

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Radon Awareness Act is amended by
5 changing Sections 5 and 20 and by adding Sections 26, 30, and
6 35 as follows:

7 (420 ILCS 46/5)

8 Sec. 5. Definitions. As used in this Act, unless the
9 context otherwise requires:

10 ~~(a)~~ "Agent" means a licensed real estate "broker" or
11 "salesperson", as those terms are defined in Section 1-10 of
12 the Real Estate License Act of 2000, acting on behalf of a
13 seller or buyer of residential real property.

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

17 "Dwelling unit" means a room or suite of rooms used for
18 human habitation. "Dwelling unit" includes a mobile home, a
19 single family residence, each living unit in a multiple family
20 residence, and each living unit in a mixed use building.

21 ~~(c)~~ "Final settlement" means the time at which the parties
22 have signed and delivered all papers and consideration to
23 convey title to the estate or interest in the residential real

1 property being conveyed.

2 "Lease" means an oral or written agreement under which a
3 lessor allows a tenant to use the property for a specified rent
4 and period of time.

5 "Lessor" means any person or entity that leases a dwelling
6 unit to a tenant. "Lessor" includes, but is not limited to, an
7 individual, company, corporation, firm, group, association,
8 partnership, joint venture, trust, government agency, or
9 subdivision thereof.

10 ~~(d)~~ "IEMA" means the Illinois Emergency Management Agency
11 Division of Nuclear Safety.

12 ~~(e)~~ "Mitigation" means measures designed to permanently
13 reduce indoor radon concentrations according to procedures
14 described in 32 Illinois Administrative Code Part 422.

15 "Mobile home" has the meaning given to that term in
16 Section 10 of the Manufactured Home Quality Assurance Act.

17 "Radon" means a gaseous radioactive decay product of
18 uranium or thorium.

19 "Radon contractor" means a person licensed under the Radon
20 Industry Licensing Act to perform radon mitigation or
21 measurement in an indoor atmosphere.

22 ~~(f)~~ "Radon hazard" means exposure to indoor radon
23 concentrations at or in excess of the United States
24 Environmental Protection Agency's, or IEMA's recommended Radon
25 Action Level.

26 ~~(g)~~ "Radon test" means a measurement of indoor radon

1 concentrations in accordance with 32 Illinois Administrative
2 Code Part 422 for performing radon measurements ~~within the~~
3 ~~context of a residential real property transaction.~~

4 ~~(h)~~ "Residential real property" means any estate or
5 interest in a manufactured housing lot or a parcel of real
6 property, improved with not less than one nor more than 4
7 residential dwelling units.

8 ~~(i)~~ "Seller" means any individual, partnership,
9 corporation, or trustee transferring residential real property
10 in return for consideration.

11 "Tenant" means a person who has entered into an oral or
12 written lease with a lessor to lease a dwelling unit.

13 (Source: P.A. 95-210, eff. 1-1-08.)

14 (420 ILCS 46/20)

15 Sec. 20. Exclusions. The provisions of this Act do not
16 apply to the following:

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

25 (2) Transfers from a mortgagor to a mortgagee by deed

1 in lieu of foreclosure or consent judgment, transfer by
2 judicial deed issued pursuant to a foreclosure sale to the
3 successful bidder or the assignee of a certificate of
4 sale, transfer by a collateral assignment of a beneficial
5 interest of a land trust, or a transfer by a mortgagee or a
6 successor in interest to the mortgagee's secured position
7 or a beneficiary under a deed in trust who has acquired the
8 real property by deed in lieu of foreclosure, consent
9 judgment or judicial deed issued pursuant to a foreclosure
10 sale.

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

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

16 (5) Transfers pursuant to testate or intestate
17 succession.

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

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

26 (8) Transfers to or from any governmental entity.

1 (9) Transfers of any residential dwelling unit located
2 on the third story or higher above ground level of any
3 structure or building, including, but not limited to,
4 condominium units and dwelling units in a residential
5 cooperative.

6 As used in this Section, "transfers" includes any legal
7 transfer of possession of property, including purchases and
8 leases.

9 (Source: P.A. 95-210, eff. 1-1-08; 96-278, eff. 8-11-09.)

10 (420 ILCS 46/26 new)

11 Sec. 26. Disclosure of radon hazard to current and
12 prospective tenants.

13 (a) At the time of a prospective tenant's application to
14 lease a dwelling unit, before a lease is entered into, or at
15 any time during the leasing period, upon request, the lessor
16 shall provide the prospective tenant or tenant of a dwelling
17 unit with:

18 (1) the Illinois Emergency Management Agency pamphlet
19 entitled "Radon Guide for Tenants" or an equivalent
20 pamphlet approved for use by the Illinois Emergency
21 Management Agency;

22 (2) copies of any records or reports pertaining to
23 radon concentrations within the dwelling unit that
24 indicate a radon hazard to the tenant, as provided in
25 subsection (c); and

1 (3) the Disclosure of Information on Radon Hazards to
2 Tenants form, as set forth in subsection (f).

3 (b) At the commencement of the agreed leasing period, a
4 tenant shall have 90 days to conduct his or her own radon test
5 of the dwelling unit. If the tenant chooses to have a radon
6 test performed, the tenant shall provide the lessor with
7 copies of the results, including any records or reports
8 pertaining to radon concentrations, within 10 days after
9 receiving the results of the radon test. If the tenant's radon
10 test provides a result in excess of the Illinois Emergency
11 Management Agency's recommended Radon Action Level and the
12 lessor has elected to not mitigated the radon hazard, the
13 tenant may terminate the lease.

14 (1) Nothing in this subsection is intended to or shall
15 be construed to imply that a tenant is not permitted to
16 conduct a radon test of unit following the completion of
17 the 90-day period. Following the 90-day period the tenant
18 may conduct further radon testing if he or she elects to;
19 however, upon a result of a radon hazard, he or she does
20 not have a right to terminate the lease under this
21 Section.

22 (2) Nothing in this subsection is intended to or shall
23 be construed to imply that a tenant waives any other right
24 to terminate the lease if he or she conducts a radon test
25 after the completion of the 90-day period under any other
26 applicable State or federal law.

1 (c) If the tenant elects to conduct a radon test during the
2 90-day period and the results indicate a radon hazard, the
3 lessor may hire a radon contractor to perform an additional
4 radon test within 30 days after the tenant notifies the lessor
5 of the results of his or her radon test. The results of a
6 measurement by a radon contract may be used by the lessor to
7 disprove the presence of a radon hazard. Test results are
8 valid for a period of 2 years after the date of the testing
9 unless any renovations, additions, or modifications are made
10 to the building containing the dwelling unit.

11 (d) Nothing in this Section is intended to or shall be
12 construed to imply an obligation of a lessor or tenant to
13 conduct any radon testing activity or perform any radon
14 mitigation activity.

15 (e) If a lessor fails to provide the prospective tenant or
16 tenant with the documents as required in subsection (a), then,
17 at any point during the term of the lease the tenant may elect
18 to have a radon test conducted under this Section. If the radon
19 test shows the existence of a radon hazard, the tenant shall
20 provide the lessor with copies of the results of the test,
21 including records or reports pertaining to radon
22 concentrations, within 10 days after receiving the results of
23 the radon test. If the lessor disputes the results of the radon
24 test performed by the tenant, the lessor may elect, at the
25 lessor's expense, to hire a radon contractor to perform a
26 radon test within 30 days of the tenant notifying the lessor of

1 the results of the tenant's radon test. The results of a
2 measurement by a radon contract may be used by the lessor to
3 disprove the presence of a radon hazard. Test results are
4 valid for a period of 2 years after the date of testing unless
5 any renovation, addition, or substantial modifications are
6 made to the building containing the dwelling unit. If the
7 lessor declines to dispute the results of the tenant's radon
8 test showing a radon hazard or does not mitigate the hazard,
9 the tenant may, within 60 days:

10 (1) hire, at the tenant's expense, a radon contractor
11 to perform radon mitigation activities. If the tenant
12 chooses to conduct mitigation activities, the mitigation
13 activities shall only be done with express consent of the
14 lessor; or

15 (2) terminate the lease.

16 (f) The following Disclosure of Information on Radon
17 Hazards to Tenants shall be provided to each tenant of a
18 dwelling unit:

19 "DISCLOSURE OF INFORMATION ON RADON HAZARDS TO TENANTS

20 Radon Warning Statement

21 Each tenant in this residence or dwelling unit is notified
22 that the property may present exposure to levels of indoor
23 radon gas that may place the occupants at risk of developing
24 radon-induced lung cancer. Radon, a Class-A human carcinogen,

1 is the leading cause of death in private homes and the leading
 2 cause of lung cancer in nonsmokers. The lessor of any
 3 residence is required to provide each tenant with any
 4 information on radon test results of the dwelling unit that
 5 present a radon hazard to the tenant.

6 The Illinois Emergency Management Agency (IEMA) strongly
 7 recommends that ALL rental properties have a radon test
 8 performed and radon hazards mitigated if elevated levels are
 9 found in a dwelling unit or a routinely occupied area of a
 10 multiple family residence. Elevated radon concentrations can
 11 easily be reduced by a radon contractor.

12 Dwelling Unit Address:

13 Lessor's Disclosure (initial each of the following that
 14 apply)

15 Lessor has no knowledge of elevated radon
 16 concentrations (or records or reports pertaining to elevated
 17 radon concentrations) in the dwelling unit.

18 Radon concentrations (at or above the IEMA
 19 recommended Radon Action Level 4.0 pCi/L) are known to be
 20 present within the dwelling unit.

21 Lessor has provided the tenant with copies of all
 22 available records and reports, if any, pertaining to radon
 23 concentrations within the dwelling unit.

1 Tenant's Acknowledgment (initial each of the following
2 that apply)

3 Tenant has received copies of all information listed
4 above.

5 Tenant has received the pamphlet "Radon Guide for
6 Tenants".

7 Certification of Accuracy

8 The following parties have reviewed the information above
9 and each party certifies, to the best of his or her knowledge,
10 that the information he or she provided is true and accurate.

11 Lessor Date

12 Tenant Date"

13 (g) This Section applies to leases entered into on or
14 after the effective date of this amendatory Act of the 103rd
15 General Assembly.

16 (420 ILCS 46/30 new)

17 Sec. 30. Mitigation of radon hazards.

18 (a) A lessor who decides to have radon mitigation
19 performed shall have the radon mitigation system installed by
20 a radon contractor.

21 (b) A tenant who decides to have radon mitigation
22 performed shall have the radon mitigation system installed by
23 a radon contractor and shall have the lessor's express consent

1 prior to undertaking any mitigation activities. If the tenant
2 receives express consent from the lessor, the tenant may
3 deduct the cost of installation of the radon mitigation system
4 from tenant's rent. This deduction shall be divided in equal
5 parts for the remainder of the leasing period.

6 (c) A lessor of a dwelling unit vacated by a tenant under
7 subsection (e) of Section 26 who has received a security
8 deposit from a tenant to secure the payment of rent or to
9 compensate for damage to the leased property may not withhold
10 any part of that security deposit as compensation for radon
11 testing or mitigation activities. However, the lessor may
12 withhold part of the security deposit if the tenant had a
13 mitigation system installed without the lessor's consent and
14 the system was not properly installed by a radon contractor.
15 An itemized statement must be provided to the tenant if any
16 part of the security deposit is withheld.

17 (d) This Section applies to leases entered into on or
18 after the effective date of this amendatory Act of the 103rd
19 General Assembly.

20 (420 ILCS 46/35 new)

21 Sec. 35. Home rule. A home rule unit may not regulate lease
22 agreements or tenant rights in a manner that is inconsistent
23 with the regulation of lease agreements and tenant rights
24 under this Act. This Section is a limitation under subsection
25 (i) of Section 6 of Article VII of the Illinois Constitution on

1 the concurrent exercise by home rule units of powers and
2 functions exercised by the State.

3 (420 ILCS 46/25 rep.)

4 Section 10. The Illinois Radon Awareness Act is amended by
5 repealing Section 25.