

§6030-D. Radon testing

1. Testing. By March 1, 2014, and, unless a mitigation system has been installed in that residential building, every 10 years thereafter when requested by a tenant, a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall have the air of the residential building tested for the presence of radon. For a residential building constructed or that begins operation after March 1, 2014, a landlord or other person acting on behalf of a landlord shall have the air of the residential building tested for the presence of radon within 12 months of the occupancy of the building by a tenant. Except as provided in subsection 5, a test required to be performed under this section must be conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165.

[PL 2013, c. 324, §2 (AMD).]

1-A. Short-term rentals. As used in this section, "residential building" does not include a building used exclusively for rental under short-term leases of 100 days or less where no lease renewal or extension can occur.

[PL 2011, c. 96, §3 (NEW).]

2. Notification. Within 30 days of receiving results of a test with respect to existing tenants or before a tenant enters into a lease or tenancy at will agreement or pays a deposit to rent or lease a property, a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building shall provide written notice, as prescribed by the Department of Health and Human Services, to a tenant regarding the presence of radon in the building, including the date and results of the most recent test conducted under subsection 1, 5 or 6, whether mitigation has been performed to reduce the level of radon, notice that the tenant has the right to conduct a test and the risk associated with radon. Upon request by a prospective tenant, a landlord or other person acting on behalf of a landlord shall provide oral notice regarding the presence of radon in a residential building as required by this subsection. The Department of Health and Human Services shall prepare a standard disclosure statement form for a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for real property to use to disclose to a tenant information concerning radon. The form must include an acknowledgment that the tenant has received the disclosure statement required by this subsection. The department shall post and maintain the forms required by this subsection on its publicly accessible website in a format that is easily downloaded.

[PL 2013, c. 324, §2 (AMD).]

3. Mitigation.

[PL 2013, c. 324, §2 (RP).]

4. Penalty; breach of implied warranty. A person who violates this section commits a civil violation for which a fine of not more than \$250 per violation may be assessed. The failure of a landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for a residential building to provide the notice required under subsection 2 or the falsification of a test or test results by the landlord or other person is a breach of the implied warranty of fitness for human habitation in accordance with section 6021.

[PL 2013, c. 324, §2 (AMD).]

5. Testing by landlords. A landlord or other person acting on behalf of a landlord may conduct a test required to be performed under this section on a residential building that, at a minimum, does not include an elevator shaft, an unsealed utility chase or open pathway, a forced hot air or central air system or private well water unless the water has been tested for radon by a person registered under Title 22, chapter 165 and the results show a radon level acceptable to the Department of Health and Human Services, or on a building otherwise defined in rules adopted by the Department of Health and Human Services. A test or testing equipment used as permitted under this subsection must conform to any protocols identified in rules adopted by the Department of Health and Human Services.

[PL 2013, c. 324, §2 (NEW).]

6. Testing by tenants; disputed test results. A tenant may conduct a test for the presence of radon in the tenant's dwelling unit in a residential building in conformity with rules adopted by the Department of Health and Human Services or have a test conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165. After receiving notice of a radon test from a tenant indicating the presence of radon at or in excess of 4.0 picocuries per liter of air, either the landlord shall disclose those results as required by subsection 2 or the landlord or other person acting on behalf of the landlord shall have a test conducted by a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165 and shall disclose the results of that test to the tenant as required by subsection 2.

[PL 2013, c. 324, §2 (NEW).]

7. Reporting of test results. A landlord or a person registered with the Department of Health and Human Services pursuant to Title 22, chapter 165 who has conducted a test of a residential building as required by this section or accepted the results of a tenant-initiated test as set forth in subsection 6 shall report the results of the test to the Department of Health and Human Services within 30 days of receipt of the results in a form and manner required by the department.

[PL 2013, c. 324, §2 (NEW).]

8. Termination of lease or tenancy at will. If a test of a residential building under this section reveals a level of radon of 4.0 picocuries per liter of air or above, then either the landlord or the tenant may terminate the lease or tenancy at will with a minimum of 30 days' notice. Except as provided in section 6033, a landlord may not retain a security deposit or a portion of a security deposit for a lease or tenancy at will terminated as a result of a radon test in accordance with this subsection.

[PL 2013, c. 324, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 278, §1 (NEW). PL 2009, c. 566, §19 (AMD). PL 2011, c. 96, §3 (AMD). PL 2011, c. 157, §1 (AMD). PL 2013, c. 324, §2 (AMD).

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