

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0898.01 Jery Payne x2157

SENATE BILL 23-206

SENATE SPONSORSHIP

Winter F.,

HOUSE SPONSORSHIP

Michaelson Jenet and Sirota,

Senate Committees
Local Government & Housing

House Committees

A BILL FOR AN ACT

101 **CONCERNING INFORMATION ABOUT RADON IN RESIDENTIAL REAL**
102 **PROPERTY TRANSACTIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the seller of residential real estate and a landlord of residential real estate to provide to prospective buyers and tenants in writing:

- A warning statement about the dangers of radon and the need for testing;
- Any knowledge the seller or landlord has of the residential

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

real property's radon concentrations and history, including tests performed, reports written, and mitigation conducted; and

- A copy of the most recent brochure published by the department of public health and environment that provides advice about radon in real estate transactions.

If a seller fails to provide the written disclosures, the buyer has a claim for relief against the seller for damages to the buyer resulting from the failure plus court costs. If a landlord fails to provide the written disclosures or fails to mitigate an elevated radon level, the tenant may void the lease without penalty.

A real estate broker must take reasonable steps to ensure the real estate broker's clients comply with the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Radon is an odorless, colorless, tasteless, and radioactive gas
5 that occurs naturally in soil and groundwater, enters buildings through
6 openings in foundations, and, unless vented to the atmosphere,
7 accumulates in buildings;

8 (b) Radon is recognized by the United States surgeon general and
9 the World Health Organization as a carcinogenic toxin;

10 (c) Radon is the leading cause of lung cancer in nonsmokers and
11 the second leading cause of all lung cancer in the United States;

12 (d) Prolonged exposure to radon threatens the health of Colorado
13 residents and families and is associated with increases in the risk of lung
14 cancer;

15 (e) Radon exposure is responsible for the deaths of approximately
16 five hundred Coloradans each year and for twenty-one thousand lung
17 cancer deaths nationwide;

18 (f) Elevated radon levels have been detected in every Colorado

1 county;

2 (g) A home in Colorado may have elevated levels of radon even
3 if other homes in that neighborhood do not;

4 (h) Radon levels may change over time, and the United States
5 environmental protection agency recommends that homes should be
6 tested every two years;

7 (i) Nearly half of all homes tested in Colorado return results at or
8 above the United States environmental protection agency's recommended
9 action level of four picocuries per liter (pCi/L);

10 (j) Testing for radon is simple and inexpensive, and identified
11 radon problems can be readily mitigated;

12 (k) Colorado recently began licensing and regulating radon
13 measurement and radon mitigation professionals to help ensure the public
14 has reliable access to qualified providers offering high-quality testing and
15 mitigation services that help improve public health; and

16 (l) Financial assistance for radon testing and mitigation services
17 is available to help address health disparities and access for low-income
18 individuals and families in disproportionately impacted communities
19 through the Colorado department of public health and environment's
20 radon mitigation assistance program for low-income individuals.

21 (2) The general assembly further declares that there is a need to
22 protect human health, prevent exposure to elevated concentrations of
23 radon, and avoid higher rates of mortality from lung cancer by requiring
24 disclosures to increase awareness in residential real estate transactions
25 about the presence of and risks from radon exposure.

26 **SECTION 2.** In Colorado Revised Statutes, **add** 38-35.7-111 as
27 follows:

1 **38-35.7-111. Disclosure - elevated radon - definition.** (1) A
2 BUYER OF RESIDENTIAL REAL PROPERTY HAS THE RIGHT TO BE INFORMED
3 OF WHETHER THE PROPERTY HAS BEEN TESTED FOR ELEVATED LEVELS OF
4 RADON.

5 (2) (a) BEFORE SIGNING A CONTRACT FOR THE TRANSFER OF
6 RESIDENTIAL REAL PROPERTY, THE SELLER SHALL DISCLOSE AND PROVIDE
7 IN WRITING TO THE BUYER THE FOLLOWING INFORMATION IN A DOCUMENT
8 THAT THE BUYER SIGNS TO ACKNOWLEDGE RECEIPT OF THE DISCLOSURE:

9 (I) A WARNING STATEMENT IN BOLD-FACED TYPE THAT IS CLEARLY
10 LEGIBLE IN SUBSTANTIALLY THE SAME FORM AS IS SPECIFIED AS FOLLOWS:

11 **THE COLORADO DEPARTMENT OF PUBLIC**
12 **HEALTH AND ENVIRONMENT STRONGLY RECOMMENDS**
13 **THAT ALL HOME BUYERS HAVE AN INDOOR RADON TEST**
14 **PERFORMED BEFORE PURCHASING RESIDENTIAL REAL**
15 **PROPERTY AND RECOMMENDS HAVING THE RADON**
16 **LEVELS MITIGATED IF ELEVATED RADON**
17 **CONCENTRATIONS ARE FOUND. ELEVATED RADON**
18 **CONCENTRATIONS CAN BE REDUCED BY A RADON**
19 **MITIGATION PROFESSIONAL.**

20 **RESIDENTIAL REAL PROPERTY MAY PRESENT**
21 **EXPOSURE TO DANGEROUS LEVELS OF INDOOR RADON**
22 **GAS THAT MAY PLACE THE OCCUPANTS AT RISK OF**
23 **DEVELOPING RADON-INDUCED LUNG CANCER. RADON, A**
24 **CLASS A HUMAN CARCINOGEN, IS THE LEADING CAUSE OF**
25 **LUNG CANCER IN NONSMOKERS AND THE SECOND**
26 **LEADING CAUSE OF LUNG CANCER OVERALL. THE SELLER**
27 **OF RESIDENTIAL REAL PROPERTY IS REQUIRED TO**

1 **PROVIDE THE BUYER WITH ANY KNOWN INFORMATION ON**
2 **RADON TEST RESULTS OF THE RESIDENTIAL REAL**
3 **PROPERTY.**

4 (II) ANY KNOWLEDGE THE SELLER HAS OF THE RESIDENTIAL REAL
5 PROPERTY'S RADON CONCENTRATIONS, INCLUDING THE FOLLOWING
6 INFORMATION:

7 (A) WHETHER A RADON TEST OR TESTS HAVE BEEN CONDUCTED ON
8 THE RESIDENTIAL REAL PROPERTY;

9 (B) THE MOST RECENT RECORDS AND REPORTS PERTAINING TO
10 RADON CONCENTRATIONS WITHIN THE RESIDENTIAL REAL PROPERTY;

11 (C) A DESCRIPTION OF ANY RADON CONCENTRATIONS DETECTED
12 OR MITIGATION OR REMEDIATION PERFORMED; AND

13 (D) INFORMATION REGARDING ANY RADON MITIGATION SYSTEM,
14 INCLUDING A SYSTEM DESCRIPTION AND DOCUMENTATION, IF A RADON
15 MITIGATION SYSTEM HAS BEEN INSTALLED IN THE RESIDENTIAL REAL
16 PROPERTY; AND

17 (III) A COPY OF THE MOST RECENT BROCHURE PUBLISHED BY THE
18 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IN ACCORDANCE
19 WITH SECTION 25-11-114 (2)(a) THAT PROVIDES ADVICE ABOUT RADON IN
20 REAL ESTATE TRANSACTIONS.

21 (b) THE BUYER SHALL ACKNOWLEDGE RECEIPT OF THE
22 INFORMATION DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION BY
23 SIGNING THE DISCLOSURE.

24 (3) IF THE SELLER FAILS TO PROVIDE THE WRITTEN DISCLOSURES
25 DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE BUYER HAS A CLAIM
26 FOR RELIEF AGAINST THE SELLER FOR DAMAGES TO THE BUYER RESULTING
27 FROM THE FAILURE PLUS COURT COSTS.

1 (4) AS USED IN THIS SECTION, "RESIDENTIAL REAL PROPERTY"
2 INCLUDES:

3 (a) A SINGLE-FAMILY HOME, MANUFACTURED HOME, MOBILE
4 HOME, CONDOMINIUM, APARTMENT, TOWNHOME, OR DUPLEX; OR

5 (b) A HOME SOLD BY THE OWNER, A FINANCIAL INSTITUTION, OR
6 THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
7 DEVELOPMENT.

8 **SECTION 3.** In Colorado Revised Statutes, **add** 38-12-803 as
9 follows:

10 **38-12-803. Disclosure - elevated radon - definition.** (1) A
11 TENANT THAT RENTS RESIDENTIAL REAL PROPERTY HAS THE RIGHT TO BE
12 INFORMED OF WHETHER THE PROPERTY HAS BEEN TESTED FOR ELEVATED
13 LEVELS OF RADON.

14 (2) (a) BEFORE SIGNING A LEASE AGREEMENT FOR RESIDENTIAL
15 REAL PROPERTY, THE LANDLORD SHALL DISCLOSE AND PROVIDE IN
16 WRITING TO THE TENANT THE FOLLOWING INFORMATION IN A DOCUMENT
17 THAT THE TENANT SIGNS TO ACKNOWLEDGE RECEIPT OF THE DISCLOSURE:

18 (I) A WARNING STATEMENT IN BOLD-FACED TYPE THAT IS CLEARLY
19 LEGIBLE IN SUBSTANTIALLY THE SAME FORM AS IS SPECIFIED AS FOLLOWS:

20 **THE COLORADO DEPARTMENT OF PUBLIC**
21 **HEALTH AND ENVIRONMENT STRONGLY RECOMMENDS**
22 **THAT ALL TENANTS HAVE AN INDOOR RADON TEST**
23 **PERFORMED BEFORE LEASING RESIDENTIAL REAL**
24 **PROPERTY AND RECOMMENDS HAVING THE RADON**
25 **LEVELS MITIGATED IF ELEVATED RADON**
26 **CONCENTRATIONS ARE FOUND. ELEVATED RADON**
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6 **CLASS A HUMAN CARCINOGEN, IS THE LEADING CAUSE OF**
7 **LUNG CANCER IN NONSMOKERS AND THE SECOND**
8 **LEADING CAUSE OF LUNG CANCER OVERALL. A**
9 **LANDLORD IS REQUIRED TO PROVIDE THE TENANT WITH**
10 **ANY KNOWN INFORMATION ON RADON TEST RESULTS OF**
11 **THE RESIDENTIAL REAL PROPERTY.**

12 (II) ANY KNOWLEDGE THE LANDLORD HAS OF THE RESIDENTIAL
13 REAL PROPERTY'S RADON CONCENTRATIONS, INCLUDING THE FOLLOWING
14 INFORMATION:

15 (A) WHETHER A RADON TEST OR TESTS HAVE BEEN CONDUCTED ON
16 THE RESIDENTIAL REAL PROPERTY;

17 (B) THE MOST CURRENT RECORDS AND REPORTS PERTAINING TO
18 RADON CONCENTRATIONS WITHIN THE RESIDENTIAL REAL PROPERTY;

19 (C) A DESCRIPTION OF ANY RADON CONCENTRATIONS DETECTED
20 OR MITIGATION OR REMEDIATION PERFORMED; AND

21 (D) INFORMATION REGARDING ANY RADON MITIGATION SYSTEM,
22 INCLUDING A SYSTEM DESCRIPTION AND DOCUMENTATION, IF A RADON
23 MITIGATION SYSTEM HAS BEEN INSTALLED IN THE RESIDENTIAL REAL
24 PROPERTY; AND

25 (III) A COPY OF THE MOST RECENT BROCHURE PUBLISHED BY THE
26 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IN ACCORDANCE
27 WITH SECTION 25-11-114 (2)(a) THAT PROVIDES ADVICE ABOUT RADON IN

1 REAL ESTATE TRANSACTIONS.

2 (b) THE TENANT SHALL ACKNOWLEDGE RECEIPT OF THE
3 INFORMATION DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION BY
4 SIGNING THE DISCLOSURE.

5 (3) (a) A TENANT MAY VOID A LEASE AGREEMENT AND VACATE
6 THE PREMISES IF THE LANDLORD FAILS TO:

7 (I) PROVIDE THE WRITTEN DISCLOSURES DESCRIBED IN SUBSECTION
8 (2) OF THIS SECTION; OR

9 (II) MAKE A REASONABLE EFFORT TO MITIGATE RADON WITHIN
10 ONE HUNDRED EIGHTY DAYS AFTER BEING NOTIFIED THAT A RADON
11 MEASUREMENT PROFESSIONAL HAS DETERMINED THE AIR CONCENTRATION
12 OF RADON IS FOUR PICOCURIES PER LITER OR MORE.

13 (b) WHEN THE TENANT VACATES THE PREMISES IN ACCORDANCE
14 WITH THIS SUBSECTION (3), ALL FUTURE RIGHTS AND OBLIGATIONS
15 BETWEEN THE LANDLORD AND TENANT UNDER THE LEASE AGREEMENT
16 TERMINATE, AND THE TENANT MAY DEMAND THE IMMEDIATE RETURN OF
17 ALL OR ANY PORTION OF THE SECURITY DEPOSIT HELD BY THE LANDLORD
18 TO WHICH THE TENANT IS ENTITLED. WITHIN SEVENTY-TWO HOURS AFTER
19 THE TENANT VACATES THE PREMISES, THE LANDLORD SHALL DELIVER TO
20 THE TENANT ALL OF, OR THE APPROPRIATE PORTION OF, THE SECURITY
21 DEPOSIT PLUS ANY RENT REBATE OWED TO THE TENANT FOR THE PAID TIME
22 ON THE LEASE AFTER THE TENANT VACATED. THE TENANT SHALL PROVIDE
23 THE LANDLORD WITH A CORRECT FORWARDING ADDRESS. THE LANDLORD
24 SHALL NOT RETAIN ANY PART OF THE SECURITY DEPOSIT TO COVER
25 NORMAL WEAR AND TEAR. IF ACTUAL CAUSE EXISTS FOR RETAINING ANY
26 PORTION OF THE SECURITY DEPOSIT, THE LANDLORD SHALL PROVIDE THE
27 TENANT WITH A WRITTEN STATEMENT LISTING THE EXACT REASONS FOR

1 THE RETENTION OF ANY PORTION OF THE SECURITY DEPOSIT.

2 (4) AS USED IN THIS SECTION, "RESIDENTIAL REAL PROPERTY"
3 INCLUDES:

4 (a) A SINGLE-FAMILY HOME, MANUFACTURED HOME, MOBILE
5 HOME, CONDOMINIUM, APARTMENT, TOWNHOME, OR DUPLEX; OR

6 (b) A HOME SOLD BY THE OWNER, A FINANCIAL INSTITUTION, OR
7 THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
8 DEVELOPMENT.

9 **SECTION 4.** In Colorado Revised Statutes, **add** 12-10-221.5 as
10 follows:

11 **12-10-221.5. Radon disclosure - rules.** (1) A REAL ESTATE
12 BROKER SHALL TAKE REASONABLE ACTIONS TO ENSURE THAT:

13 (a) A REAL ESTATE SELLER THAT IS THE REAL ESTATE BROKER'S
14 CLIENT FOR THE TRANSACTION COMPLIES WITH SECTION 38-35.7-111 WITH
15 RESPECT TO RESIDENTIAL REAL PROPERTY BEING SOLD; AND

16 (b) A LANDLORD, WHO IS THE REAL ESTATE BROKER'S CLIENT FOR
17 THE TRANSACTION, COMPLIES WITH SECTION 38-12-803 WITH RESPECT TO
18 RESIDENTIAL REAL PROPERTY BEING LEASED.

19 (2) THE COMMISSION MAY PROMULGATE RULES TO IMPLEMENT
20 THIS SECTION.

21 **SECTION 5. Act subject to petition - effective date -**
22 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
23 the expiration of the ninety-day period after final adjournment of the
24 general assembly; except that, if a referendum petition is filed pursuant
25 to section 1 (3) of article V of the state constitution against this act or an
26 item, section, or part of this act within such period, then the act, item,
27 section, or part will not take effect unless approved by the people at the

1 general election to be held in November 2024 and, in such case, will take
2 effect on the date of the official declaration of the vote thereon by the
3 governor.

4 (2) This act applies to contracts and lease agreements entered into
5 on or after the applicable effective date of this act.