

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

~~City~~

of Clinton

~~Town~~

~~Village~~

Local Law No. 4 of the year 1995.

A local law ESTABLISHING AN INCREASE IN SURCHARGE OF 5% TO 10%
(Insert Title)
IN CERTAIN CIRCUMSTANCES FOR COLLECTION OF RESTITUTION
PAYMENTS

Be it enacted by the Clinton County Legislature of the
(Name of Legislative Body)

County

~~City~~

of Clinton as follows:

~~Town~~

~~Village~~

1. Pursuant to section 60.27(8) of the New York State Penal Law, the court in all cases where restitution is imposed must direct as part of the disposition the defendant to pay a designated surcharge of five percent of the entire amount of restitution or reparation payment to the official or organization designated pursuant to subdivision eight of section 420.10 of the criminal procedure law when it is not paid at the time of sentencing.
2. By resolution #574 on 11/14/84, the Clinton County Legislature designated the Clinton County Probation Department as the designated restitution collection agency.
3. By amendment of subdivision 8 of section 60.27 of the NYS Penal Law effective 11/1/91, upon the filing of an affidavit of the official or organization designated pursuant to subdivision eight of section 420.10 of the criminal procedure law demonstrating that the actual cost of the collection and administration of restitution or reparation in a particular case exceeds five percent of the entire amount of the payment or the amount actually collected, as the case may be, the court shall direct that the defendant pay an additional surcharge of not more than five percent of the entire amount of a restitution or reparation payment to such official or organization or the actual cost of collection or administration whichever is less unless, upon application of the defendant, the court determines that imposition of such additional surcharge would cause undue hardship to the defendant or any other person who is financially supported by the defendant, or would otherwise not

(If additional space is needed, attach pages the same size as this sheet, and number each.)

be in the interest of justice. Such additional surcharge, when added to the initial five percent surcharge, shall not exceed ten percent of the amount actually collected.

4. Therefore, the Clinton County Probation Department is hereby authorized to collect 10% surcharge in cases where the costs of collection warrant the increased amount and will submit an affidavit to the Court attesting to one of the following:
 - a. the schedule of payments on a regular basis requires additional clerical and administrative action to maintain and administer the account
 - b. the fact that no schedule exists other than a lump sum payment by a certain date requires additional clerical and administrative action to monitor and administer the account.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 1995 of the (County)(City)(Town)(Village) of Clinton was duly passed by the Clinton County Legislature on 8/9 1995, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.

William J. Bingel

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body William J. Bingel

Date: 8/9/95

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Clinton

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]

Signature

Clinton County Attorney

Title

County
~~City~~ of Clinton
~~Town~~
~~Village~~

Date: 8/9/95