

## MEMORANDUM

TO: All AIS Clients

FROM: James Scaturro

DATE: October 24, 2007

RE: Westchester County – Private Well-Water Testing Law

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The Westchester County Board of Legislators enacted Local Law 7 of 2007 on May 21, 2007. This legislation, **The Private Well-Water Testing Law**, is effective on November 19, 2007 and applies to the sale or lease of any real property for which the potable water supply is a “private well”. The legislation defines a private well as “an individual water supply system, a private water supply or private water system as defined in Article III of the Westchester County Sanitary Code”. The provisions of the Chapter shall not apply to real property “where the potable water supply has five (5) or more service connections or regularly serves an average of twenty-five or more individuals daily for at least sixty days out of the year.”

Local Law 7 provides that the Seller of a covered property is responsible for having a water test conducted. The Seller’s obligation commences with the signing of a contract for sale of property within Westchester County. The seller, at their own cost, must arrange the test and within ten (10) days of the signing of the contract, must provide the buyer with proof that the test has been ordered. Within five (5) days of receipt of the test results the seller shall deliver the water testing report to the buyer. Both parties must certify in writing that they have received the test results. **The testing and reporting requirements of the Chapter may not be waived.**

If the report shows that there exists a primary parameter water test failure (as defined) the legislation provides for three courses of action: (1) the seller may cure the defect; (2) the seller may cancel the contract and return the down payment; or (3) the seller and buyer may agree, in writing, to consummate the deal pursuant to renegotiated terms, with the buyer assuming responsibility for curing the defect.

Where real property is leased, the lessor is required to test the water within twelve months after the effective date of Local Law 7, or if the property is leased after the effective date, within twelve months of the effective date of the lease. Then the testing is to continue every five (5) years. If a water test discloses a primary parameter water test failure (as defined), the owner of the property is obligated to provide potable water under the condition is corrected.

For the testing requirements and other provision of the legislation you can view Local Law 7 in its entirety at <http://www.titlelaw-newyork.com/WestchesterLL7.pdf>. Regulations are to be issued by the County Department of Health at least 90 days prior to the effective date.