

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 23-0898.01 Jery Payne x2157

SENATE BILL 23-206

SENATE SPONSORSHIP

Winter F., Buckner, Cutter, Exum, Fenberg, Fields, Gonzales, Jaquez Lewis, Marchman,
Moreno, Priola

HOUSE SPONSORSHIP

Michaelson Jenet and Sirota,

Senate Committees

Local Government & Housing

House Committees

A BILL FOR AN ACT

101 **CONCERNING INFORMATION ABOUT RADON IN RESIDENTIAL REAL**
102 **PROPERTY TRANSACTIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the seller of residential real estate and a landlord of residential real estate to provide to prospective buyers and tenants in writing:

- A warning statement about the dangers of radon and the need for testing;
- Any knowledge the seller or landlord has of the residential

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
April 14, 2023

SENATE
Amended 2nd Reading
April 13, 2023

real property's radon concentrations and history, including tests performed, reports written, and mitigation conducted; and

- A copy of the most recent brochure published by the department of public health and environment that provides advice about radon in real estate transactions.

If a seller fails to provide the written disclosures, the buyer has a claim for relief against the seller for damages to the buyer resulting from the failure plus court costs. If a landlord fails to provide the written disclosures or fails to mitigate an elevated radon level, the tenant may void the lease without penalty.

A real estate broker must take reasonable steps to ensure the real estate broker's clients comply with the bill.

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

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

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

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

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

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

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

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

1 county;

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

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

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

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

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

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

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

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

1 about the presence of and risks from radon exposure.

2 **SECTION 2.** In Colorado Revised Statutes, **add** 38-35.7-111 as
3 follows:

4 **38-35.7-111. Disclosure - elevated radon - rules - definition.**

5 (1) A BUYER OF RESIDENTIAL REAL PROPERTY HAS THE RIGHT TO BE
6 INFORMED OF WHETHER THE PROPERTY HAS BEEN TESTED FOR ELEVATED
7 LEVELS OF RADON.

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

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

21 **RESIDENTIAL REAL PROPERTY MAY PRESENT**
22 **EXPOSURE TO DANGEROUS LEVELS OF INDOOR RADON**
23 **GAS THAT MAY PLACE THE OCCUPANTS AT RISK OF**
24 **DEVELOPING RADON-INDUCED LUNG CANCER. RADON, A**
25 **CLASS A HUMAN CARCINOGEN, IS THE LEADING CAUSE OF**
26 **LUNG CANCER IN NONSMOKERS AND THE SECOND**
27 **LEADING CAUSE OF LUNG CANCER OVERALL. THE SELLER**

1 **OF RESIDENTIAL REAL PROPERTY IS REQUIRED TO**
2 **PROVIDE THE BUYER WITH ANY KNOWN INFORMATION ON**
3 **RADON TEST RESULTS OF THE RESIDENTIAL REAL**
4 **PROPERTY.**

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

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

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

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

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

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

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

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

25 (I) EACH CONTRACT THAT IS FOR THE PURCHASE AND SALE OF
26 RESIDENTIAL REAL PROPERTY AND THAT IS SUBJECT TO THE REAL ESTATE
27 COMMISSION'S JURISDICTION TO INCLUDE THE STATEMENT DESCRIBED IN

1 SUBSECTION (2)(a) OF THIS SECTION IN BOLD-FACED TYPE THAT IS
2 CLEARLY LEGIBLE IN SUBSTANTIALLY THE SAME FORM AS DESCRIBED IN
3 SUBSECTION (2)(a) OF THIS SECTION; AND

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

9 (3) AS USED IN THIS SECTION:

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

12 (b) "RESIDENTIAL REAL PROPERTY" INCLUDES:

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

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

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

20 **38-12-803. Disclosure - elevated radon - definition.** (1) A
21 TENANT THAT RENTS RESIDENTIAL REAL PROPERTY HAS THE RIGHT TO BE
22 INFORMED OF WHETHER THE PROPERTY HAS BEEN TESTED FOR ELEVATED
23 LEVELS OF RADON.

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

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

3 **THE COLORADO DEPARTMENT OF PUBLIC**
4 **HEALTH AND ENVIRONMENT STRONGLY RECOMMENDS**
5 **THAT ALL TENANTS HAVE AN INDOOR RADON TEST**
6 **PERFORMED BEFORE LEASING RESIDENTIAL REAL**
7 **PROPERTY AND RECOMMENDS HAVING THE RADON**
8 **LEVELS MITIGATED IF ELEVATED RADON**
9 **CONCENTRATIONS ARE FOUND. ELEVATED RADON**
10 **CONCENTRATIONS CAN BE REDUCED BY A RADON**
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13 **EXPOSURE TO DANGEROUS LEVELS OF INDOOR RADON**
14 **GAS THAT MAY PLACE THE OCCUPANTS AT RISK OF**
15 **DEVELOPING RADON-INDUCED LUNG CANCER. RADON, A**
16 **CLASS A HUMAN CARCINOGEN, IS THE LEADING CAUSE OF**
17 **LUNG CANCER IN NONSMOKERS AND THE SECOND**
18 **LEADING CAUSE OF LUNG CANCER OVERALL. A**
19 **LANDLORD IS REQUIRED TO PROVIDE THE TENANT WITH**
20 **ANY KNOWN INFORMATION ON RADON TEST RESULTS OF**
21 **THE RESIDENTIAL REAL PROPERTY.**

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

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

27 (B) THE MOST CURRENT RECORDS AND REPORTS PERTAINING TO

1 RADON CONCENTRATIONS WITHIN THE RESIDENTIAL REAL PROPERTY;

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

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

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

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

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

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

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

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

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

1 INCLUDES:

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

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

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

9 **38-12-503. Warranty of habitability. (2)** Except as described
10 **in subsection (2.2) OR (2.4) of this section, a landlord breaches the**
11 **warranty of habitability set forth in subsection (1) of this section if:**

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

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

16 **12-10-220.5. Radon disclosure - rules.** THE COMMISSION SHALL
17 **PROMULGATE RULES TO IMPLEMENT SECTION 38-35.7-111 (2)(c)(II).**

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

20 **12-165-107. Exemptions. (1)** This article 165 does not apply to:

21 **(a) (I) An individual performing radon measurement or radon**
22 **mitigation on a single-family residence that the individual owns and**
23 **occupies; OR**

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

26 **SECTION 7.** Act subject to petition - effective date -
27 **applicability. (1)** This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly; except that, if a referendum petition is filed pursuant
3 to section 1 (3) of article V of the state constitution against this act or an
4 item, section, or part of this act within such period, then the act, item,
5 section, or part will not take effect unless approved by the people at the
6 general election to be held in November 2024 and, in such case, will take
7 effect on the date of the official declaration of the vote thereon by the
8 governor.

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