

Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0140.01 Bob Lackner x4350

HOUSE BILL 12-1165

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HOUSE SPONSORSHIP

Schafer S., Tyler

SENATE SPONSORSHIP

Jahn and Nicholson,

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**House Committees**  
State, Veterans, & Military Affairs

**Senate Committees**

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A BILL FOR AN ACT

101 CONCERNING THE DISCLOSURE OF INFORMATION ABOUT RADON  
102 HAZARDS IN CONNECTION WITH THE RESALE OF PRIVATE  
103 RESIDENTIAL REAL PROPERTY.

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**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://www.leg.state.co.us/billsummaries>.)*

On and after January 1, 2013, in connection with the resale and subsequent conveyance of private residential real property, the bill requires the seller of the property to conduct a test of the property for radon hazards prior to sale in accordance with testing procedures

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

approved for such use by the Colorado department of public health and environment. The bill further requires the seller to timely disclose the findings of the test to the potential purchasers of the property and provide documentation to such purchaser evidencing the completion of the test and the test results. Any presence of a radon hazard above the safety level may constitute cause for the mitigation of the hazard. The bill specifies that the cost of any such mitigation is a matter to be privately negotiated between the seller and the potential purchaser of the property. Nothing in the bill is intended nor shall be construed to require any mitigation on the part of the seller of the property.

The bill provides a property owner, an authorized agent of a property owner, or a person in possession of real property immunity from liability for any damages resulting from the operation, maintenance, installation, or effectiveness of any mitigation undertaken pursuant to the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article  
3 45 of title 38 as follows:

4 PART 2

5 DISCLOSURE OF INFORMATION

6 CONCERNING RADON HAZARDS

7 **38-45-201. Legislative declaration.** (1) THE GENERAL ASSEMBLY  
8 FINDS, DETERMINES, AND DECLARES THAT:

9 (a) RADON, AN ODORLESS, COLORLESS, RADIOACTIVE GAS, IS THE  
10 LEADING CAUSE OF CANCER DEATHS AMONG NONSMOKERS IN THE NATION  
11 AND IS THE SECOND LEADING CAUSE OF LUNG CANCER DEATHS OVERALL;

12 (b) RADON ORIGINATES FROM THE DECAY OF NATURALLY  
13 OCCURRING URANIUM IN COLORADO GRANITE, SOIL, AND BEDROCK AND  
14 CAN ACCUMULATE IN STRUCTURES AT DANGEROUS RISK LEVELS TO  
15 HUMANS;

16 (c) THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY LISTS  
17 COLORADO IN THE HIGHEST RISK LEVEL OF STATES WITH RADON GAS, THE

1 STATE OF COLORADO RANKS SEVENTH IN THE NATION IN THE LEVEL OF  
2 RADON RISK, AND RADON IS FOUND IN ALL OF COLORADO'S SIXTY-FOUR  
3 COUNTIES, WITH EIGHTY PERCENT OF COLORADO'S COUNTIES  
4 DEMONSTRATING THE PRESENCE OF RADON IN THE HIGH HAZARD ZONE  
5 AND ANOTHER TWENTY PERCENT OF COLORADO'S COUNTIES SCORING IN  
6 THE MODERATE RADON HAZARD ZONE;

7 (d) RADON CAUSES AN ESTIMATED TWENTY-ONE THOUSAND  
8 RADON-RELATED LUNG CANCER DEATHS PER YEAR IN THE UNITED STATES  
9 ACCORDING TO THE ENVIRONMENTAL PROTECTION AGENCY AND OVER  
10 FIVE HUNDRED SUCH DEATHS PER YEAR IN THE STATE OF COLORADO  
11 ACCORDING TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND  
12 ENVIRONMENT;

13 (e) EXPOSURE TO RADON CAUSES MORE DEATHS TO COLORADANS  
14 PER YEAR THAN DOES DRIVING UNDER THE INFLUENCE OF ALCOHOL  
15 ACCORDING TO THE DEPARTMENTS OF PUBLIC HEALTH AND ENVIRONMENT  
16 AND TRANSPORTATION, AND THE RISK OF DEATH AT HOME FROM RADON IS  
17 GREATER THAN THE RISK FROM ELECTROCUTION, CARBON MONOXIDE,  
18 FIRES, AND FALLS;

19 (f) RADON TESTING DATA COLLECTED BY THE COLORADO  
20 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT DEMONSTRATES  
21 THAT APPROXIMATELY FIFTY PERCENT OF THE HOMES IN THE STATE HAVE  
22 RADON LEVELS ABOVE THE RECOMMENDED ENVIRONMENTAL PROTECTION  
23 AGENCY ACTION LIMIT OF FOUR PICO CURIOES PER LITER OF AIR, OR PCi/L;

24 (g) A 2011 SURVEY UNDERTAKEN BY THE COLORADO  
25 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT DEMONSTRATED  
26 THAT ONLY THIRTY-FOUR PERCENT OF RESPONDENTS HAD TESTED THEIR  
27 HOMES FOR RADON;

1 (h) THE ONLY WAY TO DETERMINE WITH ANY DEGREE OF  
2 SCIENTIFIC ACCURACY WHETHER RADON IS PRESENT IN A HOME IS TO TEST  
3 FOR IT, AND THE ONLY PROVEN MEANS TO ERADICATE RADON IF IT IS  
4 SHOWN TO BE PRESENT IS TO UNDERTAKE MITIGATION.

5 (2) THE GENERAL ASSEMBLY INTENDS BY THIS PART 2 TO REQUIRE  
6 SELLERS INVOLVED IN THE RESALE AND SUBSEQUENT CONVEYANCE OF  
7 RESIDENTIAL REAL PROPERTY TO TEST THE PROPERTY FOR RADON  
8 HAZARDS PRIOR TO SALE. THE PRESENCE OF RADON HAZARDS ABOVE THE  
9 SAFETY LEVEL, OR A RADON CONCENTRATION IN EXCESS OF FOUR  
10 PICOCURIOES PER LITER OF AIR, OR PCi/L, MAY BE CAUSE FOR MITIGATION.  
11 HOWEVER, THE GENERAL ASSEMBLY FURTHER INTENDS THAT THE MATTER  
12 OF MITIGATION OF ANY RADON HAZARD LEVEL DETECTED IN CONNECTION  
13 WITH THE RESALE AND SUBSEQUENT CONVEYANCE OF RESIDENTIAL REAL  
14 PROPERTY IS A MATTER OF PRIVATE NEGOTIATION TO BE ADDRESSED  
15 BETWEEN THE SELLER AND THE POTENTIAL PURCHASER OF THE PROPERTY.  
16 THE GENERAL ASSEMBLY DOES NOT INTEND BY THIS PART 2 THAT THE  
17 SELLER OF THE PROPERTY UNDERTAKE ANY MITIGATION WHERE THE TEST  
18 INDICATES THE PRESENCE OF A RADON HAZARD. BY THIS PART 2, THE  
19 GENERAL ASSEMBLY FURTHER INTENDS TO PROVIDE A PROPERTY OWNER,  
20 AN AUTHORIZED AGENT OF A PROPERTY OWNER, OR A PERSON IN  
21 POSSESSION OF REAL PROPERTY IMMUNITY FROM LIABILITY FOR ANY  
22 DAMAGES RESULTING FROM THE OPERATION, MAINTENANCE,  
23 INSTALLATION, OR EFFECTIVENESS OF ANY MITIGATION UNDERTAKEN  
24 PURSUANT TO THE PROVISIONS OF THIS PART 2.

25 **38-45-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE  
26 CONTEXT OTHERWISE REQUIRES:

27 (1) "MITIGATION" MEANS MEASURES DESIGNED TO PERMANENTLY

1 REDUCE INDOOR RADON CONCENTRATIONS TO AT OR BELOW THE SAFETY  
2 LEVEL, OR A RADON CONCENTRATION IN EXCESS OF FOUR PICOCURIOES PER  
3 LITER OF AIR, OR PCi/L.

4 (2) "RADON HAZARD" MEANS EXPOSURE TO INDOOR RADON  
5 CONCENTRATIONS IN EXCESS OF THE SAFETY LEVEL.

6 (3) "RESIDENTIAL REAL PROPERTY" HAS THE SAME MEANING AS  
7 SPECIFIED IN SECTION 38-35.7-104 (3).

8 (4) "SAFETY LEVEL" MEANS A MEASUREMENT OF INDOOR RADON  
9 CONCENTRATION IN EXCESS OF FOUR PICOCURIOES PER LITER OF AIR, OR  
10 PCi/L, AS SUCH STANDARD MAY BE MODIFIED IN THE FUTURE BY THE  
11 FEDERAL ENVIRONMENTAL PROTECTION AGENCY OR THE COLORADO  
12 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

13 **38-45-203. Required testing by seller of radon hazards - resale**  
14 **of private residential real property - disclosure of test results - no**  
15 **duty to mitigate - immunity from liability.** (1) ON AND AFTER JANUARY  
16 1, 2013, IN CONNECTION WITH THE RESALE AND SUBSEQUENT  
17 CONVEYANCE OF PRIVATE RESIDENTIAL REAL PROPERTY, THE SELLER OF  
18 THE PROPERTY SHALL CONDUCT A TEST OF THE PROPERTY FOR RADON  
19 HAZARDS PRIOR TO SALE IN ACCORDANCE WITH TESTING PROCEDURES  
20 APPROVED FOR SUCH USE BY THE COLORADO DEPARTMENT OF PUBLIC  
21 HEALTH AND ENVIRONMENT. THE SELLER SHALL TIMELY DISCLOSE THE  
22 FINDINGS OF THE TEST TO THE POTENTIAL PURCHASER OF THE PROPERTY  
23 AND PROVIDE DOCUMENTATION TO SUCH PURCHASER EVIDENCING THE  
24 COMPLETION OF THE TEST AND THE TEST RESULTS. ANY PRESENCE OF A  
25 RADON HAZARD ABOVE THE SAFETY LEVEL MAY CONSTITUTE CAUSE FOR  
26 MITIGATION OF SUCH HAZARD AND THE COST OF ANY SUCH MITIGATION IS  
27 A MATTER TO BE PRIVATELY NEGOTIATED BETWEEN THE SELLER AND THE

1 POTENTIAL PURCHASER OF THE PROPERTY. NOTHING IN THIS PART 2 IS  
2 INTENDED NOR SHALL BE CONSTRUED TO REQUIRE ANY MITIGATION ON  
3 THE PART OF THE SELLER OF THE PROPERTY.

4 (2) NO PERSON SHALL HAVE A CLAIM FOR RELIEF AGAINST A  
5 PROPERTY OWNER, AN AUTHORIZED AGENT OF A PROPERTY OWNER, OR A  
6 PERSON IN POSSESSION OF REAL PROPERTY FOR ANY DAMAGES RESULTING  
7 FROM THE OPERATION, MAINTENANCE, INSTALLATION, OR EFFECTIVENESS  
8 OF ANY MITIGATION UNDERTAKEN PURSUANT TO THE PROVISIONS OF  
9 SUBSECTION (1) OF THIS SECTION.

10 **SECTION 2. Act subject to petition - effective date -**  
11 **applicability.** (1) This act takes effect January 1, 2013; except that, if a  
12 referendum petition is filed pursuant to section 1 (3) of article V of the  
13 state constitution against this act or an item, section, or part of this act  
14 within the ninety-day period after final adjournment of the general  
15 assembly, then the act, item, section, or part will not take effect unless  
16 approved by the people at the general election to be held in November  
17 2012 and, in such case, will take effect on January 1, 2013, or on the date  
18 of the official declaration of the vote thereon by the governor, whichever  
19 is later.

20 (2) The provisions of this act apply to private residential real  
21 property listed for resale on or after the applicable effective date of this  
22 act.