

## CHAPTER 165

### RADON REGISTRATION ACT

#### §771. Short title

This chapter may be known and cited as the "Radon Registration Act." [PL 1989, c. 657, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 657, §1 (NEW).

#### §772. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 657, §1 (NEW).]

**1. Associated radiological concerns.** "Associated radiological concerns" means radioactive elements other than radon, including, but not limited to, radium, thorium, uranium and their respective decay products.

[PL 1989, c. 657, §1 (NEW).]

**2. Authorized radon testing device.** "Authorized radon testing device" means a device that:

A. Collects radon or its decay products; [PL 1989, c. 657, §1 (NEW).]

B. Requires analysis by an independent measuring facility or is a continuous monitoring device; and [PL 1989, c. 657, §1 (NEW).]

C. Has been determined to meet the proficiency requirements as determined by the department through rule. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [PL 2001, c. 574, §8 (AMD).]

[PL 2001, c. 574, §8 (AMD).]

**3. Division.** "Division" means the division of environmental health within the Department of Health and Human Services.

[PL 2011, c. 144, §1 (RPR).]

**4. Listed facility.** "Listed facility" means a radon testing facility that is designated as providing radon analysis services and that has proven its proficiency to the department.

[PL 1999, c. 76, §2 (AMD).]

**5. Radon.** "Radon" means the radioactive gaseous element and its decay products produced by the disintegration of the element radium in air, water, soil or other media.

[PL 1989, c. 657, §1 (NEW).]

**6. Radon testing services.** "Radon testing services" means providing, for remuneration, determination of radon levels or analysis of an authorized radon testing device. This term includes those services provided by listed facilities.

[PL 1989, c. 657, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 657, §1 (NEW). PL 1999, c. 76, §§1,2 (AMD). PL 2001, c. 574, §8 (AMD). PL 2003, c. 689, §B6 (REV). PL 2011, c. 144, §1 (AMD).

#### §773. Lead agency

The division is the lead agency having primary responsibility for programs related to radon and associated radiological concerns. The division shall register firms, including listed facilities, and individuals who test for the presence of radon or associated radiological concerns or who provide consulting, construction or other remedial services for reducing the levels of radon or associated radiological concerns. The division may facilitate functions including, but not limited to, education, funding, liaison, technology transfer and training with the United States Environmental Protection Agency or other federal or state agencies. The division also serves as an information clearinghouse for radon and associated radiological concerns by maintaining records and disseminating information to educate the public about radon, describing technical assistance programs and interpreting test results as appropriate. [PL 1989, c. 657, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 657, §1 (NEW).

#### **§774. Radon testing; registration required**

A person may not perform, evaluate or advertise to perform or evaluate tests for the presence of radon in buildings or on building lots unless registered with the division. This registration requirement includes without limitation a person whose place of business is located in the State, or in another state, who offers radon testing services to residents of the State either directly or through the mail. [PL 1989, c. 657, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 657, §1 (NEW).

#### **§775. Radon mitigation; registration required**

A person may not offer advice or plans to reduce the level of radon in new or existing structures or contract to modify an existing structure in a manner intended to reduce the level of radon unless registered with the division. [PL 2011, c. 144, §2 (AMD).]

#### SECTION HISTORY

PL 1989, c. 657, §1 (NEW). PL 2011, c. 144, §2 (AMD).

#### **§776. Exemptions**

The requirements of sections 774 and 775 do not apply to any of the following: [PL 1989, c. 657, §1 (NEW).]

**1. Personal use.** A person performing testing or mitigation on a building owned or inhabited by that person but not for sale at the time that person performs testing or mitigation on that building; [PL 2001, c. 574, §9 (AMD).]

**2. New construction.** A builder utilizing preventive or safeguarding measures in new construction as specified in the Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103; [PL 2011, c. 144, §3 (AMD).]

**3. Department employees.** Employees of the department in the course of their assigned duties; or [PL 1989, c. 657, §1 (NEW).]

**4. Authorized personnel.** A person performing testing with the written approval of the department. Registration under section 774 or 775 does not constitute written approval for the purposes of this subsection. [PL 1989, c. 657, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 657, §1 (NEW). PL 2001, c. 574, §9 (AMD). PL 2011, c. 144, §3 (AMD).

**§777. Use of listed facilities**

Any person who is required to register under section 774 or 775 shall use only authorized radon testing devices and shall have these devices analyzed by a listed facility. When disclosing test results, any person registered under section 774 or 775 shall provide in writing the name and address of the listed facility that performed the analysis. [RR 1991, c. 2, §74 (COR).]

SECTION HISTORY

PL 1989, c. 657, §1 (NEW). RR 1991, c. 2, §74 (COR).

**§778. Reports**

A person registered under section 774 or 775 shall, within 45 days of the date the services are provided, notify the department in writing of the street address and zip code of the client and the results of any tests performed. The department may, by rule, specify an alternative notification procedure and notification period and any additional data required in the report. [PL 2009, c. 278, §2 (AMD).]

SECTION HISTORY

PL 1989, c. 657, §1 (NEW). RR 1991, c. 2, §75 (COR). PL 2009, c. 278, §2 (AMD).

**§779. Advertising**

A person may not advertise any radon testing device as "State-approved," "approved by the State of Maine" or by use of any phrases with similar meaning or content. This restriction also applies to any reference denoting municipal approval. [PL 1989, c. 657, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 657, §1 (NEW).

**§780. Fees**

The department shall determine a schedule of fees to defray the costs of the registration programs established in sections 774 and 775. Fees may not exceed \$150 for registrants under section 774 or \$75 for registrants under section 775. The fees collected must be placed in the Radon Relief Fund established in section 784. The fee schedule must provide for initial registration and biennial registration fees. [PL 1989, c. 657, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 657, §1 (NEW).

**§781. Rules**

The department shall adopt rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, necessary to administer and enforce this chapter. Rules must address, but are not limited to, minimal training requirements for registration, periodic reregistration, performance standards, reports, truth-in-advertising requirements and criteria and procedures for revoking registrations. [PL 1989, c. 657, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 657, §1 (NEW).

**§782. Penalties**

Any person failing to register pursuant to section 774 or 775, commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged. Any person in violation of section 777, 778 or 779 commits a civil violation for which a forfeiture not to exceed \$250 per violation may be adjudged. Any

person who engages in radon testing, advertising or mitigation in violation of this chapter is also in violation of Title 5, chapter 10. [PL 1989, c. 657, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 657, §1 (NEW).

#### **§783. Registration revoked**

The department may revoke, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, the registration of any person found in violation of this chapter. [PL 1989, c. 657, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 657, §1 (NEW).

#### **§784. Radon Relief Fund**

The Radon Relief Fund is established as a nonlapsing fund to support the radon-related research, testing, educational and mitigation activities of the division. Funds received from registrations under sections 774 and 775 and any other miscellaneous sources of income are deposited in the fund. The division shall administer the fund. Funds in the Radon Relief Fund must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund. [PL 1989, c. 657, §1 (NEW).]

#### SECTION HISTORY

PL 1989, c. 657, §1 (NEW).

#### **§785. Maine Gold Standard for Radon Testing and Mitigation Initiative**

The Maine Gold Standard for Radon Testing and Mitigation Initiative is established, beginning July 1, 2022, within the department to reward, recognize, promote and assist, with a gold standard designation, landlords, homeowners and home builders who participate in radon testing and mitigation activities under this section. A person who meets the criteria established in this section and by the department in rules may achieve a gold standard designation. [PL 2021, c. 470, §1 (NEW).]

**1. Criteria for landlords.** In order to obtain the gold standard designation, a landlord must meet the following criteria relating to testing and mitigation.

A. Every 2 years, the landlord shall conduct radon testing in compliance with this chapter and any standards established by the United States Environmental Protection Agency. The results of the test must be submitted to the department, and the department shall post the results to its publicly available website. The department shall pay for all costs for radon testing that occurs in accordance with this subsection. [PL 2021, c. 470, §1 (NEW).]

B. If the results of the radon test completed in accordance with paragraph A reveal a level of radon of 4.0 picocuries per liter of air or above, the landlord shall, within 6 months, mitigate the level of radon in the residential building until it is reduced to a level below 4.0 picocuries per liter of air. Mitigation services must be provided by a person registered with the department pursuant to this chapter. After mitigation has been performed pursuant to this paragraph to reduce the level of radon, the landlord shall provide written notice to tenants that the radon levels have been mitigated. The department shall pay for the first \$600 in mitigation expenses on behalf of a landlord as a result of a test conducted in accordance with paragraph A if it exceeds a level of radon of 4.0 picocuries per liter of air or above. [PL 2021, c. 470, §1 (NEW).]

[PL 2021, c. 470, §1 (NEW).]

**2. Criteria for homeowners.** In order for a homeowner to obtain the gold standard designation, the homeowner shall, before the conveyance of any residential real property in accordance with Title

33, chapter 7, test for the presence of radon in the air and water in residential real property and arsenic and uranium in water from a private well. For purposes of this subsection, "residential real property" has the same meaning as in Title 33, section 171, subsection 6. The department shall pay for all costs for testing that occurs in accordance with this subsection and any rules adopted by the department. The department shall pay for the first \$600 in mitigation expenses on behalf of a homeowner in accordance with any rules adopted by the department.

[PL 2021, c. 470, §1 (NEW).]

**3. Criteria for home builders.** In order to obtain the gold standard designation, a home builder constructing a new home in a municipality that has up to 4,000 residents shall comply with any standards relating to radon preventive features in the Maine Uniform Building and Energy Code and the new home must receive an inspection in accordance with rules adopted by the department. To the extent testing is required by the department in rule to obtain the gold standard, the department shall pay for all costs for testing. To the extent mitigation is required by the department in rule, the department shall pay for the first \$600 in mitigation expenses.

[PL 2021, c. 470, §1 (NEW).]

**4. Rules.** The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 470, §1 (NEW).]

#### SECTION HISTORY

PL 2021, c. 470, §1 (NEW).

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