

RESOLUTION NO. 435 -2013, ADOPTING LOCAL LAW NO. 27 -2013, A LOCAL LAW TO AMEND CHAPTER 563 OF THE SUFFOLK COUNTY CODE TO FURTHER REGULATE THE INSTALLATION AND SERVICING OF SWIMMING POOLS AND SPAS IN SUFFOLK COUNTY

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on April 23, 2013, a proposed local law entitled, "**A LOCAL LAW TO AMEND CHAPTER 563 OF THE SUFFOLK COUNTY CODE TO FURTHER REGULATE THE INSTALLATION AND SERVICING OF SWIMMING POOLS AND SPAS IN SUFFOLK COUNTY**"; now, therefore be it

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

LOCAL LAW NO. 27 -2013, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO AMEND CHAPTER 563 OF THE SUFFOLK COUNTY CODE TO FURTHER REGULATE THE INSTALLATION AND SERVICING OF SWIMMING POOLS AND SPAS 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 many homeowners in Suffolk County have swimming pools and spas for their enjoyment during warm weather months.

This Legislature further finds that the County regulates the maintenance and construction of swimming pools and spas under its Home Improvement Contractor's License.

This Legislature also determines that the design, installation and servicing of swimming pools and spas require specialized knowledge and skills which are not currently included in the County's Home Improvement Contractor law.

This Legislature finds that businesses which engage in the building and installation of swimming pools and spas should have meaningful experience and be professionally certified in the construction of such structures.

This Legislature further determines that companies performing work on the plumbing, heating and electrical elements of pools and spas should have significant experience servicing pools and be professionally certified to perform such services.

This Legislature finds and determines that businesses involved in the building, installation and servicing of swimming pools and spas should also be required to continually maintain, update and expand their knowledge of the field and any changes in its regulations.

Therefore, the purpose of this local law is to amend Chapter 563 of the SUFFOLK COUNTY CODE to add certain requirements to the Home Improvement Contractor's License specific to businesses involved in the building, installation and servicing of swimming pools and spas.

Section 2. Amendments.

Chapter 563 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 563. Licensed Occupations

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Article II. Home Improvement Contractors

§ 563-16. Definitions.

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HOME IMPROVEMENT CONTRACTING - Excluding work in the electrical and plumbing fields as defined by § 563-126 of this chapter, any repair, remodeling, alteration, conversion, modernization, improvement or addition to residential property, and includes but is not limited to painting of residential structures; carpentry; fencing; driveways; exterminating; flooring; ductwork for heating, ventilation and air-conditioning systems; masonry; roofing; siding; the construction, installation and/or servicing of swimming pools and portable and permanent spas; and waterproofing; as well as other improvements to structures or upon land which are part of residential property, including landscaping and arboriculture, which as used herein shall mean tree sprayers, tree pruners, tree stump removers and all other tree services; but shall not include the construction of a new home or work done by a contractor in compliance with a guaranty of completion on new residential property or the sale of goods by a seller who neither arranges to perform nor performs, directly or indirectly, any work or labor in connection with the installation of or application of the goods or improvements to residences owned by or controlled by any government subdivision.

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§ 563-17. License required.

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E. Every person applying under this chapter for a license to engage in, or applying for the renewal of a license to engage in, home improvement contracting, as that term is used in this chapter, and who applies any fertilizer in the operation of such home contracting business shall take a turf management course approved by the Commissioner of the Department of Environment and Energy, pursuant to rules, regulations and standards to be promulgated by the Department of Environment and Energy.

G. Any applicant seeking a license to engage in, or applying for the renewal of a license to engage in, home improvement contracting, and who builds and installs swimming pools and permanent spas over 24 inches in depth must provide proof that he or she has obtained the Association of Pool and Spa Professionals' Certified Building Professionals certification or other pool building certification approved by the Commissioner and

demonstrate a minimum of two (2) years of experience in the building and installation of pools. These requirements shall not apply to individuals licensed as electricians or plumbers pursuant to Article XI of this Chapter.

- H. Any applicant seeking a license to engage in, or applying for the renewal of a license to engage in, home improvement contracting, and who services the plumbing, heating and/or the electrical elements of swimming pools, permanent spas and/or portable spas must provide proof that he or she has obtained the Association of Pool and Spa Professionals' Certified Service Technician, Certified Service Professional or Certified Builder Professional certification, or other equivalent certification program approved by the Commissioner, and demonstrate a minimum of two (2) years of experience and training in such servicing. These requirements shall not apply to individuals licensed as electricians or plumbers pursuant to Article XI of this Chapter.
- I. Applicants seeking to renew a license to engage in home improvement contracting and who engage in the building, installation or servicing of swimming pools, permanent spas and/or portable spas must provide documentation that the applicant has obtained a minimum of six (6) hours of continuing education in their industry since their last license application or renewal.

[G.]J. No applicant for a license renewal shall have any outstanding judgment for child support against him or her, or be in arrears in child-support payments as determined by official court records or official government records, at the time an application is filed for such license renewal. If an applicant has such a judgment against him or her, or is in such arrears, but is current in payments on a judicially approved payment schedule to pay off or reduce such judgment or arrears, then such individual shall not be deemed ineligible for a license renewal on the grounds of such judgment or arrears. At least 30 days prior to the expiration of a license, the Office shall send a written notice to a licensee informing said licensee of his or her obligation to comply with the provisions of this article pertaining to compliance with child-support obligations. If necessary, a second written notice shall be sent by the Office to a licensee 60 days after the license has lapsed informing said licensee of his or her obligation to comply with the provisions of this section pertaining to compliance with the child-support obligations. In addition, the County Department of Social Services, through its Child Support Enforcement Bureau, shall notify all current noncustodial parents of the obligations contained herein.

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Section 3. Applicability.

This law shall apply to all applications to obtain or renew a home improvement contractor's license on or after the effective date of this law.

Section 4. Existing License Holders.

Any current holder of a home improvement contractor's license shall obtain certification and provide documentation as required under the provisions of this law of same to the Department of Labor, Licensing and Consumer Affairs within one (1) year of 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 immediately upon filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED: June 4, 2013

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: July 2, 2013

After a public hearing duly held on June 19, 2013
Filed with the Secretary of State on July 17, 2013