



New York State to require geologist license: Senate bill S3810D-2013 signed by Governor Cuomo

March 09, 2015 - Long Island

On November 21st, 2014, governor Andrew Cuomo signed the New York State senate bill S3810D-2013 and will become effective two years after this date. This act is set to amend the current education law, the business corporation law, the limited liability company law and partnership law to accommodate for establishing the law of requirements by which a person may become licensed to practice geology and use the official title of "Professional Geologist." New York will become one of 25 states that require geologists to be licensed. According to the justification of this bill, "Geologists routinely conduct investigations and provide interpretive geologic services related to the development and protection of groundwater resources, the subsurface disposal of hazardous wastes and the potential for migration of contamination."

The law defines the practice of the profession of geology as "performing professional services such as researching, investigating, consulting and geological mapping, describing the natural processes that act upon the earth's materials, predicting the probable occurrence of natural resources, predicting and locating natural or human-induced phenomena which may be useful or hazardous to humankind and recognizing, determining and evaluating geological factors, and the inspection and performance of geological work and the responsible supervision thereof in furtherance of the health, safety and welfare of the public."

As more phase two investigations have been warranted over the past several years, the need for experienced geologists has increased. Developers become aware of the perils of dealing with impacted soil and groundwater during development. This has increased their awareness of good due diligence reports. In addition, the regulatory environment in the five boroughs has tightened with the advent of the E-designated listing and the NYC Brownfields program; which is the only municipally run program of its kind in the country. Lending institutions are more cautious and insisting borrowers comply with the recommendations made by their approved environmental consultants. The acceptance of the new ASTM standard that was approved in the 4th quarter of 2013 has led to more phase two investigations. The new standard has added sections and reinforced language that compels consultants to leave no stone unturned. This in turn has led to more potential impacts are being presented to the clients as Recognized Environmental Conditions (REC's) or Business Environmental Risks (BER's).

In order for someone to become licensed as "Professional Geologist" by the NYS Education Department they must meet the educational, years of experience and examination requirements. To qualify for a license the applicant must pass an examination in accordance to the commissioner's regulations, have a bachelor's or higher degree in geological sciences, and have at least five years of practical experience, with up to one year recognized for an advanced degree. The admission fee into the exam and for the initial license is \$220 as well as an additional \$210 for each triennial

registration period. The applicant must also exemplify "good moral character" as determined by the department as another requirement to apply. In lieu of a degree, 12 years of practical experience may be accepted. In addition, an age requirement must be met with a minimum of 21 years old to apply. To qualify as an "Intern Geologist," an applicant must be within 20 credits of requirement for their bachelor's degree or have enough practical experience required and pass the examination that would consider one to be an "Intern Geologist." Professional geologists must oversee and approve the work done by intern geologists to ensure that their work is up to code and regulation standards. Professional geologists fees are also the reason why proposals are not always apples to apples. There is a difference in sending someone to a site to place soil in a jar and then sending it to laboratory for analysis vs staffing a project with a geologist who has years of experience in understanding field conditions. The composition of the soil will have an impact on how contaminants migrate, as compounds will move quicker in different substrates. Up gradient sources that may have flown onto a property vs. a down-gradient directional flow is a key component to who may ultimately be responsible for the impact. Many experienced geologists I have worked with will canvas a property for hours before drilling the first hole. They like to perform a forensic analysis in their head which helps when the laboratory data is received. This experience and expertise can be the difference maker on a real estate transaction and well worth the additional cost.

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