

Senate Study Bill 1007 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act relating to radon control by requiring the state
2 building code commissioner to adopt statewide radon control
3 standards in residential construction, requiring that
4 radon testing, mitigation, or abatement be conducted in
5 schoolhouses and certain residential buildings, requiring
6 certain notifications, providing an income tax credit,
7 and making penalties applicable and including retroactive
8 applicability provisions.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 103A.8D Residential construction
2 requirements and standards for radon control.

3 The state building code commissioner shall adopt as a part
4 of the state building code construction requirements and
5 standards for radon control in new residential construction.
6 The requirements and standards adopted by the commissioner
7 shall, if possible, be based upon a nationally recognized
8 standard or code for radon control in residential construction.
9 Notwithstanding any other provision of this chapter to the
10 contrary, the construction requirements and standards for radon
11 control adopted by the commissioner and approved by the council
12 shall apply to new residential construction commenced on or
13 after January 1, 2015, and shall supersede and replace any
14 minimum requirements and standards for radon control in new
15 residential construction adopted or enacted by a governmental
16 subdivision prior to that date. The state building code
17 commissioner may provide training to builders, contractors, and
18 other interested persons on the construction requirements and
19 standards for radon control in residential construction.

20 Sec. 2. Section 103A.10, Code 2013, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 6. Notwithstanding any other provision of
23 this chapter to the contrary, the construction requirements and
24 standards for radon control in new residential construction
25 adopted by the commissioner and approved by the council shall
26 apply to all new residential construction commenced on or after
27 January 1, 2015, and shall supersede and replace any minimum
28 requirements or standards for radon control in new residential
29 construction adopted or enacted by the governmental subdivision
30 prior to that date.

31 Sec. 3. Section 136B.2, subsection 1, paragraph b, Code
32 2013, is amended to read as follows:

33 b. A Except as otherwise provided in section 558A.4,
34 subsection 1, and section 562A.13, subsection 7, a person shall
35 not disclose to any other person, except to the department,

1 the address or owner of a nonpublic building that the person
2 tested for the presence of radon gas and radon progeny, unless
3 the owner of the building waives, in writing, this right of
4 confidentiality. Any test results disclosed shall be results
5 of a test performed within the five years prior to the date of
6 the disclosure.

7 Sec. 4. Section 136B.2, subsection 2, Code 2013, is amended
8 to read as follows:

9 2. *a.* Notwithstanding the requirements of this section,
10 disclosure to any person of the results of a test performed
11 on a nonpublic building for the presence of radon gas and
12 radon progeny is not required if the results do not exceed the
13 currently established United States environmental protection
14 agency action guidelines, except as otherwise provided in
15 section 558A.4, subsection 1, and section 562A.13, subsection
16 7.

17 *b.* A Except as otherwise provided in section 558A.4,
18 subsection 1, and section 562A.13, subsection 7, a person
19 who tests a nonpublic building which the person owns is not
20 required to disclose to any person the results of a test for
21 the presence of radon gas or progeny if the test is performed
22 by the person who owns the nonpublic building.

23 Sec. 5. Section 136B.4, Code 2013, is amended to read as
24 follows:

25 **136B.4 Fees — rules.**

26 1. The department shall establish a fee schedule ~~to defray~~
27 ~~the costs of the~~ for the certification and credentialing
28 programs established pursuant to section 136B.1 and the testing
29 conducted and the written reports provided pursuant to section
30 136B.3. Moneys collected from such fees shall be deposited in
31 the radon education fund created in section 136B.7.

32 2. The department shall adopt rules, pursuant to chapter
33 17A, to implement this chapter.

34 Sec. 6. NEW SECTION. **136B.6 Residential construction**
35 **with the use of public funds — radon testing and abatement**

1 **requirements.**

2 1. The owner of any residential building constructed with
3 public funds in this state shall upon completion of such
4 construction test the building for the presence of radon gas
5 and radon progeny. The test shall be conducted by a person
6 certified to conduct such testing pursuant to section 136B.1.
7 The cost of the test shall be paid by the owner of the building.

8 2. If the results of testing in such a building exceed the
9 currently established United States environmental protection
10 agency action guidelines, the owner of such a building is
11 required to retain a person credentialed pursuant to section
12 136B.1 to perform appropriate radon abatement measures.

13 3. This section shall only apply to an owner receiving
14 public funds after July 1, 2013, for the construction of a
15 residential building.

16 4. A person who violates this section shall not be subject
17 to the provisions of section 136B.5.

18 **Sec. 7. NEW SECTION. 136B.7 Radon education fund.**

19 1. A radon education fund is created in the state treasury
20 to be administered by the department of public health. The
21 fund shall consist of all moneys deposited into the fund
22 pursuant to section 136B.4.

23 2. Moneys in the fund shall be used by the department to
24 provide radon program education.

25 3. Notwithstanding section 12C.7, subsection 2, interest or
26 earnings on moneys in the fund shall be credited to the fund.

27 **Sec. 8. NEW SECTION. 297.7A Radon testing requirements.**

28 1. The board of each school district shall require that each
29 schoolhouse within the district be scheduled for testing and be
30 tested for radon gas and radon progeny pursuant to chapter 136B
31 at least once every ten years by a person certified to conduct
32 such testing pursuant to section 136B.1.

33 2. If the results of testing in a schoolhouse exceed the
34 currently established United States environmental protection
35 agency action guidelines, the school district is required to

1 retain a person credentialed pursuant to section 136B.1 to
2 perform appropriate radon abatement measures.

3 Sec. 9. NEW SECTION. **422.10A Radon mitigation and abatement**
4 **tax credit.**

5 1. The taxes imposed under this division, less the credits
6 allowed under section 422.12, shall be reduced by a radon
7 mitigation and abatement tax credit equal to the lesser of the
8 qualified radon mitigation or abatement costs incurred by the
9 owner of an owner-occupied residence or five hundred dollars.
10 Any credit in excess of the tax liability shall be refunded.

11 2. *a.* In order for costs of a radon mitigation or abatement
12 project to qualify for a tax credit under this section, the
13 radon mitigation or abatement project must receive approval
14 from a person credentialed under section 136B.1 in abating the
15 level of radon in buildings.

16 *b.* Approval certifications of mitigation or abatement
17 by a credentialed person shall be on forms approved by the
18 department of public health and shall contain information as
19 required by the department of public health. The information
20 shall, at a minimum, include the approximate date of the start
21 of mitigation or abatement, the approximate date of completion
22 of mitigation or abatement, and the cost of mitigation or
23 abatement.

24 *c.* The department of public health shall adopt rules
25 identifying costs that qualify as radon mitigation or abatement
26 costs.

27 3. *a.* Upon completion of the radon mitigation or abatement
28 project, a certification of completion must be obtained from
29 the department of public health. A completion certificate
30 shall identify the person claiming the tax credit under this
31 section and the qualified radon mitigation or abatement costs
32 incurred during the radon mitigation or abatement project.

33 *b.* The combined amount of qualified radon mitigation or
34 abatement costs certified by the department under subsection 4
35 to receive as tax credits shall not exceed five million dollars

1 for a fiscal year.

2 4. After verifying the eligibility for the tax credit, the
3 department of public health shall issue a radon mitigation and
4 abatement tax credit certificate to be attached to the person's
5 tax return. Pursuant to the limitation on the amount of tax
6 credit certificates that may be issued for a fiscal year, the
7 tax credit certificates shall be issued on an earliest filed
8 basis. The tax credit certificate shall contain the taxpayer's
9 name, address, tax identification number, the date of project
10 completion, the amount of credit, and other information
11 required by the department of revenue.

12 5. A radon mitigation or abatement project that does not
13 meet the requirements of this section is subject to revocation,
14 repayment, or recapture of tax credits claimed pursuant to this
15 section.

16 Sec. 10. Section 558A.4, subsection 1, paragraph a, Code
17 2013, is amended to read as follows:

18 a. (1) The disclosure statement shall include information
19 relating to the condition and important characteristics of the
20 property and structures located on the property, including
21 significant defects in the structural integrity of the
22 structure, as provided in rules which shall be adopted by the
23 real estate commission pursuant to section 543B.9. The rules
24 may require the disclosure to include information relating
25 to the property's zoning classification; the condition of
26 plumbing, heating, or electrical systems; or the presence of
27 pests.

28 (2) The rules shall require that testing for radon gas
29 and radon progeny be conducted pursuant to chapter 136B on
30 residential structures containing four or fewer dwelling units
31 prior to the sale of the property, and shall require the
32 disclosure of such test results to prospective buyers of the
33 property.

34 Sec. 11. Section 562A.13, Code 2013, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 7. The landlord or a person authorized to
2 enter into a rental agreement on behalf of the landlord shall
3 disclose to each tenant in writing before the commencement of
4 the tenancy the results of radon testing conducted pursuant
5 to section 562A.15, subsection 1, paragraph "g", along with
6 information on the health risks posed by radon gas and radon
7 progeny published by the department of public health. The
8 landlord or a person authorized to enter into a rental
9 agreement on behalf of the landlord shall also disclose this
10 information to current tenants immediately upon receiving the
11 results of such tests.

12 Sec. 12. Section 562A.15, subsection 1, Code 2013, is
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. g. By January 1, 2015, and every ten years
15 thereafter, test for the presence of radon gas and radon
16 progeny. A test required pursuant to this paragraph shall
17 be conducted by a person certified to conduct such testing
18 pursuant to section 136B.1.

19 Sec. 13. STATE MANDATE FUNDING SPECIFIED. In accordance
20 with section 25B.2, subsection 3, the state cost of requiring
21 compliance with any state mandate included in this Act shall
22 be paid by a school district from state school foundation aid
23 received by the school district under section 257.16. This
24 specification of the payment of the state cost shall be deemed
25 to meet all of the state funding-related requirements of
26 section 25B.2, subsection 3, and no additional state funding
27 shall be necessary for the full implementation of this Act
28 by and enforcement of this Act against all affected school
29 districts.

30 Sec. 14. RETROACTIVE APPLICABILITY. The following
31 provision or provisions of this Act apply retroactively to
32 January 1, 2013, for tax years beginning on or after that date:

33 1. The section of this Act enacting section 422.10A.

34 EXPLANATION

35 This bill relates to radon control standards in residential

1 construction, establishes certain radon testing or abatement to
2 be conducted in schoolhouses and certain residential buildings,
3 and provides an income tax credit for certain radon mitigation
4 and abatement costs.

5 The bill requires that the building code commissioner, with
6 the approval of the building code advisory council, adopt
7 requirements and standards for radon control in new residential
8 construction. The bill provides that the standards shall
9 supersede and replace any minimum radon control requirements
10 and standards for new residential construction adopted by
11 governmental subdivisions in Iowa. The bill requires that the
12 requirements and standards be mandatory for all new residential
13 construction beginning on or after January 1, 2015.

14 Any person who fails to comply with an order to remedy
15 any condition in violation of the adopted requirements and
16 standards within 30 days after service or within the time
17 fixed for compliance, whichever is longer, shall be guilty of
18 a simple misdemeanor pursuant to Code section 103A.21. Any
19 owner, builder, architect, tenant, contractor, subcontractor,
20 construction superintendent or their agents, or any other
21 person taking part or assisting in the construction or use
22 of any building or structure who knowingly violates such
23 requirements and standards shall also be guilty of a simple
24 misdemeanor. A simple misdemeanor is punishable by confinement
25 for no more than 30 days or a fine of at least \$65 but not more
26 than \$625 or by both.

27 The bill creates a radon education fund to be administered by
28 the department of public health to be used by the department
29 to provide radon program education. The bill provides that
30 certain fees collected by the department be deposited into this
31 fund. Current law provides that these fees be dedicated to
32 certain other uses by the department.

33 The bill requires the owner of any residential building
34 constructed with public funds to test the building for the
35 presence of radon gas and radon progeny upon completion of

1 such construction. The bill requires that an owner of such
2 a building perform appropriate abatement measures if the
3 testing results exceed the currently established United States
4 environmental protection agency action guidelines. These
5 requirements shall apply to owners receiving public funds after
6 July 1, 2013, for the construction of residential buildings.

7 The bill requires that the school board of each school
8 district require each schoolhouse within the district be
9 scheduled for testing and be tested for radon gas and radon
10 progeny at least once every 10 years. The bill requires that
11 a district perform appropriate abatement measures if the
12 testing results exceed the currently established United States
13 environmental protection agency action guidelines.

14 The bill requires that the real estate commission adopt
15 rules requiring testing for radon gas and radon progeny of
16 residential buildings containing four or fewer dwelling units
17 prior to the sale of such property and requires that such
18 results be disclosed to potential buyers of the property.

19 The bill provides that residential landlords shall by
20 January 1, 2015, and every 10 years thereafter, test for
21 the presence of radon gas and radon progeny. The bill also
22 requires that such landlords disclose the results of such tests
23 to new tenants and disclose the results to current tenants
24 immediately upon receiving the results.

25 The bill also provides for a radon mitigation and abatement
26 individual income tax credit of up to \$500 for qualified radon
27 mitigation or abatement costs conducted on an owner-occupied
28 residence. The credit is refundable. The combined tax credits
29 awarded shall not exceed \$5 million in any given fiscal year.
30 The tax credit applies retroactively to January 1, 2013, for
31 tax years beginning on or after that date.

32 The bill may include a state mandate as defined in Code
33 section 25B.3. The bill requires that the state cost of
34 any state mandate included in the bill be paid by a school
35 district from state school foundation aid received by the

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1 school district under Code section 257.16. The specification
2 is deemed to constitute state compliance with any state mandate
3 funding-related requirements of Code section 25B.2. The
4 inclusion of this specification is intended to reinstate the
5 requirement of political subdivisions to comply with any state
6 mandates included in the bill.