

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) 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 professional*  
8 *who is registered under and acting in compliance with KRS 211.9109.*

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

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

16 *(b) The posting shall be:*

- 17 *1. In a manner that is easily readable;*  
18 *2. In letters and numbers at least three (3) inches high; and*  
19 *3. In a location accessible to the public.*

20 *(c) The cabinet shall promulgate an administrative regulation to specify*  
21 *signage that shall accompany the measurement posting. At a minimum, the*  
22 *signage shall include the following information:*

- 23 *1. An explanation of the health risk associated with radon;*  
24 *2. The levels of radon exposure at which corrective action is*  
25 *recommended; and*  
26 *3. Contact information for the state's radon program.*

27 *(d) The report to parents or guardians required by paragraph (a) of this*

1                   subsection shall also contain the information specified in paragraph (c) of  
2                   this subsection.

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

4                   The committee shall:

- 5                   (1) Advise the cabinet with the review, development, and maintenance of standard  
6                   operating procedures for radon measurement, radon mitigation, laboratory analysis,  
7                   and quality control;
- 8                   (2) Advise the cabinet on accepting grants and funds from federal, state, and local  
9                   governments and all other sources for the purpose of providing financial  
10                   assistance to child-care centers and schools for radon testing and mitigation.
- 11                   (3) Advise the cabinet on the development of guidelines for disbursing the funds  
12                   raised pursuant to subsection (2) of this section to child-care centers and schools  
13                   for the purpose of radon testing and mitigation. Priority may be given for the  
14                   distribution of these funds to need-based applications for areas of the state that  
15                   are identified as child-care deserts by the cabinet.
- 16                   (4) Advise the cabinet with preparing an annual budget for the use of moneys received  
17                   by the cabinet from the collection of fees and fines, receipt of grants, and all other  
18                   radon-related activities;
- 19                   (5)~~(3)~~ Review and comment on relevant administrative regulations that are  
20                   promulgated pursuant to KRS 211.9101 to 211.9135 and make recommendations to  
21                   and otherwise advise the cabinet on these matters;
- 22                   (6)~~(4)~~ Record minutes of committee meetings and proceedings which shall be  
23                   documented and maintained for the committee by the cabinet in a public forum;
- 24                   (7)~~(5)~~ Make recommendations to the cabinet provided that the final determination  
25                   rests with the cabinet;
- 26                   (8)~~(6)~~ Hold the first meeting of the committee no later than October 1, 2011, to be  
27                   convened by the commissioner; and

1 ~~(9)~~~~(7)~~ Perform any other duties and responsibilities relating to the topic of radon that  
2 may be assigned by the cabinet.

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

4 Each mitigation or measurement contractor or radon laboratory shall maintain an  
5 insurance policy that:

6 (1) Is issued by an insurance company or other legal entity permitted to transact  
7 insurance business in the Commonwealth of Kentucky;

8 (2) Provides for general liability coverage for measurement contractors in an amount of  
9 at least two hundred fifty thousand dollars (\$250,000) that is maintained in effect at  
10 all times during the registration period;

11 (3) Provides for general liability coverage for mitigation contractors and radon  
12 laboratories in an amount of at least five hundred thousand dollars (\$500,000) that  
13 is maintained in effect at all times during the registration period;

14 (4) Lists the cabinet as a certificate holder of any insurance policy issued under  
15 subsection (1) of this section; and

16 (5) States that cancellation or nonrenewal of the underlying liability insurance policy is  
17 not effective until the cabinet receives at least ten (10) days' written notice of the  
18 cancellation or nonrenewal.

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

20 (1) ~~{Subject to an administrative hearing conducted in accordance with KRS Chapter~~  
21 ~~13B, }~~The cabinet may revoke, suspend, or restrict the registration of a registrant,  
22 refuse to issue or renew registration, reprimand, censure, place on probation, or  
23 impose a fine not to exceed five hundred dollars (\$500) per occurrence on a  
24 certified person or business entity who:

25 (a) Has been convicted of a felony under the laws of the Commonwealth of any  
26 crime that involves theft or dishonesty, or is a sex crime as defined by KRS  
27 17.500;

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

1 ~~business entity is located after a written decision is rendered]~~ in accordance with  
2 KRS Chapter 13B.

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

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

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

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

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

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

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

26 (1) There is created the radon mitigation and control fund as a separate trust and agency  
27 fund in the State Treasury, to be administered by the cabinet. All fees, fines, grants,

1        state and federal moneys, and other moneys received by the cabinet pursuant to  
2        KRS 211.9101 to 211.9135 shall be deposited in the fund and shall be used for the  
3        implementation of KRS 211.9101 to 211.9135, and are hereby appropriated for  
4        those purposes.

5        (2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the  
6        fiscal year shall not lapse but shall be carried forward to the next fiscal year.

7        (3) Any interest earnings of the fund shall become part of the fund and shall not lapse.