

SENATE BILL No. 115

By Committee on Ways and Means

2-4

1 AN ACT concerning residential real estate sales; relating to mandatory
2 testing for radon; amending K.S.A. 2012 Supp. 58-3078a and repealing
3 the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) As used in this act:

7 (1) "Mitigate" has the meaning as defined in K.S.A. 2012 Supp. 48-
8 16a02, and amendments thereto.

9 (2) "Radon" has the meaning as defined in K.S.A. 2012 Supp. 48-
10 16a02, and amendments thereto.

11 (3) "Radon test" means radon measurement and analysis conducted in
12 accordance with the provisions of the radon certification law, K.S.A. 2012
13 Supp. 48-16a01 et seq., and amendments thereto.

14 (4) "Mitigation and treatment" means radon mitigation and treatment
15 conducted in accordance with the provisions of the radon certification law,
16 K.S.A. 2012 Supp. 48-16a01 et seq., and amendments thereto.

17 (b) Except as provided by subsection (e), on and after July 1, 2013,
18 no contract shall be executed for the sale of a residential structure which is
19 a single family or multifamily unit of four units or less without the
20 performance of a radon test within one year prior to the sale and the
21 receipt of the written results by a buyer or prospective buyer prior to the
22 signing of the contract as provided in this section.

23 (c) The seller of a residential structure which is a single family or
24 multifamily unit of four units or less shall provide to the buyer or a
25 prospective buyer, prior to the signing of the contract to purchase, the
26 written results of the radon test and evidence of any subsequent mitigation
27 or treatment. For such new residential structures that are completed and
28 suitable for occupancy, but unsold, radon test results shall be made
29 available to the buyer or a prospective buyer by the builder or seller when
30 the residence is shown and at any other time upon request.

31 (d) The furnishing of test results and evidence of any mitigation or
32 treatment is not to be construed as a promise, warranty, or representation
33 of any sort by the seller or the seller's agent that the test results are
34 accurate or that the mitigation or treatment is effective. A seller or seller's
35 agent who complies with subsection (c) is not liable in any action based on
36 the presence of radon gas or radon progeny in the residential structure.

1 (e) This section does not apply to:

2 (1) A sheriff's sale, tax sale or sale by foreclosure, partition or by
3 court appointed trustee;

4 (2) a transfer by a fiduciary in the course of the administration of a
5 decedent's estate, guardianship, conservatorship or trust;

6 (3) a transfer of single family residential real property to be converted
7 by the buyer into a use other than residential use or to be demolished; or

8 (4) a sale of unimproved real property.

9 (f) On and after July 1, 2013, each contract for the sale of residential
10 real property shall contain, in addition to the disclosure pursuant to K.S.A.
11 58-3078a, and amendments thereto, a signature line for acknowledgment
12 by the buyer of the receipt of radon test results in accordance with this act.

13 (g) A purchaser who does not receive radon test results on or before
14 entering into the contract of sale has the unconditional right, upon written
15 notice to the seller or seller's agent:

16 (1) To rescind the contract of sale at any time before the receipt of the
17 radon test results or within five days following receipt of the radon test
18 results; and

19 (2) to the immediate return of any deposits made on account of the
20 contract.

21 Sec. 2. K.S.A. 2012 Supp. 58-3078a is hereby amended to read as
22 follows: 58-3078a. On and after July 1, ~~2009~~ 2013, each contract for the
23 sale of residential real property shall contain the following language:

24 "Every buyer of residential real property is notified that the property
25 may present exposure to dangerous concentrations of indoor radon gas that
26 may place occupants at risk of developing radon-induced lung cancer.
27 Radon, a class-A human carcinogen, is the leading cause of lung cancer in
28 non-smokers and the second leading cause overall. Kansas law requires
29 sellers to disclose any information known to the seller that shows elevated
30 concentrations of radon gas in residential real property. ~~The Kansas~~
31 ~~department of health and environment recommends all home buyers have~~
32 ~~and requires that an indoor radon test be performed within one year prior~~
33 ~~to purchasing or taking occupancy the sale of residential real property and~~
34 ~~the result provided to the buyer or prospective buyer prior to the signing~~
35 ~~of the contract. All testing for radon should be conducted by a radon~~
36 ~~measurement technician. Elevated radon concentrations can be easily~~
37 ~~reduced by a radon mitigation technician. For additional information go to~~
38 ~~www.kansasradonprogram.org."~~

39 Sec. 3. K.S.A. 2012 Supp. 58-3078a is hereby repealed.

40 Sec. 4. This act shall take effect and be in force from and after its
41 publication in the statute book.