

Introduced by

Representatives Delmore, Beadle, Dobervich, Keiser

Senators J. Lee, Poolman

1 A BILL for an Act to create and enact a new chapter to title 47 of the North Dakota Century
2 Code, relating to disclosure of radon hazards by a seller; and to amend and reenact section
3 47-16-07.2 of the North Dakota Century Code, relating to disclosure of radon hazards by a
4 lessor.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new chapter to title 47 of the North Dakota Century Code is created and
7 enacted as follows:

8 **Definitions.**

9 In this chapter, unless context otherwise requires:

- 10 1. "Buyer" means an individual negotiating or offering to acquire land for value or legal or
11 equitable title, or the right to acquire legal or equitable title to residential property.
12 2. "Mitigation" means measures designed to permanently reduce indoor radon
13 concentrations.
14 3. "Radon test" means a measurement of indoor radon concentrations according to the
15 environmental protection agency's "Federal Radon Action Plan" (2011), for residential
16 real property.
17 4. "Residential real property" means property occupied as or intended to be occupied as
18 a single-family residence.
19 5. "Seller" means a person that owns legal or equitable title to residential real property.
20 6. "Elevated radon concentration" means a radon concentration at or above four
21 picocuries per liter.

1 **Radon disclosure.**

- 2 1. Before signing an agreement to sell or transfer residential real property, a seller shall
3 disclose in writing to the buyer any knowledge the seller has of radon concentrations
4 in the residential property. The disclosure must include:
- 5 a. Whether a radon test has been conducted on the property;
 - 6 b. The most current records and reports pertaining to radon concentrations within
7 the property;
 - 8 c. A description of any radon concentrations, mitigation, or remediation;
 - 9 d. Information regarding any radon mitigation system, including a description and
10 documentation of any such system; and
 - 11 e. A radon warning statement as provided in this chapter.
- 12 2. A seller's radon disclosure requirements under this section apply to the transfer of any
13 interest in residential real estate, whether by sale, exchange, deed, contract for deed,
14 lease with an option to purchase, or any other option.
- 15 3. A seller's radon disclosure requirements under this section do not apply to:
- 16 a. Real property that is not residential real property;
 - 17 b. A gratuitous transfer;
 - 18 c. A transfer made pursuant to court order;
 - 19 d. A transfer to a government or governmental agency;
 - 20 e. A transfer by foreclosure or deed in lieu of foreclosure;
 - 21 f. A transfer to heirs or devisees of a decedent;
 - 22 g. A transfer made to a spouse, parent, grandparent, child, or grandchild of the
23 seller;
 - 24 h. A transfer between spouses resulting from a decree of marriage dissolution or
25 from a property settlement agreement;
 - 26 i. An option to purchase a unit in a common interest community, until exercised; or
 - 27 j. A transfer to a tenant who is in possession of the residential real property.
- 28 4. A seller may provide the written disclosure required under this section to a licensed
29 real estate agent representing or assisting a buyer. The written disclosure provided to
30 the licensed real estate agent representing or assisting a buyer is considered to have

1 been provided to the buyer. If the written disclosure is provided to the licensed real
2 estate agent, the agent must provide a copy to the buyer.

3 **Radon warning statement.**

4 The radon warning statement must include the following language:

5 The state department of health strongly recommends all home buyers have an
6 indoor radon test performed before purchase or taking occupancy and recommends
7 having the radon levels mitigated if elevated radon concentrations are found. Elevated
8 radon concentrations can easily be reduced by a qualified, certified, or licensed radon
9 mitigator.

10 Every buyer of any interest in residential property is notified the property may
11 present exposure to dangerous levels of indoor radon gas that may place the
12 occupants at risk of developing radon-induced lung cancer. Radon, a class A human
13 carcinogen, is the leading cause of lung cancer in nonsmokers and the second leading
14 cause overall. The seller of any interest in residential real property is required to
15 provide the buyer with any information on radon test results of the dwelling.

16 **Liability.**

- 17 1. A seller that fails to make a radon disclosure as required by this chapter and is aware
18 of material facts pertaining to radon concentrations in the dwelling is civilly liable to the
19 buyer.
- 20 2. An action under this section must be commenced within two years after the date of
21 purchase or transfer of the real property.
- 22 3. This section does not invalidate a transfer solely because of the failure of any person
23 to comply with this chapter.

24 **SECTION 2. AMENDMENT.** Section 47-16-07.2 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **47-16-07.2. Statement detailing condition of premises to accompany rental**
27 **agreement.**

28 A landlord shall provide the tenant with a statement describing the condition of the facilities
29 in and about the premises to be rented at the time of entering a rental agreement and disclosing
30 any known radon hazards. The statement ~~shall~~must be agreed to and signed by the landlord

- 1 and tenant. The statement ~~shall constitute~~constitutes prima facie proof of the condition of the
- 2 facilities and the premises at the beginning of the rental agreement.