

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 575

H.P. 394

House of Representatives, February 19, 2013

An Act To Amend the Laws Relating to Radon Testing

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LONGSTAFF of Waterville.
Cosponsored by Senator WHITTEMORE of Somerset and
Representatives: BECK of Waterville, NADEAU of Winslow.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 14 MRSA §6030-D**, as amended by PL 2011, c. 96, §3 and c. 157, §1, is
3 further amended to read:

4 **§6030-D. Radon testing**

5 **1. Testing.** ~~By March 1, 2014 and every 10 years thereafter, a~~ A landlord or other
6 person who on behalf of a landlord ~~or a tenant who~~ enters into a lease or tenancy at will
7 agreement for a residential ~~building shall have~~ housing unit may test the air of the
8 residential ~~building tested~~ housing unit for the presence of radon. A test ~~required to be~~
9 performed under this section must be conducted ~~by a person registered with the~~
10 Department of Health and Human Services pursuant to using an authorized radon testing
11 device as defined in Title 22, chapter 165 section 772, subsection 2.

12 **1-A. Residential housing unit definition; short-term rentals.** As used in this
13 section, "residential ~~building~~ housing unit" means a room or suite of rooms used for
14 human habitation located below the 3rd story above ground level of a building, but does
15 not include a building used exclusively for rental under short-term leases of 100 days or
16 less where no lease renewal or extension can occur.

17 **2. Notification.** ~~A~~ Except as provided in subsection 2-A, a landlord or other person
18 who on behalf of a landlord enters into a lease or tenancy at will agreement for a
19 residential ~~building~~ housing unit shall provide written notice to a tenant or potential
20 tenant regarding the presence of radon in the ~~building~~ housing unit, including the date and
21 results of the most recent test conducted under subsection 1, and the risk associated with
22 radon. The Department of Health and Human Services shall prepare a standard
23 disclosure statement form for a landlord or other person who on behalf of a landlord
24 enters into a lease or tenancy at will agreement for real property to use to disclose to a
25 tenant or potential tenant information concerning radon. The form must include an
26 acknowledgment that the tenant or potential tenant has received the disclosure statement
27 required by this subsection. The department shall post and maintain the forms required by
28 this subsection on its publicly accessible website in a format that is easily downloaded.

29 **2-A. Subsequent test.** If a landlord or other person acting on behalf of a landlord or
30 a tenant subsequently tests a residential housing unit after a test under subsection 1
31 indicated that the presence of radon existed in the residential housing unit and the
32 subsequent test indicates that there is no presence of radon in the residential housing unit,
33 then the landlord or other person acting on behalf of the landlord is not required to
34 provide notification under subsection 2.

35 **3. Mitigation.** When the test of a residential ~~building~~ housing unit under subsection
36 1 reveals a level of radon of 4.0 picocuries per liter of air or above, the landlord or other
37 person who on behalf of a landlord enters into a lease or tenancy at will agreement for
38 that ~~building~~ residential housing unit shall, within 6 months, mitigate the level of radon in
39 the residential ~~building~~ housing unit until it is reduced to a level below 4.0 picocuries per
40 liter of air or declare the lease or tenancy at will is terminated and within 6 months
41 discontinue rental of the residential housing unit. If a landlord or other person who on
42 behalf of a landlord enters into a lease or tenancy at will agreement for a residential

1 building housing unit is required to obtain a permit under a local or municipal ordinance,
2 mitigation must occur within 6 months after obtaining any necessary permit. Mitigation
3 services must be provided by a person registered with the Department of Health and
4 Human Services pursuant to Title 22, chapter 165. After mitigation has been performed
5 pursuant to this subsection to reduce the level of radon, the landlord or other person who
6 on behalf of a landlord enters into a lease or tenancy at will agreement for the residential
7 building housing unit shall provide written notice to tenants residing in the residential
8 housing unit at the time of mitigation that radon levels have been mitigated.

9 **3-A. Other areas of building.** If a radon test under subsection 1 indicates the
10 presence of radon in a common area of a building that contains residential housing units
11 but not in a residential housing unit, the landlord or person acting on behalf of the
12 landlord shall provide notice to all tenants in the building pursuant to subsection 2 of the
13 presence of radon in the common area and a tenant may use the common area at the
14 tenant's discretion.

15 **4. Penalty.** A person who violates this section commits a civil violation for which a
16 fine of not more than \$250 per violation may be assessed.

17 **Sec. 2. 22 MRSA §776, sub-§§3 and 4,** as enacted by PL 1989, c. 657, §1, are
18 amended to read:

19 **3. Department employees.** Employees of the department in the course of their
20 assigned duties; ~~or~~

21 **4. Authorized personnel.** A person performing testing with the written approval of
22 the department. Registration under section 774 or 775 does not constitute written
23 approval for the purposes of this subsection; ~~or~~

24 **Sec. 3. 22 MRSA §776, sub-§5** is enacted to read:

25 **5. Landlords and tenants of residential housing units.** A landlord, person acting
26 on the landlord's behalf or tenant testing pursuant to Title 14, section 6030-D, subsection
27 1.

28 SUMMARY

29 This bill amends the laws concerning radon testing by:

30 1. Removing the requirement that all residential housing units be tested for radon by
31 March 1, 2014 and every 10 years thereafter;

32 2. Allowing, instead of requiring, landlords and people acting on behalf of landlords
33 to conduct radon tests and allowing tenants to conduct radon tests;

34 3. Applying the radon testing laws to only residential housing units located below the
35 3rd story above the ground floor of a building;

1 4. Removing the requirement that a landlord or a person acting on the landlord's
2 behalf provide notice of a positive radon test if a subsequent test indicates there is no
3 presence of radon;

4 5. Allowing a landlord or person acting on behalf of a landlord to terminate a lease
5 or tenancy at will following a test indicating the presence of radon as an alternative to
6 mitigation; and

7 6. Requiring a landlord or a person acting on behalf of a landlord to provide notice to
8 tenants that a common area of a building tests positive for radon. If there is no presence
9 of radon in a residential housing unit a tenant may use the common area at the tenant's
10 discretion.