

111<sup>th</sup> Congress

1st Session

A BILL

To strengthen cancer risk reduction with the Indoor Radon Abatement Act of 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'National Radon Awareness Act of 2009'.

SEC. 2. **FINDINGS.**

The Congress finds [will find] that --

(1) Radon exposure is the leading cause of lung cancer in non-smokers and the second leading cause of lung cancer in smokers as well. In 2003, based upon the National Academy of Sciences' independent review of the health risks of radon exposure, the U.S. Environmental Protection Agency (EPA) increased the Agency's radon risk assessment by more than 50% and now estimates that between 16,000 to 22,000 Americans die of radon-induced lung cancer annually;

(2) According to the National Academy of Sciences, "radon inhalation is the largest source of collective radiation exposure (and presumably, radiation risk) to the U.S. population as a whole;"

(3) Because radon is a Group A carcinogen, the U.S. Environmental Protection Agency (EPA) and the Surgeon General recommend all owners and renters living below the third floor test for indoor radon;

(4) There has been more epidemiologic investigation exploring the association between indoor radon and lung cancer than any other environmental carcinogen. Experimental exposure in

animals, occupational studies of radon-exposed miners, and direct observation from individuals exposed to radon in their homes provides a firm scientific foundation that documents radon is a major environmental carcinogen;

(5) Radon-induced lung cancer can easily be prevented by testing and reducing concentrations that are at or above EPA's 4 pCi/l Radon Action Level;

(6) The American Association of Radon Scientists and Technologists estimates there are over 8 million homes in the U.S. containing radon concentrations in excess of the EPA's Radon Action Level. On average, an estimated 150,000 additional new homes with dangerous indoor radon concentrations are built in the U.S. each year;

(7) Less than 80,000 U.S. homes are mitigated for elevated radon annually;

(8) To be effective in addressing the 8 million homes plus at risk, 250,000 homes must be mitigated annually if the nation is to overcome the backlog of homes affected by this menace; and

(9) the Federal Government must take a leadership role in building the infrastructure including an informed public, State and local delivery systems, and available financing -- necessary to ensure that the national goal (set by the 1988 Indoor Radon Abatement Act) can be achieved as expeditiously as possible.

### SEC. 3. DEFINITIONS.

Section 302 of the Toxic Substances Control Act (15 U.S.C. 2662) is amended by adding at the end the following new paragraphs:

(1) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

(2) "Agent" means a licensed real estate "broker" or "salesperson", acting on behalf of a seller or buyer of residential real property.

(3) "Buyer" means any individual, partnership, corporation or trustee entering into an agreement to purchase any estate or interest in real property.

- (4) "Direct Federal financial assistance programs" means
- a. assistance in financing a residential dwelling provided by the Federal Housing Administration, Farmers Home Administration, and the Department of Veterans Affairs or other government agencies or,
  - b. any mortgage insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or
  - c. any mortgage intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.
- (5) "Final settlement" means the time at which the parties have signed and delivered all papers and consideration to convey title to the estate or interest in the residential real property being conveyed.
- (5) "Mitigation" means measures enacted by a qualified radon mitigator to permanently reduce indoor radon concentrations according to procedures defined by the USEPA or state licensing requirement or U.S. consensus based standards.
- (6) "Qualified Radon Mitigator" means a contractor licensed by the state or certified by the National Radon Proficiency Program or the National Radon Safety Board to install a residential radon mitigation system.
- (7) "Radon test" means a measurement of indoor radon concentrations in accordance with established USEPA protocols, U.S. consensus standards or state licensing.
- (8) "Radon hazard" means exposure to indoor radon concentrations at or in excess of the United States Environmental Protection Agency's, or a state's recommended Radon Action Level.
- (9) "Residential real property" means any estate or interest in a manufactured housing lot or a parcel of real property, improved with not less than one nor more than 4 residential dwelling units.
- (10) "Seller" means any individual, partnership, corporation or trustee transferring residential real property in return for consideration.

Section 4. Radon testing and disclosure.

The Administrator with the Secretary of Housing and Urban Development shall within 1 year from the enactment of this legislation promulgate notice to all "Direct Federal financial assistance programs" that, except as excluded by this Act, they shall a) require a radon test prior to sale for all such mortgages located in U.S. Environmental Protection Agency radon Zone 1, and b) for radon Zones 2 and 3, provide to the buyer of any interest in residential real property the USEPA entitled document "Homebuyers and Sellers Guide to Radon" (or an equivalent state pamphlet approved for use by the USEPA ) and the National Disclosure of Information on Radon Hazards, which is set forth in Subparagraph (b) of this Section, stating that the property may present the potential for exposure to radioactive radon before the buyer is obligated under any contract to purchase residential real property.

The following shall be the form of Disclosure of Information on Radon Hazards to be provided to a buyer of residential real property as required by this Section:

**NATIONAL DISCLOSURE OF INFORMATION ON RADON HAZARDS**

(For Residential Real Property Sales/Purchases)

**Radon Warning Statement**

Every buyer of any interest in residential real property is notified that such 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 non-smokers and the 2nd leading cause overall. The seller of any interest in residential real property is required to provide the buyer with any information on radon test results of the dwelling in the seller's possession.

**The USEPA and the US Surgeon General strongly recommends ALL homebuyers have an indoor radon test performed prior to purchase and/or taking occupancy, and mitigated if elevated levels are found. Elevated radon concentrations can easily be reduced by a qualified radon mitigator.**

**Seller's Disclosure** (initial each of the following which applies)

(a) \_\_\_\_\_ Elevated radon concentrations (above EPA and/or state recommended Radon Action Level) are known to be present within the dwelling.

(Explain) \_\_\_\_\_

(b) \_\_\_\_\_ Seller has provided the purchaser with all available records and reports pertaining to radon concentrations within the dwelling.

(c) \_\_\_\_\_ Seller has no knowledge of elevated radon concentrations in the dwelling.

(d) \_\_\_\_\_ Seller has no records or reports pertaining to radon concentrations within the dwelling.

**Purchaser's Acknowledgment** (initial each of the following which applies)

(e) \_\_\_\_\_ Purchaser has received copies of all information listed above.

(f) \_\_\_\_\_ Purchaser has received the EPA approved Radon Disclosure Pamphlet.

(g) Purchaser has: (check 1 or 2 below)

1. \_\_\_ received a 10-day opportunity (or mutually agreed upon period) to have an indoor radon test of the dwelling conducted.

2. \_\_\_ waived the opportunity to have a radon test conducted and assumes all liability for elevated radon concentrations discovered after the transaction closes that such a test would have revealed.

**Agent's Acknowledgment** (initial) (if applicable)

(h) \_\_\_\_\_ Agent has informed the seller of the seller's obligations under law.

**Certification of Accuracy**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

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Seller	Date	Seller	Date
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Purchaser	Date	Purchaser	Date
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Agent	Date	Agent	Date
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(i) If any of the disclosures required by this Section occurs after the buyer has made an offer to purchase the residential real property, the seller shall complete the required disclosure activities prior to accepting the buyer's offer and allow the buyer an opportunity to review the information and possibly amend the offer.

Section 5. Applicability. This Act shall apply to transfers by sale of residential real property and any federal housing unit including rental and leasing programs.

Section 6. The provisions of this Act do not apply to the following:

(1) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers between spouses resulting from a judgment of dissolution of marriage or legal separation, transfers pursuant to an order of possession, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.

(2) Transfers from a mortgagor to a mortgagee by deed in lieu of foreclosure or consent judgment, transfer by judicial deed issued pursuant to a foreclosure sale to the successful bidder or the assignee of a certificate of sale, transfer by a collateral assignment of a beneficial interest of a land trust, or a transfer by a mortgagee or a successor in interest to the mortgagee's secured position or a beneficiary under a deed in trust who has acquired the real property by deed in lieu of foreclosure, consent judgment or judicial deed issued pursuant to a foreclosure sale.

(3) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(4) Transfers from one co-owner to one or more other co-owners.

(5) Transfers pursuant to testate or intestate succession.

(6) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the sellers.

(7) Transfers to an entity that has taken title to residential real property from a seller for the purpose of assisting in the relocation of the seller, so long as the entity makes available to all prospective buyers a copy of the disclosure form furnished to the entity by the seller.

This Act shall be effective upon enrollment.