

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 care,
9 day or night, to four (4) or more children in a nonresidential setting who are not the
10 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***

1 211.9109.

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 211.9101 to
6 211.9135.

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 211.9109 to 211.9135 within the last five (5) years.

11 (3) (a) The report of the most current 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 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 211.9105 is amended to read as follows:

3 The committee shall:

- 4 (1) Advise the cabinet with the review, development, and maintenance of standard
5 operating procedures for radon measurement, radon mitigation, laboratory analysis,
6 and quality control;
- 7 (2) Advise the cabinet with preparing an annual budget for the use of moneys received
8 by the cabinet from the collection of fees and fines, receipt of *federal, state, and*
9 *local* grants, and all other radon-related activities, *including financial assistance to*
10 *child-care centers for radon testing and mitigation. Priority may be given for the*
11 *distribution of these funds to need-based applications for areas of the state that*
12 *are identified as child-care deserts by the cabinet and for child-care centers which*
13 *have a high proportion of Child Care Assistance Program participants;*
- 14 (3) Review and comment on relevant administrative regulations that are promulgated
15 pursuant to KRS 211.9101 to 211.9135 and make recommendations to and
16 otherwise advise the cabinet on these matters;
- 17 (4) Record minutes of committee meetings and proceedings which shall be documented
18 and maintained for the committee by the cabinet in a public forum;
- 19 (5) Make recommendations to the cabinet provided that the final determination rests
20 with the cabinet;
- 21 (6) Hold the first meeting of the committee no later than October 1, 2011, to be
22 convened by the commissioner; and
- 23 (7) Perform any other duties and responsibilities relating to the topic of radon that may
24 be assigned by the cabinet.

25 ➔Section 4. KRS 211.9113 is amended to read as follows:

26 Each mitigation or measurement contractor *or radon laboratory* shall maintain an
27 insurance policy that:

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

14 ➔Section 5. KRS 211.9125 is amended to read as follows:

- 15 (1) ~~[Subject to an administrative hearing conducted in accordance with KRS Chapter~~
16 ~~13B,]~~The cabinet may revoke, suspend, or restrict the registration of a registrant,
17 refuse to issue or renew registration, reprimand, censure, place on probation, or
18 impose a fine not to exceed five hundred dollars (\$500) per occurrence on a
19 certified person or business entity who:
 - 20 (a) Has been convicted of a felony under the laws of the Commonwealth of any
21 crime that involves theft or dishonesty, or is a sex crime as defined by KRS
22 17.500;
 - 23 (b) Has had disciplinary action taken against a professional license, certification,
24 registration, or permit held by the person or business entity seeking
25 registration;
 - 26 (c) Engaged in fraud or deceit in obtaining certification or registration;
 - 27 (d) Attempts to transfer the authority granted by the registration to another person

- 1 or business entity;
- 2 (e) Disregards or violates the building codes, electrical codes, or related laws of
3 this Commonwealth or ordinances of any city, county, urban-county
4 government, consolidated local government, charter county government, or
5 unified local government;
- 6 (f) Aids or abets any person attempting to evade the provisions of KRS 211.9101
7 to 211.9135 or the administrative regulations promulgated thereunder by the
8 cabinet;
- 9 (g) Uses unfair or deceptive trade practices; or
- 10 (h) Knowingly violates any of the provisions of KRS 211.9101 to 211.9135 or
11 any administrative regulation promulgated thereunder by the cabinet.
- 12 (2) If an application for registration or renewal of registration is denied, the person or
13 business entity seeking registration shall not conduct radon measurement,
14 mitigation, or laboratory analysis within the Commonwealth of Kentucky.
- 15 (3) Notwithstanding the existence or pursuit of any other civil or criminal remedy, the
16 cabinet may institute proceedings in the Circuit Court of the county where the
17 person resides or the business entity is located for an order enjoining the person or
18 business entity from engaging or attempting to engage in activities that violate any
19 provisions of KRS 211.9101 to 211.9135 or any administrative regulation
20 promulgated thereunder by the cabinet.
- 21 (4) Any final order of the cabinet may be appealed **through an administrative hearing**
22 **conducted**~~[to the Circuit Court of the county in which the person resides or the~~
23 ~~business entity is located after a written decision is rendered]~~ in accordance with
24 KRS Chapter 13B.
- 25 ➔Section 6. KRS 211.9131 is amended to read as follows:
- 26 (1) Any certified person or business entity shall report to the cabinet the discovery of
27 any apparent noncompliance with any provision of KRS 211.9101 to 211.9135 or

1 any administrative regulation promulgated thereunder by the cabinet pertaining to
2 radon measurement, mitigation, or laboratory analysis.

3 (2) Records required by this chapter or administrative regulations promulgated under
4 KRS 211.9101 to 211.9135, including but not limited to records of radon
5 measurement, mitigation, quality control program plans, calibration certifications,
6 laboratory analysis activities, worker health and safety plans, and equipment repairs
7 shall be retained by registrants, as applicable, for a minimum period of five (5)
8 years or the length of time of any warranty or guarantee, whichever is greater.
9 Records obtained by the cabinet are exempt from the disclosure requirements of
10 KRS 61.870 to 61.884, except that the cabinet shall make the records available
11 upon request:

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

13 (b) To the public aggregated at the zip code level without identifying individual
14 homeowners or individual property locations.

15 (3) Any measurement or mitigation contractor or radon laboratory applying for
16 registration or renewal of registration shall specify, for approval by the cabinet, the
17 location where records required under this section shall be maintained for
18 inspection by the cabinet. This location shall be within the Commonwealth of
19 Kentucky.

20 ➔Section 7. KRS 211.9133 is amended to read as follows:

21 (1) There is created the radon mitigation and control fund as a separate trust and agency
22 fund in the State Treasury, to be administered by the cabinet. All fees, fines, grants,
23 state and federal moneys, and other moneys received by the cabinet pursuant to
24 KRS 211.9101 to 211.9135 shall be deposited in the fund and shall be used for the
25 implementation of KRS 211.9101 to 211.9135, and are hereby appropriated for
26 those purposes.

27 (2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the

- 1 fiscal year shall not lapse but shall be carried forward to the next fiscal year.
- 2 (3) Any interest earnings of the fund shall become part of the fund and shall not lapse.