Intro. Res. No. 1048-2012 Laid on Table 1/3/2012
Introduced by Presiding Officer Lindsay and Legislator Calarco

RESOLUTION NO. 124 -2012, ADOPTING LOCAL LAW NO. 19 -2012, A LOCAL LAW TO REQUIRE ALL RETAIL STORES TO DISPLAY FEES ASSOCIATED WITH LAYAWAY PROGRAMS

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on January 3, 2012, a proposed local law entitled, "**A LOCAL LAW TO REQUIRE ALL RETAIL STORES TO DISPLAY FEES ASSOCIATED WITH LAYAWAY PROGRAMS**"; now, therefore be it

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

LOCAL LAW NO. 19 -2012, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO REQUIRE ALL RETAIL STORES TO DISPLAY FEES ASSOCIATED WITH LAYAWAY PROGRAMS

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 national economy continues to struggle, with average Americans working hard to make ends meet.

This Legislature also finds and determines that in response to the lagging economy, several retailers have brought back layaway programs, where customers can purchase an item by paying in installments.

This Legislature further finds and determines that many layaway programs now charge a number of fees on layaway purchases.

This Legislature finds that these fees can add extraordinary costs to layaway purchases.

This Legislature determines that some layaway programs charge the equivalent of an 81% annual percent interest rate ("APR") on a credit purchase; if these layaway purchases were categorized as credit transactions, they would be found in violation of the State's usury law, which prohibits loan interest rates above 16%.

This Legislature further finds that consumers should be made aware of all fees prior to agreeing to a layaway purchase.

This Legislature also determines that consumers have a right to clear information about any and all terms and conditions when making a purchase from retail stores.

Therefore, the purpose of this law is to require retail stores operating in Suffolk County with layaway programs to prominently post the fees associated with their programs, as

well as a calculation of the equivalent APR a customer would pay for a $70 purchase, a $100 purchase, and a $200 purchase based on the layaway fees charged.

Section 2. Definitions.

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

"APR" shall mean the annual percentage rating used by credit companies to calculate interest on a purchase.

"LAYAWAY PROGRAM" shall mean any program offered by a retail store which allows customers to purchase an item by paying in installments over a fixed period of time and picking up the item upon remitting a final payment.

"RETAIL STORE" shall mean any store, including stores whose primary sales product is merchandise of a general nature, selling merchandise at retail. A store which is not open to the general public but is reserved for use by its members shall come within the provisions of this definition unless the members must pay a direct fee to the store to qualify for membership and the store is not required to collect sales tax on transactions with members.

Section 3. Requirements.

Any retail store offering a layaway program in the County of Suffolk shall post a conspicuous sign, containing all capital letters no less than 1" in height on a contrasting background posted at the points of sale for layaway purchases stating, "NOTICE OF LAYAWAY PROGRAM FEES, AS REQUIRED UNDER SUFFOLK COUNTY LAW" and shall include the following information regarding the retail store's layaway program, in the same font, size and color on a contrasting background:

a) the layaway service fee;
b) the down payment requirement for a layaway purchase;
c) the cancellation fee for a layaway purchase;
d) any additional fees associated with a layaway purchase or cancellation; and
e) the APR which would be charged by a credit company to receive the same cash value of the fees levied on a layaway purchase of $70, $100, and $200.

Section 4. Penalties.

A. Any retail store which intentionally violates any provision of this law shall be subject to a civil penalty of up to $250 for each violation. Each day a violation continues shall constitute a separate offense.

B. Any civil penalty may only be assessed by the Department of Consumer Affairs following a hearing and opportunity for an alleged violator to be heard.

Section 5. Enforcement.

This law shall be enforced by the Department of Consumer Affairs.

Section 5. Rules and Regulations.

The Commissioner of the Department of Consumer Affairs is hereby authorized and empowered to issue and promulgate such rules and regulations as he or she may deem necessary for the implementation and enforcement of this law.

Section 6. Applicability.

This law shall apply to all retail stores which offer year-round, seasonal or limited time layaway programs which are in effect on or after the effective date of this law.

Section 7. 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 8. Reverse Preemption.

This law shall be null and void on the same day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine, via mere resolution, whether or not identical or substantially similar statewide or federal legislation has been enacted for the purposes of triggering the provisions of this section.

Section 9. SEQRA Determination.

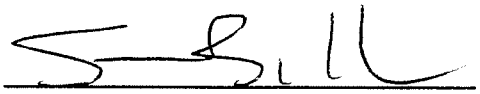
This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning 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 10. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED: March 13, 2012

APPROVED BY:



County Executive of Suffolk County

Date: 3 · 27 - 2012

After a public hearing duly held on March 26, 2012
Filed with the Secretary of State on April 19, 2012

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY

This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on March 13, 2012 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res. 1048 Res. No. 124 March 13, 2012

Motion:
Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Co-Sponsors:
Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Second:
Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE		✓			
2	Jay H. SCHNEIDERMAN	✓				
3	Kate M. BROWNING	✓				
4	Thomas MURATORE	✓				
5	Kara HAHN	✓				
6	Sarah S. ANKER	✓				
7	Rob CALARCO	✓				
9	Ricardo MONTANO	✓				
10	Thomas CILMI		✓			
11	Thomas F. BARRAGA		✓			
12	John M. KENNEDY, JR.	✓				
13	Lynne C. NOWICK	✓				
15	DuWayne GREGORY	✓				
16	Steven H. STERN	✓				
17	Lou D'AMARO	✓				
18	William SPENCER	✓				
14	Wayne R. HORSLEY, D.P.O.	✓				
8	William J. LINDSAY, P.O.	✓				
	Totals	15	3	—	—	—

MOTION
X Approve
____ Table: _____
____ Send To Committee
____ Table Subject To Call
____ Lay On The Table
____ Discharge
____ Take Out of Order
____ Reconsider
____ Waive Rule ____
____ Override Veto
____ Close
____ Recess
APPROVED X FAILED ____
No Motion ___ No Second ___

RESOLUTION DECLARED
X ADOPTED
____ NOT ADOPTED

Roll Call ____ Voice Vote X

Tim Laube

Tim Laube, Clerk of the Legislature