

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. A NEW SECTION OF KRS 199.892 TO 199.8996 IS CREATED
5 TO READ AS FOLLOWS:

6 *(1) (a) Effective one (1) year after the effective date of this Act, licensed child-care*
7 *centers shall be tested for radon at least once every five (5) years by a*
8 *professional who is registered under and acting in compliance with KRS*
9 *211.9109.*

10 *(b) The cabinet shall encourage the use of radon measurement devices by*
11 *registered professionals which utilize new active or passive measurement*
12 *technologies that may become available, provided the devices meet the*
13 *minimum proficiency program standards set forth in KRS 211.9101 and*
14 *211.9109.*

15 *(2) Effective one (1) year after the effective date of this Act, as part of an initial*
16 *application or application for renewal as established by KRS 199.896, the cabinet*
17 *shall require proof that the facility has been tested for radon within the last five*
18 *(5) years, pursuant to the requirements of KRS 211.9109.*

19 *(3) (a) The report of the most current radon measurement shall be posted in the*
20 *child-care center and provided to parents or guardians of children attending*
21 *the child-care center in written format.*

22 *(b) The posting shall be:*

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

26 *(c) The cabinet shall promulgate an administrative regulation to specify*
27 *signage that shall accompany the measurement posting. At a minimum, the*

1 *signage shall include the following information:*

2 *1. An explanation of the health risk associated with radon;*

3 *2. The levels of radon exposure at which corrective action is*
 4 *recommended; and*

5 *3. Contact information for the state's radon program.*

6 *(d) The report to parents or guardians required by paragraph (a) of this*
 7 *subsection shall also contain the information specified in paragraph (c) of*
 8 *this subsection.*

9 ➔Section 2. KRS 211.9105 is amended to read as follows:

10 The committee shall:

11 (1) Advise the cabinet with the review, development, and maintenance of standard
 12 operating procedures for radon measurement, radon mitigation, laboratory analysis,
 13 and quality control;

14 (2) Advise the cabinet with preparing an annual budget for the use of moneys received
 15 by the cabinet from the collection of fees and fines, receipt of *federal, state, and*
 16 *local* grants, and all other radon-related activities, *including financial assistance to*
 17 *child-care centers for radon testing and mitigation. Priority may be given for the*
 18 *distribution of these funds to need-based applications for areas of the state that*
 19 *are identified as child-care deserts by the cabinet and for child-care centers which*
 20 *have a high proportion of Child Care Assistance Program participants;*

21 (3) Review and comment on relevant administrative regulations that are promulgated
 22 pursuant to KRS 211.9101 to 211.9135 and make recommendations to and
 23 otherwise advise the cabinet on these matters;

24 (4) Record minutes of committee meetings and proceedings which shall be documented
 25 and maintained for the committee by the cabinet in a public forum;

26 (5) Make recommendations to the cabinet provided that the final determination rests
 27 with the cabinet;

- 1 (6) Hold the first meeting of the committee no later than October 1, 2011, to be
2 convened by the commissioner; and
- 3 (7) Perform any other duties and responsibilities relating to the topic of radon that may
4 be assigned by the cabinet.

5 ➔Section 3. KRS 211.9113 is amended to read as follows:

6 Each mitigation or measurement contractor or radon laboratory shall maintain an
7 insurance policy that:

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

21 ➔Section 4. KRS 211.9125 is amended to read as follows:

- 22 (1) ~~{Subject to an administrative hearing conducted in accordance with KRS Chapter~~
23 ~~13B, }~~The cabinet may revoke, suspend, or restrict the registration of a registrant,
24 refuse to issue or renew registration, reprimand, censure, place on probation, or
25 impose a fine not to exceed five hundred dollars (\$500) per occurrence on a
26 certified person or business entity who:
- 27 (a) Has been convicted of a felony under the laws of the Commonwealth of any

- 1 crime that involves theft or dishonesty, or is a sex crime as defined by KRS
2 17.500;
- 3 (b) Has had disciplinary action taken against a professional license, certification,
4 registration, or permit held by the person or business entity seeking
5 registration;
- 6 (c) Engaged in fraud or deceit in obtaining certification or registration;
- 7 (d) Attempts to transfer the authority granted by the registration to another person
8 or business entity;
- 9 (e) Disregards or violates the building codes, electrical codes, or related laws of
10 this Commonwealth or ordinances of any city, county, urban-county
11 government, consolidated local government, charter county government, or
12 unified local government;
- 13 (f) Aids or abets any person attempting to evade the provisions of KRS 211.9101
14 to 211.9135 or the administrative regulations promulgated thereunder by the
15 cabinet;
- 16 (g) Uses unfair or deceptive trade practices; or
- 17 (h) Knowingly violates any of the provisions of KRS 211.9101 to 211.9135 or
18 any administrative regulation promulgated thereunder by the cabinet.
- 19 (2) If an application for registration or renewal of registration is denied, the person or
20 business entity seeking registration shall not conduct radon measurement,
21 mitigation, or laboratory analysis within the Commonwealth of Kentucky.
- 22 (3) Notwithstanding the existence or pursuit of any other civil or criminal remedy, the
23 cabinet may institute proceedings in the Circuit Court of the county where the
24 person resides or the business entity is located for an order enjoining the person or
25 business entity from engaging or attempting to engage in activities that violate any
26 provisions of KRS 211.9101 to 211.9135 or any administrative regulation
27 promulgated thereunder by the cabinet.

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

5 ➔Section 5. KRS 211.9131 is amended to read as follows:

6 (1) Any certified person or business entity shall report to the cabinet the discovery of
7 any apparent noncompliance with any provision of KRS 211.9101 to 211.9135 or
8 any administrative regulation promulgated thereunder by the cabinet pertaining to
9 radon measurement, mitigation, or laboratory analysis.

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

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

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

22 (3) Any measurement or mitigation contractor **or radon laboratory** applying for
23 registration or renewal of registration shall specify, for approval by the cabinet, the
24 location where records required under this section shall be maintained for
25 inspection by the cabinet. This location shall be within the Commonwealth of
26 Kentucky.

27 ➔Section 6. KRS 211.9133 is amended to read as follows:

- 1 (1) There is created the radon mitigation and control fund as a separate trust and agency
2 fund in the State Treasury, to be administered by the cabinet. All fees, fines, grants,
3 state and federal moneys, and other moneys received by the cabinet pursuant to
4 KRS 211.9101 to 211.9135 shall be deposited in the fund and shall be used for the
5 implementation of KRS 211.9101 to 211.9135, and are hereby appropriated for
6 those purposes.
- 7 (2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the
8 fiscal year shall not lapse but shall be carried forward to the next fiscal year.
- 9 (3) Any interest earnings of the fund shall become part of the fund and shall not lapse.