

Governor Cuomo's Proposed Well Testing Act

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PART N

8 Section 1. This act shall be known and may be cited as the "residen-
9 tial well testing act".

10 § 2. The public health law is amended by adding a new section 1111 to
11 read as follows:

12 § 1111. Testing of individual onsite water supply systems. 1. a. The
14 commissioner shall promulgate regulations establishing standards for the
15 testing of new or existing individual onsite water supply systems for
16 characteristics and contaminants, including listing the characteristics
17 and contaminants that each individual onsite water supply shall be test-
18 ed for. Such regulations may require additional testing, limit testing
19 or exclude from testing a characteristic or contaminant on a county,
20 regional or local basis if the commissioner determines that such charac-
21 teristic or contaminant is significant or not significant in that area.

22 b. The commissioner may, by declaration, add any characteristic or
23 contaminant to the list promulgated pursuant to paragraph a of this
24 subdivision, provided that the commissioner shall promulgate regulations
25 adding such characteristic or contaminant within one year of such decla-
26 ration.

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1 2. a. Any real estate purchase contract for the sale of residential
2 real property, as defined in section four hundred sixty-one of the real
3 property law, which is served by an individual onsite water supply
4 system, shall include a provision requiring, prior to and as a condition
5 of sale, the testing of such individual onsite water supply system in a

6 manner that meets or exceeds the standards prescribed pursuant to this
7 section. This section shall not apply to public water systems, as
8 defined in regulations promulgated by the department.

9 b. Within one year after the effective date of this section, and at
10 least once every five years thereafter, the lessor of any residential
11 real property which is served by an individual onsite water supply
12 system shall test such water supply in accordance with this section for
13 at least the characteristics and contaminants required pursuant to this
14 section. Within thirty days after the receipt of validated test
15 results, the lessor shall provide a written copy thereof to each current
16 tenant of a rental unit on the property. The lessor shall also provide a
17 written copy of the most recent validated test results to a prospective
18 tenant prior to the signing of the lease or other agreement for the
19 rental of a residential unit on the property or to any former tenant
20 upon request. The department or the department's designee shall have the
21 authority to request and receive such test results from the lessor.

22 3. Every test conducted in accordance with this section shall be
23 conducted by a laboratory certified by the department pursuant to
24 section five hundred two of this chapter. Any test results provided by
25 the laboratory, pursuant to this section, shall include the maximum
26 contaminant levels or other established values, if any, prescribed by
27 the department for each characteristic or contaminant tested. Laborato-

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1 ries shall submit such results to the department electronically in the
2 manner prescribed pursuant to section five hundred two of this chapter.

3 4. The commissioner may promulgate regulations pursuant to which the
4 department may provide financial assistance to owners of residential

5 property served by an individual onsite water supply system, upon a
6 showing that the costs associated with testing drinking water in compli-
7 ance with this section would impose an unreasonable financial hardship.
8 5. Nothing contained in this section shall prohibit or limit the test-
9 ing of individual onsite water supply systems pursuant to any other
10 statutory or regulatory authority.
11 § 3. Section 502 of the public health law is amended by adding a new
12 subdivision 10 to read as follows:
13 10. The department may require an environmental laboratory to report
14 laboratory test results to the department, or to any full-time city,
15 county or part-county health department in an electronic manner
16 prescribed by the department.
17 § 4. The real property law is amended by adding a new section 468 to
18 read as follows:
19 § 468. Individual onsite water supply testing requirements. 1. Every
20 real estate purchase contract for the sale of residential real property,
21 which is served by an individual onsite water supply system, shall
22 include a provision requiring as a condition of sale, the testing of
23 such water supply for at least the standards prescribed pursuant to
24 section eleven hundred eleven of the public health law. This section
25 shall not apply to property that is served by a public water system, as
26 defined in regulations promulgated by the commissioner.
27 2. Closing of title on the sale of such real property shall not occur
28 unless both the buyer and the seller have received and reviewed a copy
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1 of the water test results. At closing, the buyer and seller both shall
2 certify in writing that they have received and reviewed the water test
3 results.

5 § 5. Subdivision 3 of section 15-1525 of the environmental conserva-
6 tion law, as amended by section 2 of part F of chapter 59 of the laws of
7 2006, is amended to read as follows:

8 3. The certificate of registration shall require that, before the
9 commencement of drilling of any well or wells, the water well driller
10 shall file a preliminary notice with the department; it shall also
11 provide that upon the completion of the drilling of any water well or
12 water wells, a completion report be filed with the department, giving
13 the log of the well, the size and depth thereof, the capacity of the
14 pump or pumps attached or to be attached thereto, the laboratory results
15 of the water sample tested in accordance with section eleven hundred
16 eleven of the public health law, and such other information pertaining
17 to the withdrawal of water and operation of such water well or water
18 wells as the department by its rules and regulations may require. The
19 water well driller shall provide a copy of such completion report to the
20 water well owner and the department of health and department of environ-
21 mental conservation. The number of the certificate of registration must
22 be displayed on the well drilling machinery of the registrant. The
23 certificate of registration shall also contain a notice to the certif-
24 icate holder that the business activities authorized by such certificate
25 are subject to the provisions of article thirty-six-A of the general
26 business law. The fee for such certificate of registration shall be ten
27 dollars annually. The commissioner shall promulgate a water well
28 completion report form which shall be utilized by all water well drill-
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1 lers in satisfying the requirements of this section and any other
2 provision of state or local law which requires the submission of a water
3 well completion report or water well log.

4 § 6. This act shall take effect on the one hundred eightieth day after

5 it shall have become a law; provided, however, that effective immediate-
6 ly, the commissioner of health and commissioner of environmental conser-
7 vation shall be authorized to promulgate any and all rules and regu-
8 lations necessary to implement the provisions of this act on its
9 effective date.
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