

CHAPTER 356

PROPERTY

SENATE BILL 23-206

BY SENATOR(S) Winter F., Buckner, Cutter, Exum, Fields, Gonzales, Jaquez Lewis, Marchman, Moreno, Priola, Fenberg;
also REPRESENTATIVE(S) Michaelson Jenet and Sirota, Bacon, Bird, Boesenecker, Brown, Duran, English, Hamrick, Joseph,
Kipp, Lieder, Lindsay, Lindstedt, Mabrey, Ricks, Snyder, Valdez, Velasco, Willford.

AN ACT**CONCERNING INFORMATION ABOUT RADON IN RESIDENTIAL REAL PROPERTY TRANSACTIONS.**

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Radon is an odorless, colorless, tasteless, and radioactive gas that occurs naturally in soil and groundwater, enters buildings through openings in foundations, and, unless vented to the atmosphere, accumulates in buildings;

(b) Radon is recognized by the United States surgeon general and the World Health Organization as a carcinogenic toxin;

(c) Radon is the leading cause of lung cancer in nonsmokers and the second leading cause of all lung cancer in the United States;

(d) Prolonged exposure to radon threatens the health of Colorado residents and families and is associated with increases in the risk of lung cancer;

(e) Radon exposure is responsible for the deaths of approximately five hundred Coloradans each year and for twenty-one thousand lung cancer deaths nationwide;

(f) Elevated radon levels have been detected in every Colorado county;

(g) A home in Colorado may have elevated levels of radon even if other homes in that neighborhood do not;

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.

(h) Radon levels may change over time, and the United States environmental protection agency recommends that homes should be tested every two years;

(i) Nearly half of all homes tested in Colorado return results at or above the United States environmental protection agency's recommended action level of four picocuries per liter (pCi/L);

(j) Clear disclosure through stand-alone radon notifications during real estate transactions has been shown to greatly increase voluntary testing and improve public health outcomes;

(k) Testing for radon is simple and inexpensive, and identified radon problems can be readily mitigated;

(l) Colorado recently began licensing and regulating radon measurement and radon mitigation professionals to help ensure the public has reliable access to qualified providers offering high-quality testing and mitigation services that help improve public health; and

(m) Financial assistance for radon testing and mitigation services is available to help address health disparities and access for low-income individuals and families in disproportionately impacted communities through the Colorado department of public health and environment's radon mitigation assistance program for low-income individuals.

(2) The general assembly further declares that there is a need to protect human health, prevent exposure to elevated concentrations of radon, and avoid higher rates of mortality from lung cancer by requiring disclosures to increase awareness in residential real estate transactions about the presence of and risks from radon exposure.

SECTION 2. In Colorado Revised Statutes, **add** 38-35.7-112 as follows:

38-35.7-112. Disclosure - elevated radon - rules - definition. (1) A BUYER OF RESIDENTIAL REAL PROPERTY HAS THE RIGHT TO BE INFORMED OF WHETHER THE PROPERTY HAS BEEN TESTED FOR ELEVATED LEVELS OF RADON.

(2) (a) EACH CONTRACT OF SALE FOR RESIDENTIAL REAL PROPERTY MUST CONTAIN THE FOLLOWING DISCLOSURE IN BOLD-FACED TYPE THAT IS CLEARLY LEGIBLE IN SUBSTANTIALLY THE SAME FORM AS IS SPECIFIED AS FOLLOWS:

THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT STRONGLY RECOMMENDS THAT ALL HOME BUYERS HAVE AN INDOOR RADON TEST PERFORMED BEFORE PURCHASING RESIDENTIAL REAL PROPERTY AND RECOMMENDS HAVING THE RADON LEVELS MITIGATED IF ELEVATED RADON CONCENTRATIONS ARE FOUND. ELEVATED RADON CONCENTRATIONS CAN BE REDUCED BY A RADON MITIGATION PROFESSIONAL.

RESIDENTIAL REAL PROPERTY MAY PRESENT EXPOSURE TO DANGEROUS LEVELS OF INDOOR RADON GAS THAT MAY PLACE THE OCCUPANTS AT RISK OF DEVELOPING RADON-INDUCED LUNG CANCER.

RADON, A CLASS A HUMAN CARCINOGEN, IS THE LEADING CAUSE OF LUNG CANCER IN NONSMOKERS AND THE SECOND LEADING CAUSE OF LUNG CANCER OVERALL. THE SELLER OF RESIDENTIAL REAL PROPERTY IS REQUIRED TO PROVIDE THE BUYER WITH ANY KNOWN INFORMATION ON RADON TEST RESULTS OF THE RESIDENTIAL REAL PROPERTY.

(b) EACH CONTRACT OF SALE FOR RESIDENTIAL REAL PROPERTY OR SELLER'S PROPERTY DISCLOSURE FOR RESIDENTIAL REAL PROPERTY MUST CONTAIN THE FOLLOWING DISCLOSURES:

(I) ANY KNOWLEDGE THE SELLER HAS OF THE RESIDENTIAL REAL PROPERTY'S RADON CONCENTRATIONS, INCLUDING THE FOLLOWING INFORMATION:

(A) WHETHER A RADON TEST OR TESTS HAVE BEEN CONDUCTED ON THE RESIDENTIAL REAL PROPERTY;

(B) THE MOST RECENT RECORDS AND REPORTS PERTAINING TO RADON CONCENTRATIONS WITHIN THE RESIDENTIAL REAL PROPERTY;

(C) A DESCRIPTION OF ANY RADON CONCENTRATIONS DETECTED OR MITIGATION OR REMEDIATION PERFORMED; AND

(D) INFORMATION REGARDING WHETHER A RADON MITIGATION SYSTEM HAS BEEN INSTALLED IN THE RESIDENTIAL REAL PROPERTY; AND

(II) AN ELECTRONIC OR PAPER COPY OF THE MOST RECENT BROCHURE PUBLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IN ACCORDANCE WITH SECTION 25-11-114 (2)(a) THAT PROVIDES ADVICE ABOUT RADON IN REAL ESTATE TRANSACTIONS.

(c) THE REAL ESTATE COMMISSION SHALL PROMULGATE RULES REQUIRING:

(I) EACH CONTRACT THAT IS FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY AND THAT IS SUBJECT TO THE REAL ESTATE COMMISSION'S JURISDICTION TO INCLUDE THE STATEMENT DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION IN BOLD-FACED TYPE THAT IS CLEARLY LEGIBLE IN SUBSTANTIALLY THE SAME FORM AS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION; AND

(II) EACH CONTRACT FOR SALE OR SELLER'S PROPERTY DISCLOSURE FOR RESIDENTIAL REAL PROPERTY TO INCLUDE THE DISCLOSURES DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION, INCLUDING RULES THAT SPECIFY THE FORMAT AND MANNER FOR DELIVERY OF THE BROCHURE.

(3) AS USED IN THIS SECTION:

(a) "REAL ESTATE COMMISSION" MEANS THE REAL ESTATE COMMISSION CREATED IN SECTION 12-10-206.

(b) "RESIDENTIAL REAL PROPERTY" INCLUDES:

(I) A SINGLE-FAMILY HOME, MANUFACTURED HOME, MOBILE HOME, CONDOMINIUM, APARTMENT, TOWNHOME, OR DUPLEX; OR

(II) A HOME SOLD BY THE OWNER, A FINANCIAL INSTITUTION, OR THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

SECTION 3. In Colorado Revised Statutes, **add** 38-12-803 as follows:

38-12-803. Disclosure - elevated radon - definition. (1) A TENANT THAT RENTS RESIDENTIAL REAL PROPERTY HAS THE RIGHT TO BE INFORMED OF WHETHER THE PROPERTY HAS BEEN TESTED FOR ELEVATED LEVELS OF RADON.

(2)(a) BEFORE SIGNING A LEASE AGREEMENT FOR RESIDENTIAL REAL PROPERTY, THE LANDLORD SHALL DISCLOSE AND PROVIDE IN WRITING TO THE TENANT THE FOLLOWING INFORMATION IN A DOCUMENT THAT THE TENANT SIGNS TO ACKNOWLEDGE RECEIPT OF THE DISCLOSURE:

(I) A WARNING STATEMENT IN BOLD-FACED TYPE THAT IS CLEARLY LEGIBLE IN SUBSTANTIALLY THE SAME FORM AS IS SPECIFIED AS FOLLOWS:

THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT STRONGLY RECOMMENDS THAT ALL TENANTS HAVE AN INDOOR RADON TEST PERFORMED BEFORE LEASING RESIDENTIAL REAL PROPERTY AND RECOMMENDS HAVING THE RADON LEVELS MITIGATED IF ELEVATED RADON CONCENTRATIONS ARE FOUND. ELEVATED RADON CONCENTRATIONS CAN BE REDUCED BY A RADON MITIGATION PROFESSIONAL.

RESIDENTIAL REAL PROPERTY MAY PRESENT EXPOSURE TO DANGEROUS LEVELS OF INDOOR RADON GAS THAT MAY PLACE THE OCCUPANTS AT RISK OF DEVELOPING RADON-INDUCED LUNG CANCER. RADON, A CLASS A HUMAN CARCINOGEN, IS THE LEADING CAUSE OF LUNG CANCER IN NONSMOKERS AND THE SECOND LEADING CAUSE OF LUNG CANCER OVERALL. A LANDLORD IS REQUIRED TO PROVIDE THE TENANT WITH ANY KNOWN INFORMATION ON RADON TEST RESULTS OF THE RESIDENTIAL REAL PROPERTY.

(II) ANY KNOWLEDGE THE LANDLORD HAS OF THE RESIDENTIAL REAL PROPERTY'S RADON CONCENTRATIONS, INCLUDING THE FOLLOWING INFORMATION:

(A) WHETHER A RADON TEST OR TESTS HAVE BEEN CONDUCTED ON THE RESIDENTIAL REAL PROPERTY;

(B) THE MOST CURRENT RECORDS AND REPORTS PERTAINING TO RADON CONCENTRATIONS WITHIN THE RESIDENTIAL REAL PROPERTY;

(C) A DESCRIPTION OF ANY RADON CONCENTRATIONS DETECTED OR MITIGATION OR REMEDIATION PERFORMED; AND

(D) INFORMATION REGARDING ANY RADON MITIGATION SYSTEM, INCLUDING A SYSTEM DESCRIPTION AND DOCUMENTATION, IF A RADON MITIGATION SYSTEM HAS BEEN INSTALLED IN THE RESIDENTIAL REAL PROPERTY; AND

(III) A COPY OF THE MOST RECENT BROCHURE PUBLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IN ACCORDANCE WITH SECTION 25-11-114 (2)(a) THAT PROVIDES ADVICE ABOUT RADON IN REAL ESTATE TRANSACTIONS.

(b) THE TENANT SHALL ACKNOWLEDGE RECEIPT OF THE INFORMATION DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION BY SIGNING THE DISCLOSURE.

(3) (a) SUBJECT TO SUBSECTION (3)(b) OF THIS SECTION, A TENANT MAY VOID A LEASE AGREEMENT AND VACATE THE PREMISES IN ACCORDANCE WITH SECTION 38-12-507 IF THE LANDLORD FAILS TO:

(I) PROVIDE THE WRITTEN DISCLOSURES DESCRIBED IN SUBSECTION (2) OF THIS SECTION; OR

(II) MAKE A REASONABLE EFFORT TO MITIGATE RADON WITHIN ONE HUNDRED EIGHTY DAYS AFTER BEING NOTIFIED THAT A RADON MEASUREMENT PROFESSIONAL HAS DETERMINED THE AIR CONCENTRATION OF RADON IS FOUR PICOCURIES PER LITER OR MORE.

(b) ON OR AFTER JANUARY 1, 2026, THIS SUBSECTION (3) DOES NOT APPLY TO A LEASE AGREEMENT THAT IS ONE YEAR OR LESS IN DURATION.

(4) AS USED IN THIS SECTION, "RESIDENTIAL REAL PROPERTY" INCLUDES:

(a) A SINGLE-FAMILY HOME, MANUFACTURED HOME, MOBILE HOME, CONDOMINIUM, APARTMENT, TOWNHOME, OR DUPLEX; OR

(b) A HOME SOLD BY THE OWNER, A FINANCIAL INSTITUTION, OR THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

SECTION 4. In Colorado Revised Statutes, 38-12-503, **amend** (2) introductory portion; and **add** (2.4) as follows:

38-12-503. Warranty of habitability. (2) Except as described in subsection (2.2) OR (2.4) of this section, a landlord breaches the warranty of habitability set forth in subsection (1) of this section if:

(2.4) A LANDLORD BREACHES THE WARRANTY OF HABITABILITY IF THE LANDLORD FAILS TO COMPLY WITH SECTION 38-12-803.

SECTION 5. In Colorado Revised Statutes, **add** 12-10-220.5 as follows:

12-10-220.5. Radon disclosure - rules. THE COMMISSION SHALL PROMULGATE RULES TO IMPLEMENT SECTION 38-35.7-112 (2)(c).

SECTION 6. In Colorado Revised Statutes, 12-165-107, **amend** (1)(a) as follows:

12-165-107. Exemptions. (1) This article 165 does not apply to: (a) (I) An individual performing radon measurement or radon mitigation on a single-family residence that the individual owns and occupies; OR

(II) AN INDIVIDUAL PERFORMING RADON MEASUREMENT ON A LEASED DWELLING UNIT THAT THE INDIVIDUAL LEASES OR OCCUPIES;

SECTION 7. Act subject to petition - effective date - applicability. (1) 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to contracts and lease agreements entered into on or after the applicable effective date of this act.

Approved: June 5, 2023