; injunctive relief.

- A. A violation of any provision of this chapter or of any rule or regulation promulgated hereunder shall be punishable, upon proof thereof, by the payment of a civil penalty of [not to exceed \$750] not less than \$1000 and no greater than \$5000 for a first violation and [\$1,500] of not less than \$2500 and no greater than \$10,000 for any subsequent violation, to be recovered in a civil action or through a settlement entered into pursuant to Section 387-5 of this chapter.

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### § 387-5. Settlements.

- A. In lieu of instituting or continuing action pursuant to this chapter, the Commissioner may accept written assurance of discontinuance of any act or practice in violation of this chapter. Such assurance may include a stipulation for the voluntary payment by the alleged violator of the costs of investigation for the restitution by the alleged violator to consumers of money, property and/or other things received from such consumers in connection with a violation of this chapter and/or for voluntary payment of a civil penalty.

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- C. A violation of an assurance entered into pursuant to this section shall be treated as a violation of this chapter and shall be subject to all the penalties provided [thereof] herein and/or revocation of the licenses and/or permits of the violator(s) as set forth Chapter 563 of the Suffolk County Laws.

- II.) Chapter 542 of the LAWS OF SUFFOLK COUNTY hereby amended to read as follows:

### Chapter 542 ITEM PRICING Article I Requirements

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### § 542-9. Waiver of requirements; fees

Every retail store which uses a computer-assisted checkout system and which would otherwise be required to item price as provided in § 542-2 of this article may make an application, in writing, to the Director for a waiver of said item pricing requirement. A separate application shall be required for each store. Each application shall be subject to a nonrefundable waiver fee based upon the gross square footage of each store as set according to the following schedule:

Gross Store Size (square feet)	Waiver Fee
Under 3,000	\$500
Between 3,001 and 10,000	[\$1,000] <u>\$2,500</u>
Between 10,001 and [30,000] <u>20,000</u>	[\$3,000] <u>\$5,000</u>
Between [30,001] <u>20,001</u> and [90,000] <u>50,000</u>	[\$5,000] <u>\$7,500</u>
[Over 90,000] <u>Between 50,001 and 100,000</u>	[\$15,000] <u>\$20,000</u>
<u>Over 100,000</u>	<u>\$35,000</u>

**§ 542-10. Penalties for offenses.**

- A. Any person who fails to comply with the provisions of this article or any regulation or order promulgated hereunder, with the exception of § 542-6C, shall be subject to civil penalties of not more than \$50 per violation, not to exceed [\$1,000] \$30,000 per inspection.
- B. A person who fails to comply with the provisions of § 542-6C shall be subject to a civil penalty of not more than \$150 per violation, not to exceed [\$1,000] \$30,000 per inspection.

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**§ 542-11. Settlement or compromise of violations.**

- A. In lieu of instituting or continuing a hearing to recover a civil penalty or penalties, the Director may release, settle or compromise any alleged violation by accepting written assurance of discontinuance of any act or practice in violation of this article. In no event shall a settlement or compromise entered into pursuant to this section result in the payment of a penalty of less than 25% of the maximum possible penalty allowable under this chapter after a hearing.

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**Article II  
Display of Item Prices**

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**§ 542-16. Penalties for offenses.**

- A. Any person who fails to comply with the provisions of § 542-15 of this article shall be subject to a civil penalty of not more than \$150 per violation, not to exceed ~~[\$1,000]~~ \$30,000 per inspection.

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**§ 542-17. Settlement or compromise of violation.**

- A. In lieu of instituting or continuing a hearing to recover a civil penalty or penalties, the Director may release, settle or compromise any alleged violation by accepting written assurance of discontinuance of any act or practice in violation of this article. In no event shall a settlement or compromise entered into pursuant to this section result in the payment of a penalty of less than 25% of the maximum possible penalty allowable under this chapter after a hearing.

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- C. Violation of an assurance entered into pursuant to this article shall be treated as a violation and shall be subject to all the penalties provided [thereof] herein and/or revocation of the licenses and/or permits of the violator(s) as set forth Chapter 563 of the Suffolk County Laws.

**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.

[ ] Brackets denote deletion of language.

\_\_\_ Underlining denotes addition of new language.

DATED:

APPROVED BY:

\_\_\_\_\_  
County Executive of Suffolk County

Date: