

LEGISLATIVE HISTORY CHECKLIST

NJSA: 52:27D-123a to 52:27D-123e (Radon--construction standards and pre-construction testing)

LAWS OF: 1989 **CHAPTER:** 186

Bill No: S2961

Sponsor(s): Zimmer and others

Date Introduced: September 29, 1988

Committee: Assembly: Environmental Quality

Senate: County and Municipal Government

Amended during passage: Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly: June 29, 1989

Senate: May 1, 1989

Date of Approval: September 26, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: Yes

Hearings: No

See newspaper clippings--attached:

"Prevention steps gain for radon," 6-30-89 Star Ledger.

"DEP study finds radon most serious health peril," 9-29-89 Star Ledger

974.90 New Jersey Department of Environmental Protection.
P777 Division of Environmental Quality Radiation Protection Programs.
1989g Highlights of the Statewide scientific study of radon. September, 1989.
Trenton, NJ

974.90 New Jersey. Department of Environmental Protection.
P777 Bureau of Environmental Radiation.
1989f Statewide scientific study of radon: summary report. April, 1989.

See also: "Wolf, Marsha and Goldshore Lewis. New radon bill reflects change in approach," 124 N.J.L.J. 1129 (November 2, 1989)

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 29, 1988

By Senators ZIMMER, DORSEY, EWING, BROWN and GORMLEY

1 AN ACT concerning radon contamination mitigation construction
standards, ³and³ supplementing P.L.1975, c.217 (C.52:27D-119
3 et seq.) ³[, and making an appropriation]³.

5 BE IT ENACTED *by the Senate and General Assembly of the*
State of New Jersey:

7 ¹[1. The Department of Environmental Protection, in
consultation with the Department of Health, shall, within 180
9 days of the effective date of this act and pursuant to the
"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), define action levels of radon or radon progeny in buildings
and structures at which remediation is necessary.]¹

13 ¹[2.] 1.¹ The Commissioner of Community Affairs shall adopt,
pursuant to the "Administrative Procedure Act," P.L.1968, c.410
15 (C.52:14B-1 et seq.), a radon hazard subcode, or may propose
amendments to revise the appropriate model code adopted
17 pursuant to the "State Uniform Construction Code Act,"
P.L.1975, c.217 (C.52:27D-119 et seq.), for the purpose of
19 establishing adequate and appropriate standards to ensure that
¹[buildings and structures] schools and residential buildings¹
21 within tier one ¹[and tier two]¹ areas, as defined by the
Department of Environmental Protection pursuant to P.L.1985,
23 c.408 (C.26:2D-59 et seq.), are constructed in a manner that
minimizes radon gas ⁵[or] and⁵ radon progeny entry and
25 facilitates any subsequent remediation that might prove
necessary. ¹In preparing the radon hazard ²[subcode] code
27 standards² , the commissioner shall employ a guideline of four
picocuries per liter or such other action level standard as the
29 Department of Environmental Protection may establish
subsequent to the effective date of this act.

31 The department shall include in the radon hazard ²[subcode]

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted January 12, 1989.

² Assembly AEQ committee amendments adopted May 8, 1989.

³ Assembly floor amendments adopted May 15, 1989.

⁴ Assembly floor amendments adopted June 15, 1989.

⁵ Assembly floor amendments adopted June 22, 1989.

1 code standards² such testing requirements as may prove reliable,
2 practical and economical to identify sites where a proposed
3 school or residential building will require construction in a
4 manner that minimizes radon gas and radon progeny entry and
5 facilitates any subsequent remediation. If a feasible predictive
6 test method is developed, then the standards adopted pursuant to
7 the "State Uniform Construction Code Act," P.L.1975, c.217
8 (C.52:27D-119 et seq.), shall be revised to include such further
9 changes in construction standards as may be necessary to prevent
10 the entry of radon gas ⁵[or] and⁵ radon progeny into new schools
11 or residential buildings.¹

12 No person who constructs a ¹school or residential¹ building ¹[or
13 structure]¹ in compliance with these standards ¹[within tier one,
14 two, or three areas, as defined by the Department of
15 Environmental Protection pursuant to P.L.1985, c.408
16 (C.26:2D-59 et seq.),] anywhere within the State¹ shall thereafter
17 be held liable for the presence of radon ²gas² or radon progeny
18 in the ¹school or residential¹ building ¹[or structure]¹, or for any
19 losses or damage to persons or property resulting therefrom.

20 ¹[3.] ^{2.1} No construction permit shall be issued for the
21 construction of any new ¹school or residential¹ building ¹[or
22 structure intended for human occupancy]¹ ²in a tier one area
23 ⁴[after the adoption of radon hazard code standards pursuant to
24 section 1 of this act]⁴ ,² except after submission to the
25 construction official of documentation sufficient to establish that
26 the construction will be in accordance with the radon hazard
27 ²code² standards ²[adopted pursuant to section 1 of this act]²
28 ⁴adopted pursuant to section 1 of this act⁴ .

29 ¹[4.] ^{3.1} No certificate of occupancy shall be issued for any
30 newly constructed ¹school or residential¹ building ¹[or structure
31 intended for human occupancy]¹ ²required to be constructed in
32 accordance with radon hazard code standards as provided in
33 section 2 of this act,² except upon verification by the
34 construction official that the ¹school or residential¹ building ¹[or
35 structure]¹ conforms to the ²[requirements of the]² radon hazard
36 ²[¹subcode¹] code² standards ²[adopted pursuant to section 1 of
37 this act]² .

38 ¹[5.] ^{4.1} The Department of Community Affairs, in
39 consultation with the Department of Environmental Protection,

1 the National Institute of Standards and Technology, the National
2 Association of Homebuilders Research Center and the United
3 States Environmental Protection Agency, shall investigate
4 methods of testing building sites for the purpose of predicting the
5 presence of radon hazards in buildings to be constructed thereon.
6 ¹[The department shall include in the radon hazard standards
7 adopted pursuant to section 2 of this 1988 supplementary act,
8 such testing requirements as may prove reliable, practical and
9 economical to identify sites where a proposed building or
10 structure will require construction in a manner that minimizes
11 radon gas and radon progeny entry and facilitates any subsequent
12 remediation. If a feasible predictive test method is developed,
13 then the standards adopted pursuant to the "State Uniform
14 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.),
15 shall be revised to include such further changes in construction
16 standards as may be necessary to prevent the entry of radon gas
17 or radon progeny into new buildings or structures.]¹

18 ¹[6.] 5.1 The Department of Community Affairs shall take
19 such actions as are necessary to train construction officials in the
20 implementation of this act.

21 ¹[7.] ³[6.1 There is appropriated from the General Fund to the
22 Department of Community Affairs the sum of \$50,000 to carry
23 out the purposes of this act.]³

24 ¹[8.] ³[7.1] 6.3 This act shall take effect immediately.

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ENVIRONMENT
Hazardous Substance

27

28 Requires DCA to adopt radon construction standards and develop
29 preconstruction test therefor.
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19 identity sites where a proposed building or structure will require
20 construction in a manner that minimizes radon gas and radon
21 progeny entry and facilitates any subsequent remediation. If a
22 feasible predictive test method is developed, then the standards
23 adopted pursuant to the "State Uniform Construction Code Act,"
24 P.L.1975, c.217 (C.52:27D-119 et seq.), shall be revised to include
25 such further changes in construction standards as may be
26 necessary to prevent the entry of radon gas or radon progeny into
27 new buildings or structures.

28 6. The Department of Community Affairs shall take such
29 actions as are necessary to train construction officials in the
30 implementation of this act.

31 7. There is appropriated from the General Fund to the
32 Department of Community Affairs the sum of \$50,000 to carry
33 out the purposes of this act.

34 8. This act shall take effect immediately.

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STATEMENT

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37 Under this act, the Department of Environmental Protection
38 must set action levels for radon contamination at which
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1 remediation of a building is necessary. The Department of
Community Affairs must, under this act, adopt standards for new
3 construction in tier one and two areas to minimize the entry of
radon gas or to facilitate remediation where subsequent radon
5 levels are in excess of the action levels. The standards would be
enforced through construction permit and certificate of
7 occupancy requirements. Persons constructing buildings in
accordance with the standards any where in the State are
9 relieved of liability for subsequent contamination under this act.

This measure also provides for the investigation of methods for
11 pre-construction testing of building sites to predict action levels
and requisite construction techniques. If developed, the test
13 would become part of the "State Uniform Construction Code
Act." In summary, this bill provides protection against the entry
15 of radon gas or radon progeny into newly constructed buildings or
structures. The sum of \$50,000 is appropriated to the
17 Department of Community Affairs to implement the provisions of
this act.

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ENVIRONMENT
Hazardous Substance

23

25 Requires DCA to adopt radon construction standards and develop
preconstruction test therefor; appropriates \$50,000.

ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 2961

with committee amendments

STATE OF NEW JERSEY

DATED: May 8, 1989

Senate Bill No. 2961 [1R] is reported favorably with committee amendments.

This bill requires the Commissioner of Community Affairs to adopt a radon hazard construction subcode, or to revise an appropriate model code adopted under the "State Uniform Construction Code Act," and include therein site test requirements in order to minimize exposure to radon gas or progeny. The subcode or model code would be mandated for school and residential buildings in areas of the State designated as tier one areas pursuant to P.L.1985, c.408 (C.26:2D-59 et seq.). The construction and siting provisions are to be designed to minimize radon gas or progeny entry into such structures, as well as to facilitate any future remediation work that may be necessary.

Section 1 of the bill further provides:

(1) that if a suitable predictive siting method is developed it shall be incorporated into the construction code standards; and

(2) a statutory exemption from liability for the presence of radon gas or progeny in any school or residential building constructed anywhere in the State in accordance with radon hazard construction standards.

Section 2 requires that no construction permit shall be issued for a new school or residential building, except upon submission of documentation that construction will comply with the code standards adopted pursuant to section 1.

Section 3 requires a construction official, before issuing a certificate of occupancy, to verify that a school or residential building subject to section 2 of the bill has been constructed in accordance with code standards.

Section 4 directs the Department of Community Affairs (DCA) to investigate methods of testing building sites for the purpose of predicting the presence of radon hazards in buildings to be constructed thereon. The investigation is to be conducted in consultation with the Department of Environmental Protection, the

National Institute of Standards and Technology, the National Association of Homebuilders Research Center, and the United States Environmental Protection Agency.

Section 5 directs DCA to train construction officials in the implementation of the provisions of the bill.

Section 6 appropriates \$50,000 from the General Fund to DCA for implementing the provisions of the bill.

The proposed committee amendments clarify that the radon hazard construction standards are mandatory only for tier one areas, and that the standards will affect new construction and certificates of occupancy only after adoption of the standards. The remaining amendments are editorial in nature.

The provisions of this bill, as amended, are identical to those of Assembly Bill No. 4273 ACA.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 2961

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 12, 1989

The Senate County and Municipal Government Committee reports favorably and with committee amendments Senate Bill No. 2961.

Senate Bill No. 2961, as amended by the committee, would require the Department of Community Affairs to establish a radon hazard subcode in order to assure that residential and school buildings constructed in tier one areas, as defined by DEP, are constructed in a manner that minimizes radon gas or radon progeny entry. Any person who constructs a residential or school building anywhere in the State in compliance with the radon hazard subcode shall thereafter be exempt from any liability for the presence of radon or radon progeny in the building or for any losses or damage to persons or property resulting therefrom. The bill establishes as an action level for remediation of radon contamination 4.0 picocuries per liter, or any other standard adopted by DEP after the bill's effective date.

Senate Bill No. 2961 would condition the issuance of construction permits and certificates of occupancy for residential or school buildings on compliance with the radon hazard subcode. The bill would also mandate DCA, in consultation with DEP, the federal Environmental Protection Agency and trade research organizations to investigate methods of testing building sites in order to identify potential radon contamination in buildings to be constructed thereon.

Finally, S2961 requires DCA to perform such training of construction code officials as is necessary to implement its provisions and appropriates \$50,000 to the department to carry out the purposes of this act.

The committee amended the bill to remove the requirement that DEP adopt radon contamination remediation action standards.

Additionally, the committee amended the bill to eliminate mandatory compliance with the radon hazard subcode in tier two

areas. Further, the committee amended the bill to limit its applicability to residential and school buildings. In the absence of an action level standard established by the DEP, the bill would establish an action level of 4.0 picocuries per liter.

The amendments also consolidate language in the bill directing DCA to make rules regarding the radon hazard subcode.



OFFICE OF THE GOVERNOR

NEWS RELEASE

Governor Thomas H. Kean
TRENTON, N.J. 08625
Release: TUES., 9/26/89

CN-001

Contact: CARL GOLDEN
609-292-8956 OR 609-292-6000 EXT. 207

Governor Thomas H. Kean today signed legislation to require the Department of Community Affairs to develop and adopt building construction standards designed to minimize the risk of radon gas.

The legislation, S-2961, was sponsored by Senator Richard Zimmer, R-Hunterdon. An identical bill A-2473, was sponsored in the Assembly by Assemblymen Richard Kamin, R-Morris, and William Schluter, R-Mercer.

The bills requires that all residential and school buildings constructed in the high risks areas of the state be built according to the radon standards.

The high risk area, officially designed as Tier I, covers 130 municipalities in all of Warren County and parts of Hunterdon, Sussex, Morris, Bergen, Burlington, Mercer, Middlesex, Monmouth, Passaic and Somerset counties.

Under the legislation, issuance of construction permits and certificates of occupancy will be conditioned on compliance with the radon hazard code standards.

Other bills signed today by the Governor are:

A-4329, sponsored by Assemblymen Chuck Hardwick, R-Union, and Richard Kamin, R-Morris, to permit trained eye bank technicians and medical students to perform eye enucleations.

A-4457, sponsored by Assemblymen John Watson, D-Mercer, Joseph Charles, D-Hudon, and Robert Martin, R-Morris, to establish the Martin Luther King Jr. Commemorative Commission. The Commission currently exists under an executive order issued by Governor Kean; this legislation places it in the statutes.

S-1820, sponsored by Senator John Dorsey, R-Morris, to provide an additional Superior Court Judge in Morris County.

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