

CHAPTER 74

(HB 247)

AN ACT relating to licensure and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 18 of this Act, unless the context requires otherwise:

- (1) *"Alter" means to change or modify a building or building design, or to revise, rather than repair, a mitigation system or mitigation system design;*
- (2) *"Analytical analysis" means the act of analyzing the radon or radon progeny concentrations with active measurement devices;*
- (3) *"Applicant" means a radon laboratory or a person who applies for certification as a radon measurement contractor or radon mitigation contractor;*
- (4) *"Building" means any structure used or intended to be used for supporting or sheltering any use or occupancy;*
- (5) *"Cabinet" means Cabinet for Health and Family Services;*
- (6) *"Certified" means meeting the requirements of Section 5, 6, or 8 of this Act in order to perform radon measurement, radon mitigation, or radon laboratory analysis;*
- (7) *"Commercial building" means any building other than a residential building, including those buildings intended for public purposes;*
- (8) *"Commissioner" means the commissioner of the Department for Public Health;*
- (9) *"Committee" means the Kentucky Radon Program Advisory Committee;*
- (10) *"Compensation" means something of value given or received in exchange for radon measurement, radon mitigation, or laboratory analysis;*
- (11) *"Contractor" means a person or business entity that provides goods or services to another person under the terms specified in a contract or verbal agreement, and who is not an agent or employee of that person;*
- (12) *"Direct supervision" means constant onsite supervision by a certified person;*
- (13) *"General supervision" means intermittent onsite supervision by a certified person who accepts responsibility for ensuring compliance by his or her employees or subcontractors with all applicable requirements under Sections 1 to 18 of this Act;*
- (14) *"Government agency" means the Commonwealth of Kentucky, a state agency, a political subdivision, or any entity of local government;*
- (15) *"Laboratory analysis" means the act of analyzing the radon or radon progeny concentrations with passive measurement devices, or the act of calibrating radon or radon progeny measurement devices, or the act of exposing radon or radon progeny devices to controlled concentrations of radon or radon progeny;*
- (16) *"Measurement" means the act of testing the air, water, or soil using an active or passive measurement device for the presence of radon or radon progeny in the indoor environment of a building;*
- (17) *"Measurement device" means any cabinet-approved active or passive device used for the measurement of radon or radon progeny in air, water, or soil in the indoor environment of a building;*
- (18) *"Measurement contractor" means a person who meets the requirements of Section 5 of this Act and is certified by the cabinet to conduct radon measurement for compensation;*
- (19) *"Mitigation" means the act of installing, repairing, or altering an active or passive system, for the purpose in whole or in part of reducing the concentration of radon or radon progeny in the indoor environment of a building;*
- (20) *"Mitigation contractor" means a person who meets the requirements of Section 6 of this Act and is certified by the cabinet to conduct radon mitigation for compensation;*

- (21) *"Mitigation system" means any active or passive system designed to reduce radon concentrations in the indoor environment of a building;*
- (22) *"Person" has the same meaning as in KRS 446.010;*
- (23) *"Radon" means a naturally occurring radioactive element that exists as a colorless, odorless, and tasteless inert gas;*
- (24) *"Radon decay products" means the four (4) short-lived radioactive elements polonium (Po-218), lead (Pb-214), bismuth (Bi-214), and polonium (Po-214) which exist as solids and immediately follow radon (Rn-222) in the decay chain;*
- (25) *"Radon laboratory" means a business entity that meets the requirements of Section 8 of this Act and is certified by the cabinet to conduct laboratory analysis for compensation;*
- (26) *"Radon progeny" means any combination of the radioactive decay products of radon;*
- (27) *"Research" means cabinet-approved scientific investigation that includes radon measurement, radon mitigation, or laboratory analysis;*
- (28) *"Residential building" means detached one (1) to four (4) family dwellings not more than three (3) stories in height where occupants are primarily permanent in nature; and*
- (29) *"Standard operating procedure" means a written document that describes in detail commonly accepted methods for the performance of certain tasks.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Radon Program Advisory Committee is hereby created and shall be attached to the Cabinet for Health and Family Services for administrative purposes. Each member of the committee shall be a citizen and resident of the Commonwealth of Kentucky. The committee shall consist of nine (9) members as follows:*
 - (a) *Four (4) members shall be either a radon measurement contractor, a radon mitigation contractor, or a person associated with a radon laboratory conducting laboratory analysis and shall be appointed by the Governor from a list of six (6) names submitted to the Governor by the Kentucky Association of Radon Professionals;*
 - (b) *One (1) member shall be a representative of the home building industry and shall be appointed by the Governor from a list of three (3) names submitted to the Governor by the Home Builders Association of Kentucky;*
 - (c) *One (1) member shall be a real estate salesperson or broker licensed under KRS Chapter 324 and shall be appointed by the Governor from a list of three (3) names submitted to the Governor by the Kentucky Association of Realtors;*
 - (d) *One (1) member shall be a representative of a public health organization and shall be appointed by the Governor from a list of three (3) names submitted to the Governor by the Kentucky Cancer Consortium;*
 - (e) *One (1) member shall be the commissioner of the Department for Public Health, Cabinet for Health and Family Services, or his or her designee; and*
 - (f) *One (1) member shall be a citizen at large appointed by the Governor who shall represent the public and shall not be associated with or financially interested in the practice of radon measurement, mitigation, or laboratory analysis.*
- (2) (a) *To be eligible for initial appointment as a member of the committee under subsection (1)(a) of this section, a person shall have been actively engaged in the practice of radon measurement, mitigation, or laboratory analysis for not less than three (3) years immediately preceding the date of appointment to the committee.*
- (b) *Upon expiration of the initial appointments, to be eligible for appointment as a member of the committee under subsection (1)(a) of this section, a person shall have been actively engaged in the practice of radon measurement, mitigation, or laboratory analysis for not less than three (3) years immediately preceding the date of the appointment to the committee and hold a valid certification as a radon measurement contractor or radon mitigation contractor, or be associated with a radon laboratory with a valid certification.*

- (3) *Except for the commissioner, who shall serve as long as he or she holds his or her appointment as commissioner, the Governor shall initially appoint two (2) members for a term of four (4) years, two (2) members for a term of three (3) years, two (2) members for a term of two (2) years, and two (2) members for a term of one (1) year. All appointments shall expire on June 30 of the last year of the terms. Thereafter, members shall be appointed for terms of four (4) years. No person shall serve more than two (2) consecutive terms. Members shall serve until their successors are appointed.*
- (4) *Upon recommendation of the committee, the Governor may remove any member of the committee appointed by the Governor for poor attendance, neglect of duty, misfeasance, or malfeasance in office.*
- (5) *Vacancies in the membership of the committee for any cause shall be filled by appointment by the Governor for the balance of the unexpired term.*
- (6) *A majority of the committee shall constitute a quorum to do business. The committee shall meet at least once each calendar quarter in a location designated by the chairperson. The committee may meet upon special call by the chairperson or a majority of the committee.*
- (7) *The committee shall elect a chairperson and a vice chairperson. The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at all meetings in the absence of the chairperson.*
- (8) *If the chairperson and vice chairperson are absent from a meeting of the committee when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The committee shall:

- (1) *Advise the cabinet with the review, development, and maintenance of standard operating procedures for radon measurement, radon mitigation, laboratory analysis, and quality control;*
- (2) *Advise the cabinet with preparing an annual budget for the use of moneys received by the cabinet from the collection of fees and fines, receipt of grants, and all other radon-related activities;*
- (3) *Review and comment on relevant administrative regulations that are promulgated pursuant to Sections 1 to 18 of this Act and make recommendations to and otherwise advise the cabinet on these matters;*
- (4) *Keep minutes of committee meetings and a record of all proceedings;*
- (5) *Make recommendations to the cabinet provided that the final determination rests with the cabinet;*
- (6) *Hold the first meeting of the committee no later than October 1, 2011, to be convened by the commissioner; and*
- (7) *Perform any other duties and responsibilities relating to the topic of radon that may be assigned by the cabinet.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

No person or business entity shall conduct radon measurement, mitigation, or laboratory analysis in this Commonwealth after January 1, 2013, without the appropriate certification pursuant to Sections 1 to 18 of this Act. No person or business entity shall advertise or claim to be a "certified measurement contractor," "certified mitigation contractor," or "certified radon laboratory," unless certified pursuant to Sections 1 to 18 of this Act. Certification requirements under Sections 1 to 18 of this Act shall apply to a radon measurement contractor, radon mitigation contractor, or radon laboratory, but shall not apply to:

- (1) *A person performing measurement or mitigation on a single-family residential building that he or she owns and occupies;*
- (2) *A person performing measurement on a residential or commercial building that he or she owns;*
- (3) *An apprentice in the process of learning radon measurement, mitigation, or laboratory analysis who assists and is under the general supervision of a measurement or mitigation contractor;*
- (4) *An agent of the federal, state, or local government agency acting within an official capacity who shall make payment of certification fees but who shall not otherwise be required to comply with Sections 1 to 18 of this Act;*

- (5) *A person performing measurement or mitigation as part of a scientific research project approved by the cabinet;*
- (6) *A retail store or any other organization that sells or distributes radon measurement devices and is not engaged in a relationship with the client for other services, such as home inspection or real estate brokerage, and that does not conduct measurement, mitigation, or laboratory analysis; or*
- (7) *A person performing measurement or mitigation as part of radon training approved by the cabinet.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall issue a certification as a radon measurement contractor to any person who:*
 - (a) *Submits a complete and accurate application for certification on a form prescribed by the cabinet through promulgation of an administrative regulation;*
 - (b) *Pays the certification fee established by the cabinet through promulgation of an administrative regulation within the following restrictions:*
 - 1. *An initial certification fee shall not exceed two hundred fifty dollars (\$250);*
 - 2. *An annual renewal fee shall not exceed two hundred fifty dollars (\$250);*
 - 3. *A duplicate certificate fee shall not exceed twenty dollars (\$20); and*
 - 4. *A late renewal fee shall not exceed one hundred dollars (\$100);*
 - (c) *Provides the cabinet with documentation of successful completion of a cabinet-approved radon measurement course and exam;*
 - (d) *For renewal of certification, provides proof of completion of at least eight (8) hours of continuing education per year;*
 - (e) *Submits a quality control program plan that meets the minimum standard operating procedures requirements as established by the cabinet through promulgation of an administrative regulation; and*
 - (f) *Furnishes evidence of financial responsibility to the cabinet consisting of a license and permit bond, errors and omissions coverage, and a liability insurance policy that satisfies the requirements of Section 7 of this Act.*
- (2) *A measurement contractor shall:*
 - (a) *Ensure all measurements are conducted in accordance with the measurement standard operating procedures established by the cabinet through promulgation of an administrative regulation;*
 - (b) *Maintain a quality control program plan that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation;*
 - (c) *Ensure all measurement activities are conducted under the general supervision of an individual certified to conduct radon measurement;*
 - (d) *Use or sell only cabinet-approved devices to conduct radon measurement; and*
 - (e) *Ensure all services procured from a radon laboratory are procured from a radon laboratory certified by the cabinet.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall issue a certification as a mitigation contractor to any person who:*
 - (a) *Submits a complete and accurate application for certification on a form prescribed by the cabinet through promulgation of an administrative regulation;*
 - (b) *Pays the certification fee established by the cabinet through promulgation of an administrative regulation within the following restrictions:*
 - 1. *An initial certification fee shall not exceed two hundred fifty dollars (\$250);*
 - 2. *An annual renewal fee shall not exceed two hundred fifty dollars (\$250);*
 - 3. *A duplicate certificate fee shall not exceed twenty dollars (\$20); and*

4. *A late renewal fee shall not exceed one hundred dollars (\$100);*
- (c) *Provides the cabinet with documentation of successful completion of a cabinet-approved radon mitigation course and exam;*
 - (d) *For renewal of certification, provides proof of completion of at least eight (8) hours of continuing education credit per year;*
 - (e) *Submits a quality control program plan that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation; and*
 - (f) *Furnishes evidence of financial responsibility to the cabinet consisting of a license and permit bond and a liability insurance policy that satisfies the requirements of Section 7 of this Act.*
- (2) *A mitigation contractor shall:*
- (a) *Ensure all mitigations are conducted in accordance with mitigation standard operating procedures established by an administrative regulation promulgated by the cabinet;*
 - (b) *Maintain a quality control program plan that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation;*
 - (c) *Ensure all mitigation activities are conducted under the general supervision of an individual certified to conduct radon mitigation;*
 - (d) *Ensure post-mitigation measurement is conducted by a person certified to conduct measurement; and*
 - (e) *Ensure all radon mitigation systems repaired or altered on or after January 1, 2013, meet the mitigation standard operating procedures established by an administrative regulation promulgated by the cabinet.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *Each mitigation or measurement contractor shall maintain an insurance policy that:*
- (a) *Is issued by an insurance company or other legal entity permitted to transact insurance business in the Commonwealth of Kentucky;*
 - (b) *Provides for general liability coverage in an amount of at least five hundred thousand dollars (\$500,000), and for measurement contractors, errors and omissions coverage in an amount of at least five hundred thousand dollars (\$500,000) that is maintained in effect at all times during the certification period;*
 - (c) *Lists the cabinet as a certificate holder of any insurance policy issued under this subsection; and*
 - (d) *States that cancellation or nonrenewal of the underlying liability insurance policy is not effective until the cabinet receives at least ten (10) days' written notice of the cancellation or nonrenewal.*
- (2) (a) *Before a mitigation or measurement contractor is certified, he or she shall file with the cabinet a license and permit bond to be approved by the cabinet and shall maintain the license and permit bond during the term of the certification payable to the Commonwealth in the sum of ten thousand dollars (\$10,000).*
- (b) *The bond shall be conditioned on the applicant's compliance with the provisions of Sections 1 to 18 of this Act and any administrative regulations promulgated thereunder by the cabinet.*
 - (c) *The bond shall be on a form prescribed by the cabinet through promulgation of an administrative regulation.*
 - (d) *The license and permit bond shall be executed by a corporate surety authorized to transact surety business in the Commonwealth of Kentucky.*
 - (e) *The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the cabinet of its intent to cancel the bond. The cancellation shall be effective ten (10) days after the notice is sent to the cabinet. Cancellation by the surety shall not affect the surety's obligation for liability that accrued under the bond prior to the effective date of cancellation.*
 - (f) *Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one (1)*

continuous obligation. Regardless of the number of years the bond remains in effect, the number of premiums paid, the number of renewals of the license, or the number of claims made, the aggregate liability of the surety shall not exceed the penal amount of the bond.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall issue a certification as a radon laboratory to any person or entity that:*
- (a) *Submits a complete and accurate application for certification on a form prescribed by the cabinet through promulgation of an administrative regulation that includes the name of at least one (1) measurement contractor who is responsible for analytical activities;*
 - (b) *Pays the certification fee as established by the cabinet through promulgation of an administrative regulation within the following restrictions:*
 - 1. *An initial certification fee shall not exceed two hundred fifty dollars (\$250);*
 - 2. *An annual renewal fee shall not exceed two hundred fifty dollars (\$250);*
 - 3. *A duplicate certificate fee shall not exceed twenty dollars (\$20); and*
 - 4. *A late renewal fee shall not exceed one hundred dollars (\$100);*
 - (c) *Submits a quality control program plan that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation;*
 - (d) *Utilize only cabinet-approved measurement devices and analytical services, and submit a description of each type of measurement device and analytical service utilized; and*
 - (e) *Provide documentation of enrollment and good standing within a cabinet-approved independent laboratory accreditation program for each type of measurement device and analytical service utilized.*
- (2) *A radon laboratory shall:*
- (a) *Employ as a staff member at least one (1) measurement contractor who shall direct the analytical activities of the laboratory;*
 - (b) *Ensure all laboratory analysis activities are conducted in accordance with the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation for each type of measurement device and analytical service utilized; and*
 - (c) *Ensure all radon laboratory analyses are conducted in compliance with applicable state and federal regulations.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person certified and given a certification number by the cabinet as a measurement or mitigation contractor shall:*
- (a) *Prominently display his or her certification number on all advertising disseminated, whether directly or indirectly, to the general public, except when advertising pertains to novelty items such as small mass-produced items of minimal value;*
 - (b) *Prominently display his or her certification number on all vehicles utilized in advertising, using letters and numbers at least three (3) inches in height. The certification number shall be legible and visible at all times the vehicle is being operated; and*
 - (c) *When operating under the name of a business entity, satisfy the requirements of subsections (a) and (b) of this section by displaying the certification number of the measurement or mitigation contractor, as applicable, employed by the business entity.*
- (2) *A person certified as both a measurement and mitigation contractor who conducts mitigation on a residential or commercial building shall not conduct measurement on that same building to determine the need for mitigation, or the successful completion of mitigation activities, unless the measurement shall be used for diagnostic purposes only. At a minimum, the results of any measurement conducted to determine the need for mitigation, or the successful completion of mitigation activities, shall be sent directly to the person providing compensation for the mitigation activities by the independent measurement contractor conducting the measurement.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

A business entity may engage in the business of radon measurement, mitigation, or laboratory analysis if the owner or an employee associated with the business entity is certified as a measurement or mitigation contractor, or radon laboratory as applicable. A measurement or mitigation contractor directly in charge of measurement or mitigation activities within the business entity shall notify the cabinet in writing immediately upon termination of a relationship with the business entity.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *A person seeking annual renewal of certification shall pay the renewal fee not to exceed two hundred fifty dollars (\$250) as promulgated by the cabinet in an administrative regulation and shall submit an application for renewal on a form prescribed by the cabinet. An application for renewal is deemed filed on the date that it is received by the cabinet.*
- (2) *Certificates not renewed within thirty (30) days after the renewal date shall pay a late renewal fee not to exceed one hundred dollars (\$100) as promulgated by the cabinet in administrative regulation.*
- (3) *Certificates not renewed within ninety (90) days of the renewal date shall lapse and may only be reinstated upon payment of a late renewal fee and initial certificate fee as promulgated by the cabinet in an administrative regulation and providing proof of insurance and the license and permit bond as required under Section 7 of this Act.*
- (4) *A certified person shall report any change of information submitted in applying for certification in writing to the cabinet within ten (10) days of such change taking place. The cabinet shall not be responsible for a certified person not receiving notices, communications, and other correspondence caused by failure of the certified person to report changes.*
- (5) *The cabinet shall promulgate administrative regulations for establishing an inactive certification status.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

A person seeking certification may obtain state certification by reciprocity if:

- (1) *The applicant holds certification or licensure in another jurisdiction that grants the same privileges to persons certified by the Commonwealth of Kentucky as the Commonwealth of Kentucky grants to persons certified by the other jurisdiction;*
- (2) *The certification or licensure requirements of the other jurisdiction are substantially similar to the requirements of Sections 1 to 18 of this Act; and*
- (3) *The person seeking certification states that he or she has studied, is familiar with, and shall abide by Sections 1 to 18 of this Act and the administrative regulations promulgated thereunder by the cabinet.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *Subject to an administrative hearing conducted in accordance with KRS Chapter 13B, the cabinet may revoke, suspend, or restrict the certificate of a certificate holder, refuse to issue or renew certification, reprimand, censure, place on probation, or impose a fine not to exceed five hundred dollars (\$500) on a person who:*
 - (a) *Has been convicted of a felony under the laws of the Commonwealth of any crime that involves theft or dishonesty, or is a sex crime as defined by KRS 17.500;*
 - (b) *Has had disciplinary action taken against a professional license, certification, registration, or permit held by the person seeking certification;*
 - (c) *Engaged in fraud or deceit in obtaining certification;*
 - (d) *Attempts to transfer the authority granted by the certificate to another person;*
 - (e) *Disregards or violates the building codes, electrical codes, or related laws of this Commonwealth or ordinances of any city, county, urban-county government, consolidated local government, charter county government, or unified local government;*
 - (f) *Aids or abets any person attempting to evade the provisions of Sections 1 to 18 of this Act or the administrative regulations promulgated thereunder by the cabinet;*
 - (g) *Uses unfair or deceptive trade practices; or*

(h) Knowingly violates any of the provisions of Sections 1 to 18 of this Act or any administrative regulation promulgated thereunder by the cabinet pertaining to radon measurement, mitigation, or laboratory analysis.

- (2) If an application for certification or renewal of certification is denied, the person seeking certification shall not conduct radon measurement, mitigation, or laboratory analysis within the Commonwealth of Kentucky.*
- (3) Notwithstanding the existence or pursuit of any other civil or criminal remedy, the cabinet may institute proceedings in the Circuit Court of the county where the person resides for an order enjoining the person from engaging or attempting to engage in activities that violate any provisions of Sections 1 to 18 of this Act or any administrative regulation promulgated thereunder by the cabinet pertaining to radon measurement, mitigation, or laboratory analysis.*
- (4) Any final order of the cabinet may be appealed to the Circuit Court of the county in which the person resides after a written decision is rendered in accordance with KRS Chapter 13B.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations concerning the continuing education required for renewal of certified persons and shall:

- (1) Establish procedures for approving individual courses submitted by a person or entity providing continuing education;*
- (2) Prescribe the content, duration, and organization of the continuing education courses that contribute to the competence of certified persons; and*
- (3) Include eight (8) hours of continuing education for measurement contractors and eight (8) hours of continuing education for mitigation contractors per year.*

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) The cabinet may examine records of mitigation contractors, measurement contractors, and radon laboratories, and conduct inspections of mitigation system installations in order to ensure radon mitigation systems are installed in compliance with mitigation standard operating procedures established by the cabinet through promulgation of an administrative regulation.*
- (2) The cabinet may examine records of measurement contractors, mitigation contractors, and radon laboratories to ensure radon measurements are conducted in compliance with measurement standard operating procedures established by the cabinet through promulgation of an administrative regulation.*
- (3) The cabinet may test any equipment used for measurement or mitigation, photograph or sketch any portion of a site, building, or equipment involved in measurement or mitigation, or copy any documents or records pertaining to measurement or mitigation.*
- (4) No person shall use or continue to use, or permit the use or continued use of, any radon mitigation system if an agent or inspector of the cabinet finds that the radon mitigation system was not constructed, installed, or altered in accordance with the mitigation standard operating procedures established by the cabinet through promulgation of an administrative regulation.*
- (5) For purposes of enforcing the provisions of Sections 1 to 18 of this Act or any administrative regulation promulgated by the cabinet pertaining to radon measurement, mitigation, or laboratory analysis, an agent or inspector of the cabinet shall have the power to enter upon premises at all reasonable times to make an inspection, question all persons, and require the production of radon mitigation system plans, sketches, diagnostic information and other evidence.*
- (6) Agents and inspectors of the cabinet shall be empowered to issue a stop order to any owner, agent, or occupant of real property requiring that the radon mitigation system thereon cease operation if that system has been found to be in violation of Sections 1 to 18 of this Act or any administrative regulation promulgated thereunder by the cabinet pertaining to radon measurement, mitigation, or laboratory analysis.*
- (7) A person shall not interfere with an inspection conducted by an agent or inspector of the cabinet.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *Any certified person shall report to the cabinet the discovery of any apparent noncompliance with any provision of Sections 1 to 18 of this Act or any administrative regulation promulgated thereunder by the cabinet pertaining to radon measurement, mitigation, or laboratory analysis.*
- (2) *Records required by this chapter or administrative regulations promulgated under Sections 1 to 18 of this Act, including but not limited to records of radon measurement, mitigation, quality control program plans, calibration certifications, laboratory analysis activities, worker health and safety plans, and equipment repairs shall be retained by certificate holders, as applicable, for a minimum period of five (5) years or the length of time of any warranty or guarantee, whichever is greater.*
- (3) *Any measurement or mitigation contractor applying for certification or renewal of certification shall specify, for approval by the cabinet, the location where records required under this section shall be maintained for inspection by the cabinet. This location shall be within the Commonwealth of Kentucky or within fifty (50) miles of the border of the Commonwealth of Kentucky and at the location where the certificate holder who supervises the quality control program plan is located.*

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *There is created the radon mitigation and control fund as a separate trust and agency fund in the State Treasury, to be administered by the cabinet. All fees, fines, and other moneys received by the cabinet pursuant to Sections 1 to 18 of this Act shall be deposited in the fund and shall be used for the implementation of Sections 1 to 18 of this Act, and are hereby appropriated for those purposes.*
- (2) *Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (3) *Any interest earnings of the fund shall become part of the fund and shall not lapse.*

➔Section 18. KRS 211.855 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall be the regulatory agency for the control of radon in the Commonwealth of Kentucky.
- (2) The ~~cabinet~~~~[Cabinet for Health and Family Services]~~ shall develop and conduct programs for evaluation and control of activities related to radon including laboratory analyses, mitigation, and measurements.
- (3) *The cabinet shall:*
 - (a) *Promulgate administrative regulations in accordance with KRS Chapter 13A to administer, coordinate, and enforce the provisions of Sections 1 to 18 of this Act;*
 - (b) *Maintain a list of all certified persons;*
 - (c) *Issue certificates and certificate renewals to qualified persons;*
 - (d) *Promulgate administrative regulations establishing requirements for:*
 1. *A quality control program plan for certified persons, including what each certified person administering a plan shall submit and maintain; and*
 2. *Mitigation and measurement standard operating procedures;*
 - (e) *Promote the control of radon in the Commonwealth;*
 - (f) *Design and administer, or participate in the design and administration of educational and research programs to ensure citizens of the Commonwealth are informed about the health risks associated with radon;*
 - (g) *Appoint personnel to perform duties and fix their compensation;*
 - (h) *Issue subpoenas, administer oaths, examine witnesses, investigate allegations of wrongdoing, and conduct administrative hearings in accordance with KRS Chapter 13B to enforce the provisions of Sections 1 to 18 of this Act; and*
 - (i) *Collect or receive all fees, fines, and other moneys owed pursuant to Sections 1 to 18 of this Act, and deposit all those moneys into the radon mitigation and control fund established by Section 17 of this Act.*

➔Section 19. KRS 227A.060 is amended to read as follows:

- (1) The department shall issue a license as an "electrical contractor" to an applicant who meets the following requirements:
- (a) Has paid to the department the application fee not to exceed two hundred dollars (\$200) and the appropriate examination fee, which shall not exceed the actual cost of examination;
 - (b) Has achieved a passing score, as set by the department, on all portions of the examination required by the department. The department shall promulgate administrative regulations to specify who shall take the examination if the applicant is a business entity; and
 - (c) Has submitted proof that he or she has complied with workers' compensation and unemployment insurance laws and administrative regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars (\$500,000).
- (2) The department shall issue a license as a "master electrician" to an applicant who meets the following requirements:
- (a) Has paid to the department the application fee not to exceed one hundred dollars (\$100) and the appropriate examination fee not to exceed the actual cost of the examination;
 - (b) Has completed:
 - 1. a. Six (6) years of verifiable experience in the electrical trade *since his or her sixteenth birthday*; and
 - b. A training course in electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; or
 - 2. a. Five (5) years of verifiable experience in the electrical trade *since his or her sixteenth birthday*; and
 - b. An associate's degree or diploma program in electrical technology at a college within the Kentucky Community and Technical College System after 1998; and
 - (c) Has achieved a passing score, as set by the department, on all portions of the examination required by the department.
- (3) The department shall issue a license as an "electrician" to an applicant who meets the following requirements:
- (a) Has paid to the department the application fee not to exceed fifty dollars (\$50) and the appropriate examination fee not to exceed the actual cost of the examination;
 - (b) Has completed:
 - 1. a. Four (4) years of verifiable experience in the electrical trade *since his or her sixteenth birthday*; and
 - b. A training course in electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; or
 - 2. a. Three (3) years of verifiable experience in the electrical trade *since his or her sixteenth birthday*; and
 - b. An associate's degree or diploma program in electrical technology at a college within the Kentucky Community and Technical College System after 1998; and
 - (c) Has achieved a passing score, as set by the department, on all portions of the examination required by the department.

➔Section 20. KRS 339.230 is amended to read as follows:

A minor who has passed his or her fourteenth birthday but is under eighteen (18) years of age may be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation, except:

- (1) If he or she is under sixteen (16) years of age, he or she may not be employed during regular school hours, unless:
- (a) The school authorities have made arrangements for him or her to attend school at other than the regular hours, in which event he or she may be employed subject to regulations of the commissioner of

workplace standards during such of the regular school hours as he or she is not required to be in attendance under the arrangement; or

- (b) He or she has graduated from high school.
- (2) A minor who has passed his or her fourteenth birthday but is under eighteen (18) years of age, may not be employed, permitted, or suffered to work:
- (a) In any place of employment or at any occupation, that the commissioner of workplace standards shall determine to be hazardous or injurious to the life, health, safety, or welfare of such minor *unless*:
 1. *The minor is at least sixteen (16) years of age;*
 2. *The minor is employed by his or her parent or a person standing in place of a parent and works under adult supervision; and*
 3. *The minor is engaged in non hazardous aspects of the electrical trades including but not limited to activities such as pulling wire, setting boxes, or bending conduit;*
 - (b) More than the number of days per week, nor more than the number of hours per day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety, or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments, but in no event may he or she make them less restrictive;
 - (c) During the hours of the day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety, or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he or she make them less restrictive; and
 - (d) In, about, or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption, or dispensed unless permitted by the rules and regulations of the Alcoholic Beverage Control Board (except that he or she may be employed in places where the sale of alcoholic beverages by the package is merely incidental to the main business actually conducted); or in a pool or billiard room.
- (3) The commissioner of workplace standards shall promulgate regulations to properly protect the life, health, safety, or welfare of minors. He or she may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment, and other pertinent factors. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he or she make them less restrictive, provided, however, these regulations shall have no effect on the definition of "gainful occupation" under KRS 339.210. To advise the commissioner with respect to the regulations, the Governor shall appoint a committee of four (4) persons which shall consist of a representative from the Cabinet for Health and Family Services, the Department of Education, the Kentucky Commission on Human Rights and the Personnel Cabinet. The regulations promulgated in accordance with this section shall be reviewed by such committee whenever deemed necessary by the commissioner of workplace standards.

➔Section 21. The following KRS sections are repealed:

- 211.856 Certification of persons engaged in radon analysis, mitigation, or testing -- Fees.
- 211.857 Injunctive relief against violators.
- 211.858 Penalty for violations of KRS 211.855 to 211.858.

Signed by Governor March 17, 2011.