

1 AN ACT relating to radon testing and mitigation and making an appropriation
2 therefor.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 199.894 is amended to read as follows:

5 As used in KRS 199.892 to **199.8996**~~[199.896]~~, unless the context otherwise requires:

- 6 (1) "Cabinet" means the Cabinet for Health and Family Services;
- 7 (2) "Secretary" means secretary for health and family services;
- 8 (3) "Child-care center" means any child-care center that provides full- or part-time
9 care, day or night, to four (4) or more children in a nonresidential setting who are
10 not the children, grandchildren, nieces, nephews, or children in legal custody of the
11 operator. "Child-care center" shall not include any child-care facility operated by a
12 religious organization while religious services are being conducted, or a youth
13 development agency. For the purposes of this section, "youth development agency"
14 means a program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which
15 operates continuously throughout the year as an outside-school-hours center for
16 youth who are six (6) years of age or older, and for which there are no fee or
17 scheduled-care arrangements with the parent or guardian of the youth served;
- 18 (4) "Department" means the Department for Community Based Services; and
- 19 (5) "Family child-care home" means a private home that is the primary residence of an
20 individual who provides full or part-time care day or night for six (6) or fewer
21 children who are not the children, siblings, stepchildren, grandchildren, nieces,
22 nephews, or children in legal custody of the provider.

23 ➔SECTION 2. A NEW SECTION OF KRS 199.892 TO 199.8996 IS CREATED
24 TO READ AS FOLLOWS:

25 **(1) (a) Effective one (1) year after the effective date of this Act, licensed child-care**
26 **centers shall be tested for radon at least once every five (5) years by a**
27 **professional who is registered under and acting in compliance with KRS**

1 309.438.

2 (b) The cabinet shall encourage the use of radon measurement devices by
3 registered professionals which utilize new active or passive measurement
4 technologies that may become available, provided the devices meet the
5 minimum proficiency program standards set forth in KRS 309.430 to
6 309.454.

7 (2) Effective one (1) year after the effective date of this Act, as part of an initial
8 application or application for renewal as established by KRS 199.896, the cabinet
9 shall require proof that the facility has been tested for radon pursuant to the
10 requirements of KRS 309.430 to 309.454 within the last five (5) years.

11 (3) (a) The report of the most recent radon measurement shall be posted in the
12 child-care center and provided to parents or guardians of children attending
13 the child-care center in written format.

14 (b) The posting required by paragraph (a) of this subsection shall be:

- 15 1. In a manner that is easily readable;
16 2. In letters and numbers at least two (2) inches high; and
17 3. In a location accessible to the public.

18 (c) The cabinet shall promulgate an administrative regulation in accordance
19 with KRS Chapter 13A to specify signage that shall accompany the
20 measurement posting. At a minimum, the signage shall include the
21 following information:

- 22 1. An explanation of the health risk associated with radon;
23 2. The levels of radon exposure at which corrective action is
24 recommended; and
25 3. Contact information for the state's radon program.

26 (d) The report to parents or guardians required by paragraph (a) of this
27 subsection shall also contain the information specified in paragraph (c) of

1 *this subsection.*

2 ➔Section 3. KRS 309.434 is amended to read as follows:

3 The board shall:

- 4 (1) Promote the control of radon in the Commonwealth of Kentucky;
- 5 (2) Develop and conduct programs for evaluation and control of activities related to
6 radon, including laboratory analyses, measurement, and mitigation;
- 7 (3) Promulgate administrative regulations in accordance with KRS Chapter 13A to
8 administer, coordinate, and enforce KRS 309.430 to 309.454;
- 9 (4) Issue a registration certificate to certified persons or business entities registered by
10 the board;
- 11 (5) Maintain a public list of all certified persons or business entities registered by the
12 board;
- 13 (6) Design and administer, or participate in the design and administration of,
14 educational and research programs to ensure the citizens of the Commonwealth are
15 informed about the health risks associated with radon;
- 16 (7) Enter into agreements with any federal or state agency, political subdivision,
17 postsecondary education institution, nonprofit organization, or other person or
18 entity to assist with and administer grants received by the board, including but not
19 limited to the Environmental Protection Agency State Indoor Radon Grant (SIRG)
20 program;
- 21 (8) Prepare an annual budget for the use of moneys received by the board from the
22 collection of fees and fines, receipt of *federal, state, and local* grants, and all other
23 radon-related activities, *including financial assistance to child-care centers for*
24 *radon testing and mitigation. Priority may be given for the distribution of these*
25 *funds to need-based applications for areas of the state that are identified as child-*
26 *care deserts by the cabinet and for child-care centers which have a high*
27 *proportion of Child Care Assistance Program participants;*

- 1 (9) Establish and maintain office space and personnel, as necessary, to administer,
2 coordinate, and enforce KRS 304.430 to 309.454;
- 3 (10) Collect or receive all fees, fines, and other moneys owed pursuant to KRS 309.430
4 to 309.454, and deposit all those moneys into the radon control fund established by
5 KRS 309.454;
- 6 (11) Issue subpoenas only through the board's attorney and only under the authority of
7 the board's general counsel;
- 8 (12) Administer oaths, examine witnesses, investigate allegations of wrongdoing, and
9 conduct administrative hearings in accordance with KRS Chapter 13B to enforce
10 KRS 309.430 to 309.454; and
- 11 (13) Record minutes of board meetings and proceedings which shall be documented and
12 made available for public inspection.

13 ➔Section 4. KRS 309.442 is amended to read as follows:

14 Each mitigation or measurement contractor or radon laboratory shall maintain an
15 insurance policy that:

- 16 (1) Is issued by an insurance company or other legal entity permitted to transact
17 insurance business in the Commonwealth of Kentucky;
- 18 (2) Provides for general liability coverage for measurement contractors in an amount of
19 at least two hundred fifty thousand dollars (\$250,000) that is maintained in effect at
20 all times during the registration period;
- 21 (3) Provides for general liability coverage for mitigation contractors and radon
22 laboratories in an amount of at least five hundred thousand dollars (\$500,000) that
23 is maintained in effect at all times during the registration period;
- 24 (4) Lists the board as a certificate holder of any insurance policy issued under
25 subsection (1) of this section; and
- 26 (5) States that cancellation or nonrenewal of the underlying liability insurance policy is
27 not effective until the board receives at least ten (10) days' written notice of the

1 cancellation or nonrenewal.

2 ➔Section 5. KRS 309.448 is amended to read as follows:

- 3 (1) ~~{Subject to an administrative hearing conducted in accordance with KRS Chapter~~
4 ~~13B, }~~The board may revoke, suspend, or restrict the registration of a registrant,
5 refuse to issue or renew registration, reprimand, censure, place on probation, or
6 impose a fine not to exceed one thousand dollars (\$1,000) per occurrence on a
7 certified person or business entity who:
- 8 (a) Has been convicted of a felony under the laws of the Commonwealth of any
9 crime that involves theft or dishonesty, or is a sex crime as defined by KRS
10 17.500;
 - 11 (b) Has had disciplinary action taken against a professional license, certification,
12 registration, or permit held by the person or business entity seeking
13 registration;
 - 14 (c) Engaged in fraud or deceit in obtaining certification or registration;
 - 15 (d) Attempts to transfer the authority granted by the registration to another person
16 or business entity;
 - 17 (e) Disregards or violates the building codes, electrical codes, or related laws of
18 this Commonwealth or ordinances of any city, county, urban-county
19 government, consolidated local government, charter county government, or
20 unified local government;
 - 21 (f) Aids or abets any person attempting to evade the provisions of KRS 309.430
22 to 309.454 or the administrative regulations promulgated by the board;
 - 23 (g) Uses unfair or deceptive trade practices; or
 - 24 (h) Knowingly violates any of the provisions of KRS 309.430 to 309.454 or any
25 administrative regulation promulgated by the board.
- 26 (2) If an application for registration or renewal of registration is denied, the person or
27 business entity seeking registration shall not conduct radon measurement,

1 mitigation, or laboratory analysis within the Commonwealth of Kentucky.

2 (3) Notwithstanding the existence or pursuit of any other civil or criminal remedy, the
3 board may institute proceedings in the Circuit Court of the county where the person
4 resides or the business entity is located for an order enjoining the person or business
5 entity from engaging or attempting to engage in activities that violate any
6 provisions of KRS 309.430 to 309.454 or any administrative regulation
7 promulgated by the board.

8 (4) Any final order of the board may be appealed ***through an administrative hearing***
9 ***conducted***~~[to the Circuit Court of the county in which the person resides or the~~
10 ~~business entity is located after a written decision is rendered]~~ in accordance with
11 KRS Chapter 13B.

12 ➔Section 6. KRS 309.452 is amended to read as follows:

13 (1) Any certified person or business entity shall report to the board the discovery of any
14 apparent noncompliance with any provision of KRS 309.430 to 309.454 or any
15 administrative regulation promulgated by the board pertaining to radon
16 measurement, mitigation, or laboratory analysis.

17 (2) Records required by this chapter or administrative regulations promulgated under
18 KRS 309.430 to 309.454, including but not limited to records of radon
19 measurement, mitigation, quality control program plans, calibration certifications,
20 laboratory analysis activities, worker health and safety plans, and equipment repairs
21 shall be retained by registrants, as applicable, for a minimum period of five (5)
22 years or the length of time of any warranty or guarantee, whichever is greater.
23 Records obtained by the board are exempt from the disclosure requirements of KRS
24 61.870 to 61.884, except that the board shall make the records available upon
25 request:

26 (a) To the owner or occupant of a building; and

27 (b) To the public aggregated at the zip code level without identifying individual

1 homeowners or individual property locations.

2 (3) Any measurement or mitigation contractor or radon laboratory applying for
3 registration or renewal of registration shall specify, for approval by the board, the
4 location where records required under this section shall be maintained for
5 inspection by the board. This location shall be within the Commonwealth of
6 Kentucky.

7 ➔Section 7. KRS 309.454 is amended to read as follows:

8 (1) There is created the radon control fund as a separate trust and agency fund in the
9 State Treasury, to be administered by the board. All fees, fines, grants, state and
10 federal moneys, and other moneys received by the board pursuant to KRS 309.430
11 to 309.454 shall be deposited in the fund and shall be used for the implementation
12 of KRS 309.430 to 309.454, and are hereby appropriated for those purposes.

13 (2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the
14 fiscal year shall not lapse but shall be carried forward to the next fiscal year.

15 (3) Any interest earnings of the fund shall become part of the fund and shall not lapse.

16 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
17 READ AS FOLLOWS:

18 Effective one (1) year after the effective date of this Act, a landlord shall have all rental
19 property that he or she owns tested for radon by a professional who is registered under
20 and acting in compliance with KRS 309.438. The results of the tests shall be provided
21 to all tenants prior to entering into a lease agreement. These tests shall be completed
22 once every five (5) years after the initial tests are conducted at the expense of the
23 landlord.