

CHAPTER 68**(SB 66)**

AN ACT relating to public protection.

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

➔Section 1. KRS 95.440 is amended to read as follows:

- (1) The legislative body in cities of the second and third classes and urban-county governments shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications for office, including their knowledge of the English language and the law and rules governing the duties of the position applied for.
- (2) Each member of the police or fire department in cities of the second and third classes and urban-county governments shall be able to read, write and understand the English language, and have such other qualifications as may be prescribed. No person shall be appointed a member of the police or fire department unless he is a person of sobriety and integrity and is and has been an orderly, law-abiding citizen. ~~[- In a city of the second class or urban-county government no person shall be appointed a member of either of such departments if he is over fifty (50) years of age. -]~~
- (3) Members of the police and fire departments in cities of the second and third classes or urban-county governments qualified under this section shall hold their positions during good behavior, except that the legislative body may decrease the number of policemen or firefighters as it may deem proper.
- (4) If the legislative body of a city of the second or third class or urban-county government decreases the number of policemen or firefighters, the youngest members in point of service shall be the first to be released and returned to the eligible list of the department, there to advance according to the rules of the department.
- (5) The legislative body in an urban-county government may by ordinance provide that any person who has successfully completed his probationary period and subsequently ceased working for the police or fire department for reasons other than dismissal may be restored to the position, rank and pay he formerly held or to an equivalent or lower position, rank or pay than that which he formerly held if he so requests in writing to the appointing authority. Such person shall be eligible for reinstatement for a period of one (1) year following his separation from the police or fire department and shall be reinstated only with the approval of the appointing authority.

➔Section 2. KRS 211.9109 is amended 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 KRS 211.9113.

- (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 3. KRS 211.9111 is amended 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 ~~off a license and permit bond and~~ a liability insurance policy that satisfies the requirements of KRS 211.9113.
- (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 4. KRS 211.9113 is amended to read as follows:

~~{(1)}~~ Each mitigation or measurement contractor shall maintain an insurance policy that:

- ~~{(1)}~~~~{(a)}~~ Is issued by an insurance company or other legal entity permitted to transact insurance business in the Commonwealth of Kentucky;
- ~~{(2)}~~~~{(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;

- ~~(3)(e)~~ Lists the cabinet as a certificate holder of any insurance policy issued under ~~this~~ subsection *(1) of this section*; and
- ~~(4)(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 KRS 211.9101 to 211.9135 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 5. KRS 211.9117 is amended 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 paragraphs (a) and (b) of this subsection 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 6. KRS 211.9121 is amended 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 KRS 211.9113.

- (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.

Signed by Governor March 21, 2013.