

Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. 906 -2016, ADOPTING LOCAL LAW NO. 32 -2016, A LOCAL LAW TO AMEND CHAPTER 353 OF THE SUFFOLK COUNTY CODE TO AUTHORIZE THE COUNTY DEPARTMENT OF AUDIT AND CONTROL TO REGISTER NONPROFIT VETERANS ORGANIZATIONS

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on July 26, 2016, a proposed local law entitled, "**A LOCAL LAW TO AMEND CHAPTER 353 OF THE SUFFOLK COUNTY CODE TO AUTHORIZE THE COUNTY DEPARTMENT OF AUDIT AND CONTROL TO REGISTER NONPROFIT VETERANS ORGANIZATIONS**"; 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. 32 -2016, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO AMEND CHAPTER 353 OF THE SUFFOLK COUNTY CODE TO AUTHORIZE THE COUNTY DEPARTMENT OF AUDIT AND CONTROL TO REGISTER NONPROFIT VETERANS ORGANIZATIONS

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 Chapter 353, Article III of the Suffolk County Code establishes registration requirements for nonprofit veterans organizations soliciting funds and contributions in Suffolk County.

This Legislature further finds that under the current local law, all nonprofit veterans organizations have to register with the Suffolk County Veterans Services Agency by filing registration statements and additional documents.

This Legislature also finds that under the current law, the Suffolk County Department of Audit and Control is responsible for reviewing all tax returns, registration statements and reports submitted by nonprofit veterans organizations and assisting the Veterans Services Agency in determining whether all registration requirements have been satisfied.

This Legislature also finds that in order to streamline the registration process for nonprofit veterans organizations and dispense with duplicative review functions, the responsibility for the registration process should be vested only in the Department of Audit and Control.

Therefore, the purpose of this local law is to amend Chapter 353 of the SUFFOLK COUNTY CODE to authorize the Suffolk County Department of Audit and Control to register nonprofit veterans organizations.

Section 2. Amendment.

Chapter 353, Article III of the SUFFOLK COUNTY CODE is hereby amended to read as follows:

**CHAPTER 353
BUSINESS PRACTICES**

Article III. Registration of Nonprofit Veterans Organizations

§ 353-19. Legislative intent.

- J. Therefore, the purpose of this article is to require that all nonprofit veterans organizations register with the [Suffolk County Veterans Services Agency] Suffolk County Department of Audit and Control in order to solicit donations in Suffolk County.

§ 353-21. Registration required.

- A. No nonprofit veterans organization shall solicit funds or contributions from the public or have funds or contributions solicited on its behalf within the County of Suffolk unless it has filed a complete Application for Registration Statement [registration statement] with the [Suffolk County Veterans Services Agency] Suffolk County Department of Audit and Control in accordance with the provisions of this section. The Application for Registration Statement [registration statement] shall be refiled and updated every year for as long as the nonprofit veterans organization is engaged in solicitation activities in Suffolk County.
- B. The Application for Registration Statement [Such statements] shall contain the following information:

- (1) The agency's Articles of Incorporation which documents the purpose of the organization [The name of the organization and the purpose for which it was organized].
- (2) The agency's Annual Notice of New York State Registration for the previous calendar year [The principal address of the organization].
- (3) The agency's 501(c) Revenue Code as designated by the IRS with Employer Identification Number and Tax Exempt Status. [A statement indicating whether the organization intends to use professional fund-raisers to solicit funds or contributions from the public.]

- (4) A written statement documenting the [The] general purpose or purposes for which the contributions solicited will be used.
 - (5) A written statement documenting the [The] names and business addresses of the person or persons in direct charge of conducting the solicitation.
 - (6) A written statement indicating whether the organization intends to use professional fund-raisers to solicit funds or contributions from the public. If so, the [The] names and business addresses of all professional fund-raisers who will be connected with the solicitation.
 - (7) A list of all organizations or individuals the nonprofit veterans organization has donated to and the amount of each donation during the agency's prior fiscal year [during the past 36 consecutive months]. In addition, a separate schedule of all Suffolk County veterans and their families assisted by the organization during the agency's prior fiscal year.
 - (8) A list of the agency's current Board of Directors, including names, addresses and phone numbers. [The percentage of proceeds from donations collected that is paid to any professional fundraisers and the percentage that is actually received by the nonprofit veterans organization. This information shall also be disclosed to potential donors at the time of solicitation on a poster with lettering no less than one inch in height on a contrasting background or, if soliciting via telephone, prior to requesting a donation].
 - (9) A written statement indicating the [The] amount [and percentage] of monies raised in the preceding fiscal year that was expended to assist and support veterans' programs within the County of Suffolk and/or individual veterans and their families in the County of Suffolk, and a list of expenditures and donations that comprise the monies expended to assist veterans' programs and individual veterans and their families.
 - (10) A written statement that the fact of registration will not be used or represented in any way as an endorsement by the County of Suffolk, [or by] the Suffolk County Veterans Services Agency or the Suffolk County Department of Audit and Control of the solicitation conducted thereunder.
 - (11) Audited financial statements and/or IRS Form 990 for the organization's prior two (2) fiscal years. If the previous years' statements are not finalized, a Profit & Loss Statement and Statement of Activities for the previous year which clearly identify the organization's revenues and program, administrative and fund raising expenses [Documents verifying the information provided under the provisions of Subsection B(1) through (8) above, including all contracts and subsequent amendments thereto between a nonprofit veterans organization and any professional fund-raiser with whom it does business].
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- (12) A written statement detailing the following for the agency's previous fiscal year: (a) total revenue including donations, contributions, grants, and investments; (b) total funds expended to assist veterans and their families; (c) amount and percentage of funds raised that were expended to support veterans' programs in Suffolk County;

(d) amount of funds that remain undistributed; (e) amount of monies paid to professional fundraisers and solicitors; (f) total administrative expenses for the agency and the percentage of total administrative expenses to total agency expenses [The Veterans Services Agency shall request additional documents from nonprofit veterans organizations, including the organization's federal and state tax return documents, including Form 990 with all schedules; Articles of Incorporation; a list of the organization's Board of Directors; proof of liability insurance; annual notice of registration with the New York State Attorney General; and copies of other licenses and permits issued to the organization by the County of Suffolk].

(13) A copy of the agency's Certificate of Liability Insurance.

(14) A copy of all Suffolk County business licenses and permits to operate in Suffolk County.

C. The [Office of the Suffolk County Comptroller] Suffolk County Department of Audit and Control shall review all documentation submitted by the agency with its Application for Registration Statement [tax returns, registration statements and reports submitted by nonprofit veterans organizations] and [assist the Veterans Services Agency in] determining whether all registration requirements have been satisfied. The Comptroller may, if necessary, request additional documentation from a nonprofit veterans organization to support its registration statement; an organization's failure to comply with the Comptroller's request for additional documentation will result in an incomplete application. The [Suffolk County Veterans Services Agency] Comptroller shall provide each nonprofit veterans organization which has completed all registration requirements with a registration certificate, which shall have a registration number and expiration date. Nonprofit veterans' organizations soliciting donations must have a valid registration certificate displayed on premises at all times.

D. The [Office of the Suffolk County Comptroller] Suffolk County Department of Audit and Control will publish on its webpage the following information regarding each registered nonprofit veterans organization for the previous year: (1) total revenue including donations, contributions, grants, and investments; (2) total funds expended to assist veterans and their families; (3) amount and percentage of funds raised that were expended to support veterans' programs in Suffolk County; (4) amount of funds that remain undistributed; (5) amount of monies paid to professional fundraisers and solicitors; (6) total administrative expenses for the agency and the percentage of total administrative expenses to total agency expenses [shall provide to the Veterans Services Agency, for the purposes of public dissemination, the following information regarding each registered nonprofit veterans organization: the total monies raised by the organization in the preceding calendar year; the amount and percentage of monies that were paid to professional fundraisers and professional solicitors; the amount and percentage of monies raised that was expended to support veterans' programs within the County of Suffolk, with a line-item breakdown of the programs that received monies and the amounts received; the amount and percentage of monies raised that was donated directly to Suffolk veterans and their families; the amount of monies raised that remain undistributed].

E. The [Veterans Services Agency] Suffolk County Department of Audit and Control shall deny an application for registration or renewal if a nonprofit veterans organization fails to submit any of the items required in the Application for Registration Statement [its federal and/or state tax returns for the prior fiscal year; however, the Agency will not deny an

application on this ground if the Internal Revenue Service and/or the New York State Department of Taxation and Finance has extended the deadline for the filing of tax returns by the Agency and the Agency's failure to file has not extended more than six months beyond the original filing deadline].

§ 353-23. Penalties for offenses; disposition of fines.

- C. Civil penalties collected under this article shall be deposited with the Veterans Service Agency to be used to provide services to homeless veterans.

- E. The [Veterans Services Agency] Suffolk County Department of Audit and Control is hereby empowered to revoke or deny a registration certificate to any nonprofit veterans organization which fails to file all required information with the [Agency] Comptroller or which files falsified information. The [Veterans Services Agency] Comptroller is further empowered to deny or revoke a registration certificate if it is determined that an officer, employee or agent of a nonprofit veterans organization has violated § 353-22, the federal Stolen Valor Act (18 U.S.C. § 704) or a substantially similar state or local statute. Any revocation or denial shall be effective for a period of one calendar year. A revocation or denial shall only be imposed by the [Director of the Veterans Services Agency] County Comptroller following a hearing and opportunity for an alleged violator to be heard.

§ 353-24.1. Reports of [Veterans Services Agency] the Suffolk County Department of Audit and Control.

The [Veterans Services Agency] Suffolk County Department of Audit and Control will submit a written report to the Veterans and Seniors Committee of the County Legislature no later than June 15 each year, summarizing the information submitted by each registered nonprofit veterans organization pursuant to this article. This report will include metrics indicating the percentage of monies raised by each organization that was expended or donated to support Suffolk County veterans and/or veterans programs. The [Veterans Services Agency] Comptroller shall post this report on its departmental website. [Information that identifies individual veterans who received assistance from nonprofit veterans organizations shall be confidential and will not be disseminated to the public.]

§ 353-24.2. Confidentiality

Any information that identifies individual veterans or veterans' families who received assistance from nonprofit veterans organizations shall be confidential and will not be disseminated to the public.

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 lead agency under the State Environmental Quality Review Act ("SEQRA"), N.Y. Environmental Conservation Law Article 8 and Chapter 450 of the Suffolk County Code, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS ("NYCRR") in that the action constitutes routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment. 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 resolution.

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: October 5, 2016

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: November 3, 2016

After a public hearing duly held on October 17, 2016
Filed with the Secretary of State on November 22, 2016