

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2204

Introduced by

Senators Barta, Boschee, Dever

Representatives Conmy, Schauer

1 A BILL for an Act to create and enact a new section to chapter 47-10 of the North Dakota
2 Century Code, relating to the required disclosure of radon hazards by a seller.

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

4 **SECTION 1.** A new section to chapter 47-10 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Disclosure of prior radon test - Immunity from liability - Definitions.**

7 1. As used in this section:

8 a. "Buyer" means a person negotiating or offering to acquire real property for value
9 or legal or equitable title, or the right to acquire legal or equitable title to

10 residential real property.

11 b. "Mitigation" means measures designed to permanently reduce indoor radon
12 concentrations.

13 c. "Seller" means a person that owns legal or equitable title to residential real
14 property.

15 d. "Test" or "testing" means a measurement of indoor radon concentrations
16 according to the *National Radon Action Plan 2021-2025*, published by the

17 environmental protection agency.

18 2. Before executing an agreement to sell or transfer residential real property, except as
19 otherwise provided in an offer to execute a purchase agreement, a seller shall disclose

20 in writing to the buyer any knowledge the seller has of radon concentrations in the

21 property. The seller or seller's agent shall provide the following disclosure statement to

1 the buyer, and the buyer shall acknowledge its receipt by signing a copy of the
2 disclosure statement:

3 RADON GAS IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT,
4 WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES,
5 MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT
6 OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL GUIDELINES
7 HAVE BEEN FOUND IN BUILDINGS ON RESIDENTIAL REAL PROPERTY IN
8 NORTH DAKOTA. ADDITIONAL INFORMATION REGARDING RADON AND
9 RADON TESTING MAY BE OBTAINED FROM YOUR LOCAL PUBLIC HEALTH
10 UNIT OR THE STATE DEPARTMENT OF ENVIRONMENTAL QUALITY.

- 11 3. If the seller has knowledge the property previously has undergone testing for radon
12 gas and radon progeny, the seller shall provide a copy of test results reasonably
13 available to or in the seller's possession and evidence of mitigation to the buyer before
14 executing an agreement to sell or transfer the property. Any test result or evidence of
15 mitigation furnished under this section does not constitute a promise, warranty, or
16 representation by the seller or the seller's agent that the test results are accurate or
17 the mitigation is effective.
- 18 4. This section does not create a contingency on the purchase of the property or any
19 right to rescind a contract for purchase unless the contingency or right to rescind is an
20 express term of the contract.
- 21 5. A seller or seller's agent complying with this section is not liable for any claim or action
22 based on the presence of radon gas or radon progeny found in the residential real
23 property subject to disclosure under this section.