

1 AN ACT relating to radon safety and making an appropriation therefor.

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

3 ➔Section 1. KRS 309.430 is repealed, reenacted as a new section of KRS Chapter
4 198B, and amended to read as follows:

5 As used in ***Sections 1 to 13 of this Act***~~[KRS 309.430 to 309.454]~~, unless the context
6 requires otherwise:

- 7 (1) "Alter" means to change or modify a building or building design, or to revise, rather
8 than repair, a mitigation system or mitigation system design;
- 9 (2) "Analytical analysis" means the act of analyzing the radon or radon progeny
10 concentrations with active measurement devices;
- 11 (3) "Board" means the Kentucky ***Radon Safety*** Board~~[of Radon Safety]~~;
- 12 (4) "Building" means any structure used or intended to be used for supporting or
13 sheltering any ***human occupancy continuously for not less than ten (10) hours per***
14 ***day***~~[use or occupancy]~~;
- 15 (5) "Certified" means meeting the certification requirements of a proficiency program
16 for radon measurement, radon mitigation, or radon laboratory analysis;
- 17 (6) "Commercial building" means any building other than a residential building,
18 including those buildings intended for public purposes;
- 19 (7) "Compensation" means something of value given or received in exchange for radon
20 measurement, radon mitigation, or laboratory analysis;
- 21 ***(8) "Complaint" means a sworn written allegation filed with the board under penalty***
22 ***of perjury by a customer of a registrant making a prima facie showing of a***
23 ***violation of applicable Kentucky law arising from activities of a registrant and***
24 ***consequent actual damages to the customer;***
- 25 ***(9)***~~(8)~~ "Contractor" means a person~~[or business entity]~~ that provides goods or
26 services to another person under the terms specified in a ***radon services*** contract or
27 verbal agreement, and who is not an agent or employee of that person;

1 ~~(10)~~⁽⁹⁾ "Direct supervision" means on-site~~[constant on-site]~~ supervision by a certified
2 person ***for the majority of time on-site***;

3 ~~(11)~~⁽¹⁰⁾ "General supervision" means on-site~~[intermittent on-site]~~ supervision
4 ***intermittently and for less than a majority of time on-site*** by a certified person who
5 accepts responsibility for ensuring compliance by his or her employees or
6 subcontractors with all applicable requirements under ***Sections 1 to 13 of this***
7 ***Act***~~[KRS 309.430 to 309.454]~~;

8 ~~(12)~~⁽¹¹⁾ "Government agency" means the Commonwealth of Kentucky, a state agency,
9 a political subdivision, or any entity of local government;

10 ~~(13)~~⁽¹²⁾ "Laboratory analysis" means the act of analyzing the radon or radon progeny
11 concentrations with passive measurement devices, or the act of calibrating radon or
12 radon progeny measurement devices, or the act of exposing radon or radon progeny
13 devices to controlled concentrations of radon or radon progeny;

14 ~~(14)~~⁽¹³⁾ "Measurement" means the act of testing the air, water, or soil using an active
15 or passive measurement device for the presence of radon or radon progeny in the
16 indoor environment of a building;

17 ~~(15)~~⁽¹⁴⁾ "Measurement device" means any active or passive device ***accepted or***
18 approved by a ***recognized radon certification***~~[proficiency]~~ program ***or such a***
19 ***program's organizational sponsor that is***~~[and]~~ used for the measurement of radon
20 or radon progeny in air, water, or soil in the indoor environment of a building;

21 ~~(16)~~⁽¹⁵⁾ "Measurement contractor" means a person certified by a ***recognized radon***
22 ***certification***~~[proficiency]~~ program who provides radon measurement for
23 compensation and who meets the requirements of ***Section 5 of this Act***~~[KRS~~
24 ~~309.438]~~;

25 ~~(17)~~⁽¹⁶⁾ "Mitigation" means the act of installing, repairing, or altering an active or
26 passive system, for the purpose in whole or in part of reducing the concentration of
27 radon or radon progeny in the indoor environment of a building;

- 1 ~~(18)~~⁽¹⁷⁾ "Mitigation contractor" means a person certified by a **recognized radon**
2 **certification**~~proficiency~~ program who provides radon mitigation for compensation
3 and who meets the requirements of **Section 6 of this Act**~~[KRS 309.440]~~;
- 4 ~~(19)~~⁽¹⁸⁾ "Mitigation system" means any active or passive system designed to reduce
5 radon concentrations in the indoor environment of a building;
- 6 ~~(20)~~⁽¹⁹⁾ "Person" has the same meaning as in KRS 446.010;
- 7 ~~[(20) "Proficiency program" means either the National Radon Proficiency Program or the~~
8 ~~National Radon Safety Board;]~~
- 9 ~~(21)~~⁽²¹⁾ "Radon" means **the element radon**, a naturally occurring radioactive element
10 that exists as a colorless, odorless, and tasteless inert gas;
- 11 ~~(22)~~⁽²²⁾ "Radon decay products" means the four (4) short-lived radioactive elements
12 polonium (Po-218), lead (Pb-214), bismuth (Bi-214), and polonium (Po-214) which
13 exist as solids and immediately follow radon (Rn-222) in the decay chain;
- 14 ~~(23)~~⁽²³⁾ "Radon laboratory" means a business entity certified by a **recognized radon**
15 **certification**~~proficiency~~ program that provides laboratory analysis for
16 compensation and meets the requirements of **Section 8 of this Act**~~[KRS 309.444]~~;
- 17 ~~(24)~~⁽²⁴⁾ "Radon progeny" means any combination of the radioactive decay products of
18 radon;
- 19 **(25) "Recognized radon certification program" means the National Radon**
20 **Proficiency Program or the National Radon Safety Board, their successors, and**
21 **any similar program approved by the board;**
- 22 ~~(26)~~⁽²⁵⁾ "Registrant" means a person or business entity registered with the board as a
23 measurement contractor, mitigation contractor, or radon laboratory;
- 24 ~~(27)~~⁽²⁶⁾ "Research" means ~~board approved~~ scientific investigation that includes
25 radon measurement, radon mitigation, or laboratory analysis;
- 26 ~~(28)~~⁽²⁷⁾ "Residential **dwelling**~~building~~" means **a building consisting of**~~[detached]~~
27 one (1) to four (4) **units, each designed for occupancy by a single family, whether**

1 the units are occupied or unoccupied~~[family dwellings not more than three (3)~~
 2 ~~stories in height where occupants are primarily permanent in nature];~~ ~~and]~~

3 ~~(29)~~~~(28)~~ "Standard operating procedure" means a written document established by an
 4 accredited American National Standards Institute development organization that
 5 describes in detail commonly accepted methods for the performance of certain tasks
 6 associated with radon measurement, mitigation, or laboratory analysis; and

7 (30) "Supplier" means any business or entity that produces or offers for sale any
 8 contractor supplies, product, or service that may be used to meet any requirement
 9 of an administrative regulation promulgated or enforced by the board.

10 ➔Section 2. KRS 309.432 is repealed, reenacted as a new section of KRS Chapter
 11 198B, and amended to read as follows:

12 (1) The Kentucky Radon Safety Board~~[of Radon Safety]~~ is hereby created and shall be
 13 attached to the Department of Housing, Buildings and Construction~~[Professional~~
 14 ~~Licensing]~~ in the Public Protection Cabinet for administrative purposes. Each
 15 member of the board shall be a citizen and resident of the Commonwealth of
 16 Kentucky. The board shall consist of thirteen (13)~~[seven (7)]~~ members appointed
 17 by the Governor as follows:

18 (a) Two (2)~~[Four (4)]~~ members shall be:~~[either]~~

19 1. A radon measurement specialist~~[contractor,]~~ certified by the National
 20 Radon Safety Board, who has performed certified radon measurement
 21 for at least three (3) years,~~[a radon mitigation contractor, or a person~~
 22 ~~associated with a radon laboratory conducting laboratory analysis]~~ and
 23 shall be appointed ~~[by the Governor]~~ from a list of three (3)~~[six (6)]~~
 24 names submitted to the Governor by the National Radon Safety
 25 Board~~[Kentucky Association of Radon Professionals];~~ and

26 2. A radon measurement specialist certified by the National Radon
 27 Proficiency Program, who has performed certified radon

1 measurement for at least (3) years, from a list of three (3) names
2 submitted to the Governor by the National Radon Proficiency
3 Program;

4 **(b) One (1) member shall be a principal associated with a radon laboratory,**
5 conducting laboratory analysis, certified by a nationally recognized radon
6 organization, including but not limited to the National Radon Safety Board
7 and the National Radon Proficiency Program, and shall be appointed from
8 a list of three (3) names submitted to the Governor by the National Radon
9 Safety Board or the National Radon Proficiency Program;

10 **(c) Two (2) members shall be:**

11 **1. A radon mitigation contractor certified by the National Radon Safety**
12 **Board, who has performed certified radon measurement for at least**
13 **three (3) years, and shall be appointed from a list of three (3) names**
14 **submitted to the Governor by the National Radon Safety Board; and**

15 **2. A radon mitigation contractor certified by the National Radon**
16 **Proficiency Program, who has performed certified radon**
17 **measurement for at least three (3) years, and shall be appointed from**
18 **a list of three (3) names submitted to the Governor by the National**
19 **Radon Proficiency Program;**

20 **(d) One (1) member shall be a faculty member from the radiology department**
21 **of either the University of Kentucky or the University of Louisville, and**
22 **shall be appointed from a list of three (3) names submitted to the Governor**
23 **by the University of Louisville;**

24 **(e)**~~(b)~~ One (1) ~~[nonvoting]~~ member shall be a representative of the home
25 building industry and shall be appointed ~~[by the Governor]~~ from a list of three
26 (3) names submitted to the Governor by the Home Builders Association of
27 Kentucky;

1 ~~(f)(e)~~ One (1) ~~[nonvoting]~~ member shall be a real estate salesperson or broker
2 licensed under KRS Chapter 324 and shall be appointed ~~[by the Governor~~
3 ~~]from a list of three (3) names submitted to the Governor by the Kentucky~~
4 Association of Realtors;~~[and]~~

5 ~~(g)(d)~~ One (1) member shall be a *Kentucky licensed home inspector who has*
6 *performed certified radon measurement for at least three (3) years under a*
7 *recognized radon certification program;*~~[representative of a public health~~
8 ~~organization and shall be appointed by the Governor from a list of three (3)~~
9 ~~names submitted to the Governor by the Kentucky Cancer Consortium.]~~

10 *(h) One (1) member shall be the commissioner of the Department of Housing,*
11 *Buildings and Construction, or the commissioner's designee;*

12 *(i) One (1) member shall be a representative of the Department for Public*
13 *Health;*

14 *(j) One (1) member shall be a representative of the American Cancer Society or*
15 *a similar organization; and*

16 *(k) One (1) member shall represent the public.*

17 (2) (a) To be eligible for ~~[initial]~~ appointment as a member of the board, *no person*
18 *shall have served in the preceding three (3) years as an officer or director of*
19 *any supplier nor received any compensation or anything of value in excess*
20 *of fifty dollars (\$50) from a supplier in the five (5) years preceding*
21 *appointment.*

22 *(b) No member of the board shall hold any office or role other than*
23 *membership in any supplier during board membership.*

24 *(c) All members shall annually submit a written disclosure, available to the*
25 *public, of actual and apparent conflicts of interest to the board prior to*
26 *voting on any action.*

27 *(d) No member shall vote on any matter arising from or related to a conflict*

- 1 under paragraph (c) of this subsection.~~[under subsection (1)(a) of this~~
 2 ~~section, a person shall have been actively engaged in the practice of radon~~
 3 ~~measurement, mitigation, or laboratory analysis for not less than three (3)~~
 4 ~~years immediately preceding the date of appointment to the board.]~~
- 5 ~~[(b) Upon expiration of the initial appointments, to be eligible for appointment as~~
 6 ~~a member of the board under subsection (1)(a) of this section, a person shall~~
 7 ~~have been actively engaged in the practice of radon measurement, mitigation,~~
 8 ~~or laboratory analysis for not less than three (3) years immediately preceding~~
 9 ~~the date of the appointment to the board and hold a valid certification as a~~
 10 ~~radon measurement contractor or radon mitigation contractor, or be associated~~
 11 ~~with a radon laboratory with a valid certification.]~~
- 12 (3) The Governor shall initially appoint five (5)~~[two (2)]~~ members for a term of three
 13 ~~(3)~~~~[four (4)]~~ years, five (5)~~[two (2)]~~ members for a term of two (2)~~[three (3)]~~ years,
 14 and three (3) members~~[one (1) member]~~ for a term of one (1) year~~[two (2) years]~~.
 15 All appointments shall expire on June 30 of the last year of the terms. Thereafter,
 16 members shall be appointed for terms of three (3)~~[four (4)]~~ years. Members
 17 may~~[shall]~~ serve until their successors are appointed for up to six (6) months,
 18 provided that no member shall serve more than six (6) years or two (2) terms,
 19 whichever is longer.
- 20 (4) ~~[Upon recommendation of the board, the]~~The Governor may remove any member
 21 of the board for cause, including, without limitation,~~[appointed by the Governor~~
 22 ~~for]~~ poor attendance, conflict of interest, neglect of duty, misfeasance~~[,]~~ or
 23 malfeasance in office, and actions that bring disrepute upon the board.
- 24 (5) A vacancy in office, as defined in KRS 446.010,~~[Vacancies]~~ in the membership of
 25 the board for any cause shall be filled by appointment by the Governor for the
 26 balance of the unexpired term.
- 27 (6) A majority of the voting board members shall constitute a quorum to do business.

1 The board shall meet at least once each calendar year or at other times deemed
 2 necessary by the chairperson or a quorum of the board upon being given a
 3 minimum of ten (10) days' notice at a location designated by the chairperson or a
 4 quorum of the board.

5 (7) The board shall elect a chairperson and a vice chairperson. The chairperson shall
 6 preside at all meetings at which the chairperson is present. The vice chairperson
 7 shall preside at all meetings in the absence of the chairperson.

8 (8) If the chairperson and vice chairperson are absent from a meeting of the board when
 9 a quorum exists, the members who are present may elect a presiding officer who
 10 shall serve as acting chairperson until the conclusion of the meeting or until the
 11 arrival of the chairperson or vice chairperson.

12 (9) All members, in the conduct of duties as board members~~[Members of the board]~~
 13 shall comply with KRS 11A.005, 11A.020, 11A.040, and 11A.045. Compliance or
 14 noncompliance shall be determined by the Executive Branch Ethics Commission
 15 or its designee on the written request of any board member, registrant, or
 16 applicant for registration.~~[be immune from suit for any discretionary act performed~~
 17 ~~by them in good faith].~~

18 (10) Each member of the board shall be reimbursed for costs for actual travel and for
 19 incidental, clerical, and all other actual and necessary expenses incurred in the
 20 discharge of official duties associated with the board, in an amount not to exceed
 21 two hundred dollars (\$200) per meeting~~[as prescribed by the board through the~~
 22 ~~promulgation of an administrative regulation].~~

23 ➔SECTION 3. KRS 309.434 IS REPEALED AND REENACTED AS A NEW
 24 SECTION OF KRS CHAPTER 198B TO READ AS FOLLOWS:

25 **The board shall:**

26 **(1) Create incentives for an increase in the number of residential dwellings and**
 27 **buildings in the Commonwealth tested for radon and mitigated for the board's**

- 1 primary purpose of making homes safer from radon-induced lung cancer;
- 2 (2) Provide for annual increases in public awareness and media presentations of the
- 3 hazards of radon in homes and the benefits of radon safety;
- 4 (3) Coordinate with state agencies and others to promote the control of radon in the
- 5 Commonwealth to produce safer indoor air quality;
- 6 (4) (a) Design and administer, or participate in the design and administration of,
- 7 educational and research programs to promote radon safety and safe indoor
- 8 air quality; and
- 9 (b) Provide accessible resources for the citizens of the Commonwealth to be
- 10 informed about the health risks of radon, the advantages of indoor radon
- 11 control, and the purpose of mitigation contractors;
- 12 (5) Issue a registration certificate to individuals or laboratories registered by the
- 13 board. Certification by a recognized radon certification program shall satisfy all
- 14 requirements for Kentucky registration and continuing education;
- 15 (6) (a) Maintain a public list of all individuals and businesses registered by the
- 16 board; and
- 17 (b) Provide search tools for the public to locate and contact registered persons
- 18 by phone or e-mail, by county, and by any other useful convenient location
- 19 categories;
- 20 (7) Implement procedures, in conjunction with the Department of Housing,
- 21 Buildings and Construction and the Department for Local Government, for
- 22 obtaining and maintaining an accurate count of the radon-tested, radon-
- 23 mitigated, and radon-resistant housing inventory in Kentucky, including
- 24 information on the age, physical condition, and size of this housing constructed
- 25 and demolished each year;
- 26 (8) Design programs to coordinate the elements of housing finance, production,
- 27 maintenance, and rehabilitation, for the purpose of ensuring the availability of

- 1 reduced indoor radon to provide a healthful environment for all citizens;
- 2 (9) Promote educational programs to assist home buyers and owners, builders,
3 sponsors, and others in the development and management of radon safety in
4 residential dwellings including, without limitation, public service
5 announcements, publications, and online messaging;
- 6 (10) Publish an annual report detailing progress in:
- 7 (a) Disseminating information about radon-induced cancer and means to make
8 indoor air quality healthier;
- 9 (b) Developing an adequate supply of registrants to meet testing and mitigation
10 needs;
- 11 (c) Coordinating programs that engage real estate, construction, and mortgage
12 professionals, sales agents, and other civic groups in outreach efforts to
13 protect Kentuckians from radon-induced lung cancer;
- 14 (d) Reducing radon housing availability;
- 15 (e) Reciprocal programs; and
- 16 (f) Setting measurable goals in the areas listed in this subsection for the next
17 year, three (3) years, and five (5) years, and comparing current progress
18 and efforts to prior year goals annually and year-over-year;
- 19 (11) Semiannually publish a case summary describing all disciplinary actions with a
20 synopsis of pertinent facts, applicable law and regulations, sanctions imposed,
21 and final orders or conclusions, including dismissals, which shall be distributed
22 to all registrants and aggregated annually into a handbook indexing all decisions
23 from the first decision to the most current for the guidance of registrants,
24 stakeholders, and the public;
- 25 (12) Promptly initiate reciprocity agreements with other jurisdictions regulating radon
26 testing, measurement and construction, or mitigation;
- 27 (13) Collect or receive all fees and other money owed pursuant to Sections 1 to 13 of

- 1 this Act, and deposit all money received into the radon control fund established
2 by Section 13 of this Act;
- 3 (14) Enter into agreements with any federal or state agency, political subdivision,
4 postsecondary education institution, nonprofit organization, or other person or
5 entity to assist with and administer grants received by the board, including but
6 not limited to, the Environmental Protection Agency State Indoor Radon Grant
7 (SIRG) Program;
- 8 (15) Publish an annual budget for the use of all moneys received by the board from
9 the collection of fees, receipt of grants, and all other board activities;
- 10 (16) Record and publish minutes of board and committee meetings and other
11 proceedings, which shall be documented and promptly posted for public
12 inspection;
- 13 (17) Based on publicly proposed drafts provided with notice to registrants and the
14 public, and the opportunity to be heard, promulgate administrative regulations in
15 accordance with KRS Chapter 13A to administer Sections 1 to 13 of this Act;
- 16 (18) (a) Investigate complaints, administer oaths, and examine witnesses; and
17 (b) Dismiss complaints lacking sufficient proof by a preponderance of the
18 evidence and conduct administrative hearings in accordance with KRS
19 Chapter 13B to enforce Sections 1 to 13 of this Act;
- 20 (19) By January 1, 2024, make group insurance coverage, including, without
21 limitation, workers' compensation and general liability, available for all
22 registrants;
- 23 (20) Maintain a roster or speaker's bureau of knowledgeable speakers, irrespective of
24 registration, available to the public and encourage their presentations to
25 workshops, conferences, and other forums. Speakers may charge a fee and
26 expenses for their work, one-half (1/2) of which shall be payable to the radon
27 control fund established by Section 13 of this Act, and shall provide convenient

1 means to donate to the radon control fund;

2 (21) Establish and maintain office space and personnel, as necessary, to administer,
 3 coordinate, and enforce Sections 1 to 13 of this Act; and

4 (22) Promptly make online registration, public information, and a board website
 5 available online in formats ready for both desktop and mobile phone use.

6 ➔Section 4. KRS 309.436 is repealed, reenacted as a new section of KRS Chapter
 7 198B, and amended to read as follows:

8 No person ~~for business entity~~ shall conduct radon measurement, mitigation, or
 9 laboratory analysis in this Commonwealth after January 1, ~~2013~~ 2024, without the
 10 appropriate registration~~certification~~ pursuant to Sections 1 to 13 of this Act~~KRS~~
 11 ~~309.430 to 309.454~~. No person ~~for business entity~~ shall advertise or claim to be a
 12 "registered~~certified~~ measurement contractor," "registered~~certified~~ mitigation
 13 contractor," or "registered~~certified~~ radon laboratory," unless registered~~certified~~
 14 pursuant to Sections 1 to 13 of this Act~~KRS 309.430 to 309.454~~.
 15 Registration~~Certification~~ requirements under Sections 1 to 13 of this Act~~KRS 309.430~~
 16 ~~to 309.454~~ shall apply to a radon measurement contractor, radon mitigation contractor,
 17 or radon laboratory, but shall not apply to:

- 18 (1) A person performing measurement or mitigation on a single-family residential
 19 dwelling owned or occupied by that person~~building that he or she owns and~~
 20 ~~occupies~~;
- 21 (2) A person performing measurement on a residential dwelling or commercial building
 22 owned or occupied by that person~~that he or she owns~~;
- 23 (3) A person performing measurement who assists, and is under the general supervision
 24 of, a measurement contractor;
- 25 (4) A person performing mitigation who assists, and is under the direct supervision of,
 26 a mitigation contractor;
- 27 (5) An agent of the federal, state, or local government agency acting within an official

1 capacity;

2 (6) A person performing measurement or mitigation as part of **research approved by a**
 3 **federal, state, or local government agency**~~[a scientific research project approved by~~
 4 ~~the cabinet]~~;

5 (7) A retail store or any other organization that sells or distributes radon measurement
 6 devices~~[and is not engaged in a relationship with the client for other services, such~~
 7 ~~as home inspection or real estate brokerage,]~~ and that does not conduct
 8 measurement, mitigation, or laboratory analysis;

9 (8) A person performing measurement or mitigation as part of radon training approved
 10 by a ~~[proficiency program]~~**recognized radon certification program**; or

11 (9) A building contractor **providing radon resistant construction or** installing vent
 12 pipes during the construction of a ~~[commercial]~~ building or **a residential**
 13 **dwelling**~~[home].~~

14 ➔Section 5. KRS 309.438 is repealed, reenacted as a new section of KRS Chapter
 15 198B, and amended to read as follows:

16 (1) The board shall issue a radon measurement contractor registration certificate to any
 17 person~~[certified for measurement]~~ who:

18 (a)~~[Completes a registration process prescribed by the board through~~
 19 ~~promulgation of an administrative regulation;~~

20 (b)] **Is certified for radon measurement by a recognized radon certification**
 21 **program**~~[Presents proof of compliance with a board approved proficiency~~
 22 ~~program]; and~~

23 (b)(c)] Furnishes evidence of a general liability insurance policy that satisfies
 24 the requirements of **Section 7 of this Act**~~[KRS 309.442].~~

25 (2) The board shall renew the radon measurement contractor registration certificate of
 26 any person who:

27 ~~[(a) Completes a registration renewal process and pays a fee prescribed by the~~

- 1 board through promulgation of an administrative regulation;]
- 2 ~~(a)~~~~(b)~~ **Is certified for radon measurement by a recognized radon certification**
- 3 **program**~~[Presents proof of compliance with a board approved proficiency~~
- 4 ~~program]; and~~
- 5 ~~(b)~~~~(c)~~ Furnishes evidence of a general liability insurance policy that satisfies
- 6 the requirements of **Section 7 of this Act.**~~[KRS 309.442;]~~
- 7 (3) A measurement contractor shall:
- 8 (a) Maintain **radon measurement** certification with a **recognized radon**
- 9 **certification**~~[board approved proficiency] program;~~
- 10 (b) Ensure **reasonable compliance with the applicable recognized radon**
- 11 **certification program's**~~[all measurements are conducted in accordance with~~
- 12 ~~the applicable] standard operating procedures **for measurement quality**~~
- 13 **assurance and control**;
- 14 ~~(c) Maintain a quality control program plan in accordance with the standard~~
- 15 ~~operating procedures for measurement quality assurance and control;]~~
- 16 ~~(c)~~~~(d)~~ **Provide effective procedures that ensure**~~[Ensure] all measurements are~~
- 17 ~~conducted under the general supervision of a measurement contractor;~~
- 18 ~~(d)~~~~(e)~~ Use or sell only measurement devices **accepted by the registrant's**
- 19 **elected recognized radon certification program**~~[approved by the proficiency~~
- 20 ~~program that certifies the person]; and~~
- 21 ~~(e)~~~~(f)~~ Ensure all laboratory analysis is procured through a radon laboratory.

22 **(4) Registration shall be valid for not less than five (5) years.**

23 ➔Section 6. KRS 309.440 is repealed, reenacted as a new section of KRS Chapter

24 198B, and amended to read as follows:

- 25 (1) The board shall issue a mitigation contractor registration certificate to any person
- 26 certified for mitigation who:
- 27 (a)~~[Completes a registration process prescribed by the board through~~

- 1 promulgation of an administrative regulation;
- 2 ~~(b)~~ **Is certified for radon mitigation by a recognized radon certification**
- 3 **program**~~[Presents proof of compliance with a board approved proficiency~~
- 4 ~~program]; and~~
- 5 ~~(b)~~~~(e)~~ Furnishes evidence of a general liability insurance policy that satisfies
- 6 the requirements of **Section 7 of this Act**~~[KRS 309.442].~~
- 7 (2) The board shall renew the mitigation contractor registration certificate of any
- 8 person who:
- 9 ~~(a)~~~~[Completes a registration renewal process and pays a fee prescribed by the~~
- 10 ~~board through promulgation of an administrative regulation;~~
- 11 ~~(b)~~ **Is certified for radon mitigation by a recognized radon certification**
- 12 **program**~~[Presents proof of compliance with a board approved proficiency~~
- 13 ~~program]; ~~and~~~~
- 14 ~~(b)~~~~(e)~~ Furnishes evidence of a general liability insurance policy that satisfies
- 15 the requirements of **Section 7 of this Act; and**~~[KRS 309.442.]~~
- 16 **(c) Pays a renewal fee not to exceed one hundred dollars (\$100).**
- 17 (3) A mitigation contractor shall:
- 18 (a) Maintain **radon mitigation** certification with a **recognized radon certification**
- 19 **program**~~[board approved proficiency program];~~
- 20 (b) Ensure **reasonable compliance with the applicable recognized radon**
- 21 **certification program's**~~[all mitigations are conducted in accordance with the~~
- 22 ~~applicable mitigation]~~ standard operating procedures **for mitigation quality**
- 23 **assurance and control**;
- 24 ~~(c)~~~~Maintain a quality control program plan in accordance with the applicable~~
- 25 ~~standard operating procedures for mitigation quality assurance and control;]~~
- 26 ~~(c)~~~~(d)~~ **Provide effective procedures that ensure**~~[Ensure]~~ all mitigation is
- 27 conducted under the direct supervision of a mitigation contractor;

1 ~~(d)~~~~(e)~~ Ensure all post-mitigation measurement is conducted by an
 2 independent~~[a]~~ measurement contractor; and

3 ~~(e)~~~~(f)~~ Ensure all radon mitigation systems repaired or altered on or after
 4 January 1, 2024~~[2013]~~, meet the registrant's elected recognized radon
 5 certification program's~~[applicable]~~ mitigation standard operating procedures.

6 **(4) Registration shall be valid for not less than five (5) years.**

7 ➔Section 7. KRS 309.442 is repealed, reenacted as a new section of KRS Chapter
 8 198B, and amended to read as follows:

9 Each mitigation or measurement contractor shall maintain an insurance policy that:

- 10 (1) Is issued by an insurance company or other legal entity permitted to transact
 11 insurance business in the Commonwealth of Kentucky;
- 12 (2) Provides for general liability coverage for measurement contractors in an amount of
 13 at least one hundred thousand dollars (\$100,000)~~[two hundred fifty thousand~~
 14 ~~dollars (\$250,000)]~~ that is maintained in effect at all times during the registration
 15 period;
- 16 (3) Provides for general liability coverage for mitigation contractors ~~[and radon~~
 17 ~~laboratories]~~ in an amount of at least five hundred thousand dollars (\$500,000) that
 18 is maintained in effect at all times during the registration period;
- 19 (4) Lists the board as a certificate holder of any insurance policy issued under
 20 subsection (1) of this section; and
- 21 (5) States that cancellation or nonrenewal of the underlying liability insurance policy is
 22 not effective until the board receives at least ten (10) days' written notice of the
 23 cancellation or nonrenewal.

24 ➔Section 8. KRS 309.444 is repealed, reenacted as a new section of KRS Chapter
 25 198B, and amended to read as follows:

- 26 (1) The board shall issue a radon laboratory registration certificate to any person or
 27 business ~~[entity certified for radon laboratory analysis]~~ that:

- 1 (a) ~~Completes a registration process prescribed by the board through~~
 2 ~~promulgation of an administrative regulation;~~
- 3 (b) Is certified for radon mitigation by a recognized radon certification
 4 program ~~Presents proof of compliance with a board approved proficiency~~
 5 ~~program]; or~~ ~~and~~
- 6 (b) ~~(c)~~ Is consistent with instructions and procedures of the manufacturer or
 7 provider of radon measurement devices accepted by a recognized radon
 8 certification program ~~Furnishes evidence of a general liability insurance~~
 9 ~~policy that satisfies the requirements of KRS 309.442].~~
- 10 (2) The board shall renew the radon laboratory registration certificate of any person or
 11 business entity that:
- 12 (a) ~~Completes a registration process and pays a fee prescribed by the board~~
 13 ~~through promulgation of an administrative regulation;~~
- 14 (b) Is certified as a radon laboratory by a recognized radon certification
 15 program ~~Presents proof of compliance with a board approved proficiency~~
 16 ~~program]; or~~ ~~and~~
- 17 (b) ~~(c)~~ Is consistent with instructions and procedures of the manufacturer or
 18 provider of radon measurement devices accepted by a recognized radon
 19 certification program ~~Furnishes evidence of a general liability insurance~~
 20 ~~policy that satisfies the requirements of KRS 309.442;]~~
- 21 (3) A radon laboratory shall:
- 22 (a) Maintain radon laboratory certification with a recognized radon
 23 certification ~~board approved proficiency~~ program or be consistent with
 24 instructions and procedures of the manufacturer or provider of radon
 25 measurement devices accepted by a recognized radon certification program;
 26 and
- 27 (b) Ensure all laboratory analysis is conducted in accordance with the applicable

laboratory analysis standard operating procedures of the elected recognized radon certification program or be consistent with instructions and procedures of the manufacturer or provider of radon measurement devices accepted by a recognized radon certification program for laboratory analysis quality assurance and control.~~[; and]~~

~~[(c) Maintain a quality control program plan in accordance with the applicable standard operating procedures for laboratory analysis quality assurance and control.]~~

(4) Registration shall be valid for not less than five (5) years.

➔Section 9. KRS 309.446 is repealed, reenacted as a new section of KRS Chapter 198B, and amended to read as follows:

A business entity may engage in radon measurement, mitigation, or laboratory analysis if the owner,~~[or an]~~ employee, or subcontractor associated with the business entity is a measurement contractor,~~[or]~~ mitigation contractor, or radon laboratory, as applicable.

➔Section 10. KRS 309.448 is repealed, reenacted as a new section of KRS Chapter 198B, and amended to read as follows:

(1) Subject to an administrative hearing conducted in accordance with KRS Chapter 13B, the board may deny, revoke, or suspend~~[, or restrict]~~ for up to one (1) year the registration of a registrant, ~~[refuse to issue]or[renew registration,]~~ reprimand, censure, or place on probation~~[, or impose a fine not to exceed one thousand dollars (\$1,000) per occurrence on]a [certified]person [or business entity]~~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, within the last ten (10) years;
- (b) Has had final, unappealable disciplinary action taken within the last five (5) years against a professional license~~[, certification, registration, or permit]~~ held by the person ~~[or business entity]~~seeking registration, provided that the

1 person has not retired from that profession or the license has not been
 2 restored, and the disciplinary action findings demonstrate incapacity to
 3 perform employment as a registrant as required by Sections 1 to 13 of this
 4 Act;

- 5 (c) Engaged in fraud or deceit in obtaining ~~{certification or}~~ registration;
- 6 (d) Attempts to transfer the authority granted by the registration to another person
 7 or business entity **without board approval**;
- 8 (e) **Willfully**~~{Disregards or}~~ violates the building codes, electrical codes, or
 9 related laws of this Commonwealth **after being provided with a board**
 10 **publication identifying and including the text of all such code provisions**
 11 **and related laws which are the subject matter of this subsection**~~{or~~
 12 ~~ordinances of any city, county, urban county government, consolidated local~~
 13 ~~government, charter county government, or unified local government}; **or**~~
 14 ~~{(f) Aids or abets any person attempting to evade the provisions of KRS 309.430~~
 15 ~~to 309.454 or the administrative regulations promulgated by the board;}~~
 16 ~~{(g) Uses unfair or deceptive trade practices; or}~~
 17 ~~{(h)}~~ Knowingly violates any of the provisions of **Sections 1 to 13 of this**
 18 **Act**~~{KRS 309.430 to 309.454}~~ or any administrative regulation promulgated
 19 by the board **after notice and an opportunity to cure**.

20 **(2) Any person whose registration is denied or revoked may reapply for registration**
 21 **after thirty (30) days, and that registration shall not unreasonably be denied.**

22 **(3)**~~{(2)}~~ If an application for registration or renewal of registration is denied, **after**
 23 **final adjudication and the expiration of any period for appeal**, the person or
 24 business entity seeking registration shall not conduct radon measurement,
 25 mitigation, or laboratory analysis within the Commonwealth of Kentucky **until that**
 26 **registration is restored by the board or other forum with competent jurisdiction.**

27 **(4) If the board determines that an individual is not registered as required under**

1 Sections 1 to 13 of this Act and is engaged in or believed to be engaged in
 2 activities for which registration is required under Sections 1 to 13 of this Act, the
 3 board shall issue an order to that individual requiring the individual to show
 4 cause why the individual should not be ordered to cease and desist from the
 5 activities. The show cause order shall set forth a date, time, and place for a
 6 hearing at which the individual shall appear and show cause why the individual
 7 should not be subject to registration under Sections 1 to 13 of this Act. A cease
 8 and desist order issued under this subsection shall be enforceable in a Circuit
 9 Court of the Commonwealth.

10 ~~(5)~~~~(3)~~ Notwithstanding the existence or pursuit of any other civil or criminal
 11 remedy, the board may institute proceedings in the Circuit Court of the county
 12 where the person resides or the business entity is located for an order enjoining the
 13 person or business entity from engaging or attempting to engage in activities that
 14 violate any provisions of Sections 1 to 13 of this Act~~[KRS 309.430 to 309.454]~~ or
 15 any administrative regulation promulgated by the board, and in the event such an
 16 order is denied, the board shall compensate the person or business entity for all
 17 costs and expenses, including reasonable attorney's fees.

18 ~~(6)~~~~(4)~~ Any final order of the board may be appealed to the Circuit Court of the
 19 county in which the person resides or the business entity is located after a written
 20 decision and order is rendered in accordance with KRS Chapter 13B, and no such
 21 order shall be final until the time for all appeals has expired.

22 ➔Section 11. KRS 309.450 is repealed, reenacted as a new section of KRS
 23 Chapter 198B, and amended to read as follows:

24 (1) The board may request copies of~~[examine]~~ records of mitigation contractors,
 25 measurement contractors, and radon laboratories, for which the board shall
 26 promptly reimburse all costs and expenses, including personnel, time, and
 27 materials,~~[including but not limited to conducting inspections of mitigation system~~

- 1 ~~installations and measurement locations~~] in order to ensure that radon measurement,
2 mitigation, and laboratory analysis are conducted in accordance with the applicable
3 standard operating procedures.
- 4 (2) The board may test any equipment used for measurement, mitigation, or laboratory
5 analysis or photograph or sketch any portion of a site, building, or equipment
6 involved in measurement, mitigation, or laboratory analysis, **at no cost to a**
7 **registrant, to ensure the equipment is maintained consistent with instructions and**
8 **procedures of the manufacturer or provider of radon measurement devices**
9 **accepted by the registrant's elected recognized radon certification program.**
- 10 (3) **A mitigation contractor shall promptly correct**~~[No person shall use or continue to~~
11 ~~use, or permit the use or continued use of,]~~ any radon mitigation system if **a board**
12 **investigator that meets the requirements for registration as a mitigation**
13 **contractor, with the exception of insurance,**~~[an agent or inspector of the board]~~
14 finds that the radon mitigation system was not constructed, installed, or altered in
15 accordance with the **elected recognized radon certification program's**~~[applicable]~~
16 mitigation standard operating procedures **or consistent with instructions and**
17 **procedures of the manufacturer or provider of the equipment accepted by the**
18 **registrant's elected recognized radon certification program.**
- 19 (4) For purposes of enforcing **Sections 1 to 13 of this Act**~~[KRS 309.430 to 309.454]~~ or
20 any administrative regulation promulgated by the board pertaining to radon
21 measurement, mitigation, or laboratory analysis, an agent or inspector of the board
22 shall have the power to enter upon premises at all reasonable times to make an
23 inspection **as authorized by a search warrant issued by a court of competent**
24 **jurisdiction upon a showing of reasonable cause to believe a material and**
25 **harmful violation of Sections 1 to 13 of this Act exists**~~[, question all persons, and~~
26 ~~require the production of radon mitigation system plans, sketches, diagnostic~~
27 ~~information, and other evidence].~~

1 (5) *A board investigator that meets the requirements for registration as a mitigation*
 2 *contractor, with the exception of insurance,* ~~[Agents and inspectors of the board]~~
 3 shall be empowered to issue a stop order, *not to exceed thirty (30) days,* to any
 4 owner~~[, agent, or occupant]~~ of real property requiring that the radon mitigation
 5 system thereon cease operation if that system has been found to be in violation of
 6 *Sections 1 to 13 of this Act after notice and a hearing in accordance with KRS*
 7 *Chapter 13B, and, in the event the owner prevails, the board shall promptly*
 8 *reimburse all costs and expenses including personnel, time, materials, and*
 9 *reasonable attorney's fees* ~~[KRS 309.430 to 309.454 or any administrative~~
 10 ~~regulation promulgated by the board].~~

11 (6) A person shall not interfere with an inspection conducted by an agent or inspector
 12 of the board. *The assertion of constitutionally protected rights, including without*
 13 *limitation a demand for the assistance of counsel or the assertion of Fifth*
 14 *Amendment rights, shall not constitute interference.*

15 ➔Section 12. KRS 309.452 is repealed, reenacted as a new section of KRS
 16 Chapter 198B, and amended to read as follows:

17 (1) ~~[Any certified person or business entity shall report to the board the discovery of any~~
 18 ~~apparent noncompliance with any provision of KRS 309.430 to 309.454 or any~~
 19 ~~administrative regulation promulgated by the board pertaining to radon~~
 20 ~~measurement, mitigation, or laboratory analysis.~~

21 (2) *Records required by Sections 1 to 13 of this Act or administrative regulations*
 22 *promulgated under Sections 1 to 13 of this Act, including records mandated by*
 23 *the registrants recognized radon certification program, shall be retained by*
 24 *registrants for three (3) years or the length of time of any warranty or guarantee,*
 25 *whichever is greater. The board shall make copies of all records in the board's*
 26 *custody and control available upon request* ~~[Records required by this chapter or~~
 27 ~~administrative regulations promulgated under KRS 309.430 to 309.454, including~~

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

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

9 (b) To the public aggregated at the zip code level without identifying individual
 10 homeowners or individual property street addresses[locations].

11 (3) Any measurement or mitigation contractor applying for registration or renewal of
 12 registration shall specify[, for approval by the board,] the location where records
 13 required under this section shall be maintained[, for inspection by the board]. This
 14 location shall be within the Commonwealth of Kentucky.

15 ➔Section 13. KRS 309.454 is repealed, reenacted as a new section of KRS
 16 Chapter 198B, and amended to read as follows:

17 (1) There is created the radon control fund as a separate trust and agency fund in the
 18 State Treasury, to be administered by the board. All fees, fines, and other moneys
 19 received by the board pursuant to Sections 1 to 13 of this Act, and all contributions
 20 of any kind, [KRS 309.430 to 309.454] shall be deposited in the fund and shall be
 21 used for the implementation of Sections 1 to 13 of this Act [KRS 309.430 to
 22 309.454], and are hereby appropriated for those purposes.

23 (2) All unexpended radon control funds received under KRS 309.430 to 309.454 and
 24 211.9101 to 211.9135 shall be deposited in the radon control fund created by this
 25 section as of the effective date of this Act.

26 (3) [(2)] Notwithstanding KRS 45.229, any moneys remaining in the fund at the close
 27 of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.

- 1 ~~(4)~~~~(3)~~ Any interest earnings of the fund shall become part of the fund and shall not
- 2 lapse.
- 3 ➔Section 14. Section 4 of this Act takes effect on January 1, 2024.