

CHAPTER 398

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 21-1195

BY REPRESENTATIVE(S) Van Winkle and Michaelson Jenet, Bernett, Boesenecker, Caraveo, Cutter, Duran, Exum, Jodeh, Mullica, Ricks, Sirota, Snyder, Titone, Valdez A., Woodrow;
also SENATOR(S) Coram and Ginal.

AN ACT

CONCERNING THE REGULATION OF RADON PROFESSIONALS, AND, IN CONNECTION THEREWITH, REQUIRING LICENSURE TO PRACTICE AS A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 165 to title 12 as follows:

ARTICLE 165
Radon Professionals

12-165-101. Short title. THE SHORT TITLE OF THIS ARTICLE 165 IS THE "RADON MEASUREMENT AND MITIGATION LICENSING ACT".

12-165-102. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE PREVALENCE OF COLORADO HOMES WITH EXCESSIVE LEVELS OF RADON HAS CREATED A MARKET IN WHICH UNQUALIFIED INDIVIDUALS ARE REPRESENTING THEMSELVES AND PRACTICING AS RADON PROFESSIONALS. RADON IS THE SECOND LEADING CAUSE OF LUNG CANCER, CAUSING APPROXIMATELY TWENTY THOUSAND DEATHS A YEAR IN THE UNITED STATES, INCLUDING FIVE HUNDRED DEATHS IN COLORADO. THEREFORE, TO PROTECT THE PUBLIC, IT IS NECESSARY TO ESTABLISH MINIMUM QUALIFICATIONS FOR RADON PROFESSIONALS AND TO REQUIRE PROFESSIONALS WHO POSSESS SUCH QUALIFICATIONS TO ACQUIRE A LICENSE BEFORE PERFORMING RADON MEASUREMENT OR RADON MITIGATION.

12-165-103. Applicability of common provisions. ARTICLES 1 AND 20 OF THIS TITLE 12 APPLY, ACCORDING TO THEIR TERMS, TO THIS ARTICLE 165.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

12-165-104. Definitions. AS USED IN THIS ARTICLE 165, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AARST" MEANS THE AMERICAN ASSOCIATION OF RADON SCIENTISTS AND TECHNOLOGISTS OR ITS SUCCESSOR ORGANIZATION.

(2) "ANSI" MEANS THE AMERICAN NATIONAL STANDARDS INSTITUTE OR ITS SUCCESSOR ORGANIZATION.

(3) "DIRECT SUPERVISION" MEANS SUPERVISION BY AN INDIVIDUAL WHO IS PHYSICALLY PRESENT DURING ON-SITE ACTIVITIES AND IMMEDIATELY AVAILABLE TO DIRECT, INSTRUCT, AND OVERSEE THE ACTIVITIES OF OTHER INDIVIDUALS.

(4) "PROFICIENCY PROGRAM" MEANS THE NATIONAL RADON PROFICIENCY PROGRAM, THE NATIONAL RADON SAFETY BOARD, OR A SUCCESSOR ORGANIZATION OR ANY OTHER RADON PROFICIENCY PROGRAM THAT IS RECOGNIZED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY AND APPROVED BY THE DIRECTOR.

(5) "RADON MEASUREMENT" MEANS THE PRACTICE OF USING A RADON MEASUREMENT DEVICE TO TEST AIR, WATER, OR SOIL FOR THE PRESENCE OF RADON OR RADON PROGENY IN THE INDOOR ENVIRONMENT OF A PREMISES.

(6) "RADON MEASUREMENT DEVICE" MEANS A DEVICE APPROVED BY A PROFICIENCY PROGRAM AND USED FOR RADON MEASUREMENT.

(7) "RADON MITIGATION" MEANS THE PRACTICE OF INSTALLING, REPAIRING, OR MODIFYING A RADON MITIGATION SYSTEM TO REDUCE THE CONCENTRATION OF RADON OR RADON PROGENY IN THE INDOOR ENVIRONMENT OF A BUILDING.

12-165-105. Director powers and duties - rules. (1) IN ADDITION TO ANY OTHER POWERS AND DUTIES GRANTED OR IMPOSED ON THE DIRECTOR UNDER THIS ARTICLE 165 OR BY ANY OTHER LAW, THE DIRECTOR SHALL:

(a) ADOPT RULES PURSUANT TO SECTION 12-20-204, INCLUDING RULES TO:

(I) ESTABLISH THE FORM AND MANNER FOR APPLYING FOR A NEW LICENSE OR RENEWING A LICENSE UNDER THIS ARTICLE 165;

(II) ADOPT APPLICABLE ANSI/AARST STANDARDS FOR THE PRACTICE OF RADON MEASUREMENT AND RADON MITIGATION; AND

(III) ADDRESS ANY OTHER MATTERS DETERMINED NECESSARY BY THE DIRECTOR TO IMPLEMENT THIS ARTICLE 165;

(b) REVIEW APPLICATIONS FOR NEW LICENSES AND RENEWAL OF LICENSES AND GRANT OR DENY SUCH LICENSES AND RENEWALS AS PROVIDED IN THIS ARTICLE 165;

(c) ESTABLISH FEES FOR THE ISSUANCE OF A NEW LICENSE AND FOR EACH LICENSE RENEWAL PURSUANT TO SECTIONS 12-20-105 AND 12-20-202 (1);

(d) CONDUCT INVESTIGATIONS, HOLD HEARINGS, TAKE EVIDENCE, AND PURSUE

DISCIPLINARY ACTIONS PURSUANT TO SECTIONS 12-20-403, 12-20-404, AND 12-165-111 WITH RESPECT TO COMPLAINTS AGAINST RADON MEASUREMENT PROFESSIONALS AND RADON MITIGATION PROFESSIONALS WHEN THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT AN INDIVIDUAL IS VIOLATING THIS ARTICLE 165 OR RULES ADOPTED PURSUANT TO THIS ARTICLE 165; AND

(e) PERFORM OTHER FUNCTIONS AND DUTIES NECESSARY TO ADMINISTER THIS ARTICLE 165.

12-165-106. Licensure - title protection - unauthorized practice - penalty.

(1) (a) ON AND AFTER JULY 1, 2022, AN INDIVIDUAL CONDUCTING RADON MITIGATION OR RADON MEASUREMENT IN THIS STATE SHALL MEET THE QUALIFICATIONS SET FORTH IN SECTION 12-165-108 AND OBTAIN A LICENSE FROM THE DIRECTOR.

(b) ONLY AN INDIVIDUAL WHO OBTAINS A LICENSE PURSUANT TO SECTION 12-165-108 MAY CLAIM TO BE A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL OR USE THE TITLE "RADON MEASUREMENT PROFESSIONAL" OR "RADON MITIGATION PROFESSIONAL" OR ANY OTHER TITLE SUGGESTING THAT THE INDIVIDUAL IS QUALIFIED TO PERFORM RADON MEASUREMENT OR RADON MITIGATION.

(2) AN INDIVIDUAL WHO CONDUCTS RADON MEASUREMENT OR RADON MITIGATION, CLAIMS TO BE A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL, OR USES THE TITLE "RADON MEASUREMENT PROFESSIONAL" OR "RADON MITIGATION PROFESSIONAL" OR ANY OTHER TITLE SUGGESTING THAT THE INDIVIDUAL IS QUALIFIED TO PERFORM RADON MEASUREMENT OR RADON MITIGATION WITHOUT AN ACTIVE LICENSE ISSUED UNDER THIS ARTICLE 165 IS SUBJECT TO PENALTIES PURSUANT TO SECTION 12-20-407 (1)(b).

12-165-107. Exemptions. (1) THIS ARTICLE 165 DOES NOT APPLY TO:

(a) AN INDIVIDUAL PERFORMING RADON MEASUREMENT OR RADON MITIGATION ON A SINGLE-FAMILY RESIDENCE THAT THE INDIVIDUAL OWNS AND OCCUPIES;

(b) AN INDIVIDUAL PERFORMING RADON MEASUREMENT WHO ASSISTS AND IS UNDER THE DIRECT SUPERVISION OF A LICENSED RADON MEASUREMENT PROFESSIONAL;

(c) AN INDIVIDUAL PERFORMING RADON MITIGATION WHO ASSISTS AND IS UNDER THE DIRECT SUPERVISION OF A LICENSED RADON MITIGATION PROFESSIONAL;

(d) AN AGENT OF A FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY ACTING WITHIN THE SCOPE OF THE AGENT'S OFFICIAL CAPACITY;

(e) AN INDIVIDUAL PERFORMING RADON MEASUREMENT OR RADON MITIGATION AS PART OF RADON TRAINING APPROVED BY A PROFICIENCY PROGRAM; OR

(f) AN INDIVIDUAL ACTING WITHIN THE SCOPE OF PRACTICE FOR WHICH THE INDIVIDUAL IS LICENSED, REGISTERED, OR CERTIFIED.

12-165-108. Radon measurement and radon mitigation licenses - qualifications - fees - renewal - rules. (1) AN INDIVIDUAL APPLYING FOR A LICENSE PURSUANT TO THIS SECTION MUST SATISFY THE REQUIREMENTS OF THE PARTICULAR LICENSE FOR WHICH THE APPLICATION IS MADE. THE DIRECTOR MAY ISSUE ONE OF THE FOLLOWING TYPES OF LICENSES TO AN APPLICANT WHO, UPON APPLICATION IN THE FORM AND MANNER DETERMINED BY THE DIRECTOR, PAYMENT OF THE REQUIRED FEE, AND SATISFACTION OF THE REQUIREMENT SPECIFIED IN SUBSECTION (2) OF THIS SECTION, PROVIDES EVIDENCE SATISFACTORY TO THE DIRECTOR THAT THE APPLICANT SATISFIES THE QUALIFICATIONS FOR THE PARTICULAR LICENSE AS FOLLOWS:

(a) **Radon measurement professional license.** AN APPLICANT FOR A RADON MEASUREMENT PROFESSIONAL LICENSE MUST PRESENT PROOF OF CERTIFICATION IN RADON MEASUREMENT FROM A PROFICIENCY PROGRAM.

(b) **Radon mitigation professional license.** AN APPLICANT FOR A RADON MITIGATION PROFESSIONAL LICENSE MUST PRESENT PROOF OF CERTIFICATION IN RADON MITIGATION FROM A PROFICIENCY PROGRAM.

(2) (a) IN ADDITION TO SATISFYING THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION, EACH APPLICANT FOR A LICENSE UNDER THIS SECTION MUST SUBMIT TO THE DIRECTOR AN ATTESTATION AS TO WHETHER THE APPLICANT, WITHIN THE PRIOR FIVE YEARS, HAS BEEN CONVICTED OF OR HAS ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO:

(I) A FELONY;

(II) AN OFFENSE, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INVOLVE UNLAWFUL SEXUAL BEHAVIOR, DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), OR STALKING, AS DEFINED IN SECTION 18-3-602; OR

(III) VIOLATION OF A PROTECTION ORDER, AS DEFINED IN SECTION 18-6-803.5.

(b) IN CONSIDERING AN APPLICANT'S CRIMINAL HISTORY, THE DIRECTOR IS GOVERNED BY SECTIONS 12-20-202 (5) AND 24-5-101.

(3) LICENSES ISSUED PURSUANT TO THIS ARTICLE 165 ARE SUBJECT TO THE PROVISIONS IN SECTION 12-20-102 (1) AND (2) CONCERNING RENEWAL, EXPIRATION, REINSTATEMENT, AND DELINQUENCY FEES. AN INDIVIDUAL WHOSE LICENSE EXPIRES AND WHO CONTINUES TO DO BUSINESS AS A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL IS SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE 165 AND SECTION 12-20-202 (1).

12-165-109. Insurance required. (1) A LICENSEE SHALL NOT ENGAGE IN RADON MEASUREMENT OR RADON MITIGATION ACTIVITIES, AS APPLICABLE, UNLESS THE LICENSEE MAINTAINS PROFESSIONAL LIABILITY INSURANCE THAT:

(a) IS ISSUED BY AN INSURANCE COMPANY AUTHORIZED BY THE DIVISION OF INSURANCE TO TRANSACT INSURANCE BUSINESS IN THIS STATE;

(b) IS IN EFFECT AT ALL TIMES DURING THE LICENSE PERIOD;

(c) PROVIDES FOR GENERAL LIABILITY COVERAGE IN AN AMOUNT OF AT LEAST:

(I) TWO HUNDRED FIFTY THOUSAND DOLLARS FOR RADON MEASUREMENT PROFESSIONALS; AND

(II) FIVE HUNDRED THOUSAND DOLLARS FOR RADON MITIGATION PROFESSIONALS; AND

(d) LISTS THE DIVISION OF INSURANCE AS A CERTIFICATE HOLDER.

12-165-110. Duties of radon professionals - rules. (1) A LICENSED RADON MEASUREMENT PROFESSIONAL SHALL:

(a) CONDUCT ALL RADON MEASUREMENTS IN ACCORDANCE WITH THE APPLICABLE ANSI/AARST RADON MEASUREMENT STANDARD OR OTHER APPLICABLE NATIONAL CONSENSUS RADON MEASUREMENT STANDARD APPROVED BY THE DIRECTOR;

(b) MAINTAIN A QUALITY CONTROL PROGRAM PLAN IN ACCORDANCE WITH THE APPLICABLE ANSI/AARST STANDARD;

(c) ENSURE ALL RADON MEASUREMENTS ARE CONDUCTED BY, OR UNDER THE DIRECT SUPERVISION OF, A LICENSED RADON MEASUREMENT PROFESSIONAL;

(d) USE AND SELL ONLY RADON MEASUREMENT DEVICES APPROVED BY THE PROFICIENCY PROGRAM THAT CERTIFIED THE LICENSEE; AND

(e) PROCURE ALL LABORATORY ANALYSIS THROUGH A RADON LABORATORY THAT IS APPROVED BY A PROFICIENCY PROGRAM.

(2) A LICENSED RADON MITIGATION PROFESSIONAL SHALL:

(a) CONDUCT ALL RADON MITIGATION IN ACCORDANCE WITH THE APPLICABLE ANSI/AARST RADON MITIGATION STANDARD OR OTHER APPLICABLE NATIONAL CONSENSUS RADON MITIGATION STANDARD APPROVED BY THE DIRECTOR;

(b) MAINTAIN A QUALITY CONTROL PROGRAM PLAN IN ACCORDANCE WITH THE APPLICABLE ANSI/AARST STANDARD;

(c) ENSURE ALL RADON MITIGATION IS CONDUCTED BY, OR UNDER THE DIRECT SUPERVISION OF, A LICENSED RADON MITIGATION PROFESSIONAL; AND

(d) MODIFY AND REPAIR ALL RADON MITIGATION SYSTEMS IN ACCORDANCE WITH THE APPLICABLE ANSI/AARST RADON MITIGATION STANDARD.

12-165-111. Disciplinary actions - grounds for discipline - rules - letters of admonition - cease-and-desist orders. (1) THE DIRECTOR MAY TAKE DISCIPLINARY ACTION OR OTHER ACTION AS AUTHORIZED IN THIS SECTION AND SECTION 12-20-404 AGAINST AN APPLICANT OR LICENSEE IF THE APPLICANT OR LICENSEE:

(a) VIOLATES AN ORDER OF THE DIRECTOR, A PROVISION OF THIS ARTICLE 165, AN APPLICABLE PROVISION OF ARTICLE 20 OF THIS TITLE 12, OR A RULE ADOPTED UNDER THIS ARTICLE 165;

(b) USES FRAUD, MISREPRESENTATION, OR DECEIT IN APPLYING FOR OR ATTEMPTING TO APPLY FOR A LICENSE;

(c) WITHIN THE PRECEDING FIVE YEARS, WAS CONVICTED OF OR HAS ENTERED A PLEA OF GUILTY OR NOLO CONTENDERE TO A FELONY; TO AN OFFENSE, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT TO INVOLVE UNLAWFUL SEXUAL BEHAVIOR, DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), OR STALKING, AS DEFINED IN SECTION 18-3-602; OR TO VIOLATION OF A PROTECTION ORDER, AS DEFINED IN SECTION 18-6-803.5. IN CONSIDERING AN APPLICANT'S CRIMINAL HISTORY, THE DIRECTOR IS GOVERNED BY SECTIONS 12-20-202 (5) AND 24-5-101.

(d) HAS FAILED TO REPORT TO THE DIRECTOR THE CONVICTION OF, OR PLEA TO, A CRIME SPECIFIED IN SUBSECTION (1)(c) OF THIS SECTION;

(e) ADVERTISES OR CLAIMS TO BE A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL WITHOUT HOLDING AN ACTIVE LICENSE;

(f) HAS BEEN SUBJECT TO DISCIPLINE RELATED TO THE PRACTICE OF RADON MEASUREMENT OR RADON MITIGATION IN ANOTHER JURISDICTION. EVIDENCE OF DISCIPLINARY ACTION IN ANOTHER JURISDICTION IS PRIMA FACIE EVIDENCE FOR DENIAL OF A LICENSE OR OTHER DISCIPLINARY ACTION IF THE VIOLATION WOULD BE GROUNDS FOR DISCIPLINARY ACTION IN THIS STATE.

(g) COMMITS AN ACT OR OMISSION THAT FAILS TO MEET THE APPLICABLE STANDARD FOR RADON MEASUREMENT OR RADON MITIGATION;

(h) FAILS TO COMPLY WITH THE PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS SPECIFIED IN SECTION 12-165-109;

(i) HAS FAILED TO NOTIFY THE DIRECTOR OF A CIVIL JUDGMENT OR SETTLEMENT THAT AROSE FROM THE LICENSEE'S WORK PERFORMANCE WITHIN FOURTEEN DAYS AFTER THE CIVIL JUDGMENT OR SETTLEMENT;

(j) HAS ENGAGED IN FALSE OR MISLEADING ADVERTISING; OR

(k) FAILS TO PROVIDE DIRECT SUPERVISION OF AN UNLICENSED PERSON PERFORMING RADON MEASUREMENT OR RADON MITIGATION.

(2) THE DIRECTOR MAY ADOPT RULES ESTABLISHING FINES THAT THE DIRECTOR MAY IMPOSE ON A LICENSEE. THE RULES MUST INCLUDE A GRADUATED FINE STRUCTURE, WITH A MAXIMUM ALLOWABLE FINE OF NOT MORE THAN THREE THOUSAND DOLLARS PER VIOLATION.

(3) THE DIRECTOR NEED NOT FIND THAT THE ACTIONS THAT ARE GROUNDS FOR DISCIPLINE WERE COMMITTED WILLFULLY, BUT THE DIRECTOR MAY CONSIDER WHETHER THE ACTIONS WERE COMMITTED WILLFULLY WHEN DETERMINING THE

NATURE OF DISCIPLINARY SANCTIONS TO IMPOSE.

(4) (a) THE DIRECTOR MAY COMMENCE A PROCEEDING TO DISCIPLINE A LICENSEE WHEN THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE THAT THE LICENSEE HAS COMMITTED AN ACT OR OMISSION DESCRIBED IN THIS SECTION.

(b) IN ANY PROCEEDING HELD UNDER THIS SECTION, THE DIRECTOR MAY ACCEPT AS EVIDENCE OF GROUNDS FOR DISCIPLINARY ACTION ANY DISCIPLINARY ACTION TAKEN AGAINST A LICENSEE IN ANOTHER JURISDICTION IF THE VIOLATION THAT PROMPTED THE DISCIPLINARY ACTION IN THE OTHER JURISDICTION WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THIS ARTICLE 165.

(5) SECTION 12-20-403 GOVERNS DISCIPLINARY PROCEEDINGS, INVESTIGATIONS, HEARINGS, AND THE GATHERING OF EVIDENCE IN ALL MATTERS RELATED TO THE DIRECTOR'S EXERCISE AND PERFORMANCE OF THE DIRECTOR'S POWERS AND DUTIES UNDER THIS ARTICLE 165.

(6) THE DIRECTOR MAY SEEK AN INJUNCTION IN ACCORDANCE WITH SECTION 12-20-406 TO ENJOIN A PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS ARTICLE 165.

(7) A FINAL ACTION OF THE DIRECTOR IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH SECTION 12-20-408. THE DIRECTOR MAY INSTITUTE A JUDICIAL PROCEEDING IN ACCORDANCE WITH SECTION 24-4-106 TO ENFORCE AN ORDER OF THE DIRECTOR.

(8) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT, THAT A LICENSEE IS ACTING IN A MANNER THAT IS AN IMMINENT THREAT TO THE HEALTH OR SAFETY OF THE PUBLIC, OR IF AN INDIVIDUAL IS CONDUCTING RADON MEASUREMENT OR RADON MITIGATION OR CLAIMING TO BE A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL WITHOUT HAVING OBTAINED A LICENSE, THE DIRECTOR MAY ISSUE AN ORDER TO CEASE AND DESIST THE ACTIVITY IN ACCORDANCE WITH THE PROCEDURES SPECIFIED IN SECTION 12-20-405.

(9) THE DIRECTOR MAY ISSUE A LETTER OF ADMONITION TO A LICENSEE UNDER THE CIRCUMSTANCES SPECIFIED IN AND IN ACCORDANCE WITH SECTION 12-20-404 (4).

(10) THE DIRECTOR MAY SEND A CONFIDENTIAL LETTER OF CONCERN TO A LICENSEE UNDER THE CIRCUMSTANCES DESCRIBED IN SECTION 12-20-404 (5).

12-165-112. Director's authority to examine, inspect, and test. (1) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY INSPECT RADON MEASUREMENT LOCATIONS AND RADON MITIGATION SYSTEM INSTALLATIONS TO ENSURE THAT RADON MEASUREMENT AND RADON MITIGATION ARE CONDUCTED IN ACCORDANCE WITH THIS ARTICLE 165.

(2) IN RESPONSE TO A COMPLAINT OR OTHER KNOWLEDGE, AND WITH THE CONSENT OF THE OWNER AND OCCUPANT OF A PREMISES, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY ENTER THE PREMISES AT A REASONABLE TIME TO INSPECT

THE PREMISES, QUESTION ALL PERSONS WHO ARE PRESENT, AND REQUIRE THE PRODUCTION OF RADON MITIGATION SYSTEM PLANS, SKETCHES, DIAGNOSTIC INFORMATION, AND OTHER EVIDENCE.

(3) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY INSPECT AND TEST ANY EQUIPMENT USED FOR RADON MEASUREMENT OR RADON MITIGATION.

(4) IT IS UNLAWFUL TO INTERFERE WITH AN INSPECTION CONDUCTED BY THE DIRECTOR OR THE DIRECTOR'S DESIGNEE.

12-165-113. Repeal of article - review of functions. THIS ARTICLE 165 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2027. BEFORE THE REPEAL, THIS ARTICLE 165 IS SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 2. In Colorado Revised Statutes, 24-34-104, **add** (28)(a)(V) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (28) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2027:

(V) THE REGULATION OF RADON PROFESSIONALS LICENSED IN ACCORDANCE WITH ARTICLE 165 OF TITLE 12.

SECTION 3. In Colorado Revised Statutes, 12-20-404, **add** (3)(a)(II)(C.5) as follows:

12-20-404. Disciplinary actions - regulator powers - disposition of fines. (3) **Waiting period after revocation or surrender.** (a) (II) In addition, the waiting period specified in subsection (3)(a)(I) of this section applies when a person regulated under any of the following articles surrenders a license, certification, or registration to avoid discipline:

(C.5) ARTICLE 165 OF THIS TITLE 12 CONCERNING RADON PROFESSIONALS;

SECTION 4. In Colorado Revised Statutes, 12-20-407, **amend** (1)(b)(V) and (1)(b)(VI); and **add** (1)(b)(VII) as follows:

12-20-407. Unauthorized practice of profession or occupation - penalties - exclusions. (1) (b) A person commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501 for the first offense and, for the second or any subsequent offense, commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, if the person engages in any of the following activities:

(V) Practices or offers or attempts to practice speech-language pathology without an active certification issued under article 305 of this title 12; ~~or~~

(VI) Performs the duties of a surgical assistant or surgical technologist without being registered under article 310 of this title 12; OR

(VII) CONDUCTS RADON MEASUREMENT OR RADON MITIGATION, CLAIMS TO BE A RADON MEASUREMENT PROFESSIONAL OR RADON MITIGATION PROFESSIONAL, OR USES THE TITLE "RADON MEASUREMENT PROFESSIONAL" OR "RADON MITIGATION PROFESSIONAL" OR ANY OTHER TITLE SUGGESTING THAT THE INDIVIDUAL IS QUALIFIED TO PERFORM RADON MEASUREMENT OR RADON MITIGATION WITHOUT AN ACTIVE LICENSE ISSUED UNDER ARTICLE 165 OF THIS TITLE 12.

SECTION 5. Appropriation. (1) For the 2021-22 state fiscal year, \$63,134 is appropriated to the department of regulatory agencies. This appropriation is from the division of professions and occupations cash fund created in section 12-20-105 (3), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$40,308 for use by the division of professions and occupations for personal services, which amount is based on an assumption that the division will require an additional 0.5 FTE;

(b) \$6,875 for use by the division of professions and occupations for operating expenses; and

(c) \$15,951 for the purchase of legal services.

(2) For the 2021-22 state fiscal year, \$15,951 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 30, 2021