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Effective:[See Text Amendments]

New Jersey Statutes Annotated [Currentness](#)

Title 13. Conservation and Development--Parks and Reservations ([Refs & Annos](#))

▣ [Chapter 1K. Harmful and Destructive Substances \(Refs & Annos\)](#)

▣ B. Industrial Site Recovery Act ([Refs & Annos](#))

➔ **13:1K-14. Residential property contaminated with radon gas or radon progeny; inspection and testing; removal; certification; costs**

a. The Department of Environmental Protection shall, upon a determination after inspection and testing that the premises of any residential property are not significantly contaminated with radon gas or radon progeny and require no remedial action, provide the owner of the property with written certification that, as of the date of the testing, any radon gas or radon progeny contamination present was within acceptable limits as established by the United States Environmental Protection Agency and the department.

b. The department shall, upon completion of any project undertaken to remove radium from any residential property and to remedy excessive levels of radon gas or radon progeny therefrom, provide the owner of the property with written certification that, as of the date of the completion of the project, any radon gas or radon progeny contamination present was within acceptable limits as established by the United States Environmental Protection Agency and the department.

c. The costs incurred by the department in providing the certifications required by this section shall be covered by sums which may be appropriated or otherwise made available to the department to remedy radon gas or radon progeny contamination.

CREDIT(S)

L.1983, c. 575, § 1.

HISTORICAL AND STATUTORY NOTES

2003 Main Volume

Section 2 of L.1983, c. 575, approved Jan. 17, 1984, provides:

“This act shall take effect immediately and shall be applicable to those residences covered by Executive Order

No. 56 of 1983, or by other Executive Orders issued for similar purposes.”

Title of Act:

An Act requiring certification of acceptable levels of radon gas or radon progeny contamination in certain residential properties and supplementing Title 13 of the Revised Statutes. L.1983, c. 575.

CROSS REFERENCES

Confirmatory monitoring of presence of radon gas and progeny in residential dwellings, see [N.J.S.A. § 26:2D-61](#).

Testers for presence of radon gas and progeny in buildings, certification, see [N.J.S.A. § 26:2D-70 et seq.](#)

LAW REVIEW AND JOURNAL COMMENTARIES

Due diligence - the crucible. Robert D. Frawley, 218 N.J. Law. 47 (Dec. 2002).

LIBRARY REFERENCES

2003 Main Volume

[Environmental Law](#)  420.

Westlaw Topic No. [149E](#)

Controls on land and development; radon, see Celentano, [13B N.J.Prac. § 42.3](#).

Radon as a lien in residential buildings, see Celentano, [13A N.J.Prac. § 24.70](#).

Radon as a lien in residential buildings, see Celentano, [13A N.J.Prac. § 24.145](#) (2d ed.).

Radon, land use, see Celentano, [13B N.J.Prac. § 42.3](#).

RESEARCH REFERENCES

2009 Electronic Update

ALR Library

[113 ALR, Federal 1](#), What Are “Necessary Costs of Response” Within Meaning of § 107(A)(4)(B) of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) ([42 U.S.C.A. § 9607\(A\)\(4\)\(B\)](#)).

Treatises and Practice Aids

[Law of Distressed Real Estate § 52:46](#), Allocation of Environmental Liability--Risk of Loss.

[Law of Distressed Real Estate § 52:65](#), Environmental Statutory Responsibilities Affecting Transfer of Certain Types of Properties--Direct Regulation of Use And/Or Transfer of Contaminated or Industrial Property-

-Specific...

[43 N.J. Prac. Series § 7.12](#), Valuation of Contaminated Property.

[13A N.J. Prac. Series § 24.145](#), Radon as a Lien in Residential Buildings.

[13C N.J. Prac. Series § 46.96](#), Radon.

N. J. S. A. 13:1K-14, NJ ST 13:1K-14

Current with laws effective through L.2009, c. 89, 91-92 and J.R. No. 7.

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Title 52. State Government, Departments and Officers

Subtitle 3. Executive and Administrative Departments, Officers and Employees ([Refs & Annos](#))

▣ [Chapter 27D](#). Department of Community Affairs ([Refs & Annos](#))

▣ [State Uniform Construction Code Act](#) ([Refs & Annos](#))

→ **52:27D-123a. Radon hazard code standards; application to school or residential buildings; contents; immunity from liability of contractor**

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

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

No person who constructs a school or residential building in compliance with these standards anywhere within the State shall thereafter be held liable for the presence of radon gas or radon progeny in the school or residential building, or for any losses or damage to persons or property resulting therefrom.

CREDIT(S)

[L.1989, c. 186, § 1, eff. Sept. 26, 1989.](#)

HISTORICAL AND STATUTORY NOTES

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Title of Act:

An Act concerning radon contamination mitigation construction standards, and supplementing P.L.1975, c. 217 (C.52:27D-119 et seq.). L.1989, c. 186.

LAW REVIEW AND JOURNAL COMMENTARIES

New radon bill reflects change in approach. Marsha Wolf and Lewis Goldshore, 124 N.J.L.J. 1129 (1989).

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2001 Main Volume

[Administrative Law and Procedure](#)  389.

[States](#)  73.

Westlaw Topic Nos. 15A, 360.

[C.J.S. Public Administrative Law And Procedure](#) § 91.

[C.J.S. States](#) §§ 130 to 136, 140.

RESEARCH REFERENCES

2009 Electronic Update

Treatises and Practice Aids

[14 N.J. Prac. Series § 11.19](#), Radon Hazard Code.

[13A N.J. Prac. Series § 26.97](#), Contingency--Radon Presence--Waiver--Form.

[13C N.J. Prac. Series § 46.96](#), Radon.

N. J. S. A. 52:27D-123a, NJ ST 52:27D-123a

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Title 52. State Government, Departments and Officers

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▣ [Chapter 27D](#). Department of Community Affairs ([Refs & Annos](#))

▣ [State Uniform Construction Code Act](#) ([Refs & Annos](#))

→ **52:27D-123b. Construction permit for new school or residential building in tier one area; conditions for issuance**

No construction permit shall be issued for the construction of any new school or residential building in a tier one area, except after submission to the construction official of documentation sufficient to establish that the construction will be in accordance with the radon hazard code standards adopted pursuant to section 1 of this act. [\[FN1\]](#)

CREDIT(S)

[L.1989, c. 186, § 2, eff. Sept. 26, 1989.](#)

[\[FN1\] N.J.S.A. § 52:27D-123a.](#)

LIBRARY REFERENCES

2001 Main Volume

[Schools](#)  71.

Westlaw Topic No. [345](#).

[C.J.S. Schools and School Districts §§ 382, 383, 385.](#)

RESEARCH REFERENCES

2009 Electronic Update

Treatises and Practice Aids

[13C N.J. Prac. Series § 46.96](#), Radon.

N. J. S. A. 52:27D-123b, NJ ST 52:27D-123b

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Title 52. State Government, Departments and Officers

Subtitle 3. Executive and Administrative Departments, Officers and Employees ([Refs & Annos](#))▣ [Chapter 27D](#). Department of Community Affairs ([Refs & Annos](#))▣ [State Uniform Construction Code Act](#) ([Refs & Annos](#))**→ 52:27D-123c. Certificate of occupancy for new school or residential building; issuance on verification of compliance with radon hazard code standards**


No certificate of occupancy shall be issued for any newly constructed school or residential building required to be constructed in accordance with radon hazard code standards as provided in section 2 of this act, [\[FN1\]](#) except upon verification by the construction official that the school or residential building conforms to the radon hazard code standards.

CREDIT(S)

[L.1989, c. 186, § 3, eff. Sept. 26, 1989.](#)[\[FN1\] N.J.S.A. § 52:27D-123b.](#)

LIBRARY REFERENCES

2001 Main Volume

[Municipal Corporations](#)  [601.1.](#)[Schools](#)  [71.](#)Westlaw Topic Nos. [268, 345.](#)[C.J.S. Schools and School Districts §§ 382, 383, 385.](#)

N. J. S. A. 52:27D-123c, NJ ST 52:27D-123c

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Title 52. State Government, Departments and Officers

Subtitle 3. Executive and Administrative Departments, Officers and Employees ([Refs & Annos](#))

▣ [Chapter 27D](#). Department of Community Affairs ([Refs & Annos](#))

▣ State Uniform Construction Code Act ([Refs & Annos](#))

→ **52:27D-123d. Investigation of methods of testing building sites to predict presence of radon hazards**

The Department of Community Affairs, 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, shall investigate methods of testing building sites for the purpose of predicting the presence of radon hazards in buildings to be constructed thereon.

CREDIT(S)

[L.1989, c. 186, § 4, eff. Sept. 26, 1989.](#)

LIBRARY REFERENCES

2001 Main Volume

[Municipal Corporations](#) 🔑 601.1.

Westlaw Topic No. 268.

N. J. S. A. 52:27D-123d, NJ ST 52:27D-123d

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Title 26. Health and Vital Statistics ([Refs & Annos](#))

▢ [Chapter 2D. Radiation Protection \(Refs & Annos\)](#)

→ IV. Radon ([Refs & Annos](#))

→ **26:2D-59. Radon gas and radon progeny; study**

The Department of Environmental Protection shall prepare and transmit to the Governor and Legislature a study concerning the dangers posed to the public health, safety, and welfare by the presence of radon gas and radon progeny in residential dwellings, schools, and public buildings in the State. The study shall identify the potential sources of contamination in the State, identify demographic, geologic, and geographic areas subject to an actual or potential threat or danger of contamination, and develop a cost-effective strategy for radon gas and radon progeny contamination testing. The study shall include recommendations for private actions to solve or alleviate potential health problems and any legislative or executive action that should be taken. The department shall prepare and transmit to the Governor and the Senate Institutions, Health and Welfare Committee and the General Assembly Agriculture and Environment Committee interim reports on its progress in implementing this section. The department shall transmit its first report on May 1, 1986 and subsequent reports every six months thereafter.

26:2D-60. Study of cancer and the presence of radon gas and radon progeny; registry of persons at risk of radiogenic lung cancer

The Department of Health shall conduct an epidemiologic study of cancer and the presence of radon gas and radon progeny in residential dwellings and shall maintain a voluntary registry of persons at risk of radiogenic lung cancer. The department shall communicate promptly to persons on the registry new techniques for the prevention of mortality from the disease.

26:2D-63 to 26:2D-69. Blank

26:2D-70. Certification of radon testers; establishment of program

The Department of Environmental Protection shall within 180 days of the enactment of this act establish a program for the certification of persons who test for the presence of radon gas and radon progeny in buildings.

26:2D-72. Necessity for certification; exemptions

Beginning 90 days after the establishment of the certification programs by the Department of Environmental

Protection pursuant to sections 1 and 2 of this act, [FN1] no person who is not certified pursuant to section 1 or section 2 of this act, as appropriate, shall test for, or mitigate or safeguard a building from, the presence of radon gas and radon progeny. The provisions of this section shall not apply to a person performing this testing or mitigation on a building which he owns, or to a person performing testing or mitigation without remuneration.

[FN1] N.J.S.A. §§ 26:2D-70 and 26:2D-71.

26:2D-73. Disclosure of address or owner of treated nonpublic building; prohibition; written waiver; exemptions; sale of building

No person shall disclose to any person, except to the Department of Environmental Protection or the Department of Health, the address or owner of a nonpublic building that the person tested or treated for the presence of radon gas and radon progeny, unless the owner of the building waives, in writing, this right of confidentiality.

The provisions of this section shall not apply to a person performing testing or treatment on a building which he owns, or to instances where disclosure is necessary to contract for further testing or to contract for the mitigating and safeguarding of a building from the presence of radon gas and radon progeny. In the case of a prospective sale of a building which has been tested for radon gas and radon progeny, the seller shall provide the buyer, at the time the contract of sale is entered into, with a copy of the results of that test and evidence of any subsequent mitigation or treatment, and any prospective buyer who contracts for the testing shall have the right to receive the results of that testing.

26:2D-74. Report of name of owner and address of treated building to state

A person certified pursuant to section 1 or 2 of this act [FN1] to provide testing or mitigation services shall, within 30 days of the provision of these services, disclose to the Department of Environmental Protection the address or location of the building, the name of the owner of the building where the services were provided, and the results of any tests performed. The Department of Environmental Protection shall provide to the Department of Health this information upon the request of the Department of Health.

[FN1] N.J.S.A. § 26:2D-70 or 26:2D-71.

26:2D-75. Fee schedule for certification programs

The department shall establish a fee schedule to cover the costs of the certification programs established pursuant to sections 1 and 2 of this act. [FN1]

[FN1] N.J.S.A. §§ 26:2D-70 and 26:2D-71.

26:2D-77. Violations; penalty

A person who violates the provisions of sections 3, 4, or 5 of this act, [FN1] or any rule or regulation adopted pursuant thereto, is guilty of a crime of the third degree.

[FN1] N.J.S.A. §§ 26:2D-72, 26:2D-73, or 26:2D-74.

26:2D-78. Data on health and on treatment of buildings not public records; destruction of information

For the purposes of P.L.1963, c. 73 (C. 47:1A-1 et seq.), health data relating to individuals and data relating to radon gas and radon progeny contamination at specific properties, including residential dwellings, gathered pursuant to the provisions of this act and the provisions of P.L.1985, c. 408 (C. 26:2D-59 et seq.) shall not be deemed to be public records. The Departments of Health and Environmental Protection shall destroy all information in their possession relating to the names and addresses of persons owning properties on which data were collected relating to radon gas and radon progeny contamination at the end of five years from the date on which the data were collected.

26:2D-79. Employees with specialized scientific training

The Departments of Environmental Protection and Health are authorized to employ persons with specialized scientific training necessary to implement the provisions of P.L.1985, c. 408 (C. 26:2D-59 et seq.) without regard to the provisions of Title 11 [FN1] of the Revised Statutes.

[FN1] Repealed. See, now, Title 11A.



Effective: September 14, 2000

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Title 30. Institutions and Agencies

Subtitle 2. Division of Youth and Family Services ([Refs & Annos](#))

[Chapter 5B](#). Child Care Centers ([Refs & Annos](#))

[Child Care Licensing Act](#)

→ **30:5B-5.2. Radon testing of child care centers; posting of test results**

a. Except as provided in subsection c. of this section, within six months of the effective date of this act, the owner of any building in which a child care center licensed pursuant to the provisions of P.L.1983, c. 492 ([C.30:5B-1 et seq.](#)) is located shall test or cause to be tested the space in the building in which the child care center is located for the presence of radon gas and radon progeny. The test shall be conducted at least once every five years. If the building has been tested less than five years prior to the effective date of this act, then the test shall be performed within five years of that test and once every five years thereafter.

b. The provisions of section 4 of P.L.1986, c. 83 ([C.26:2D-73](#)) to the contrary notwithstanding, any owner of a building who tests for the presence of radon gas and radon progeny pursuant to this act or who has performed the test within five years prior to the effective date of this act shall post, within 30 days of the completion of the testing procedures, or within 30 days of the effective date of this act if the test has been performed prior thereto, the results of the test, and any measures taken or proposed to mitigate the presence of radon gas or radon progeny, at a location in the building which is readily visible to persons having responsibility for any child that attends the child care center.

c. The provisions of [P.L.1997, c. 44](#) ([C.30:5B-5.2](#)) shall not apply to a child care center operated by a non-profit organization in a public school building used as a public school, until September 1, 2001.

CREDIT(S)

[L.1997, c. 44, § 1, eff. March 27, 1997](#). Amended by [L.2000, c. 122, § 1, eff. Sept. 14, 2000](#).

HISTORICAL AND STATUTORY NOTES

2009 Main Volume

Title of Act:

An Act concerning radon testing at child care centers, and supplementing Title 26 of the Revised Statutes. L.1997, c. 44.

CROSS REFERENCES

Child care center, defined for the purpose of the Child Care Licensing Act, see [N.J.S.A. § 30:5B-3](#).

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[Licenses](#)  20.

Westlaw Topic No. 238.

[C.J.S. Architects](#) § 6.

[C.J.S. Landlord and Tenant](#) §§ 337 to 339.

N. J. S. A. 30:5B-5.2, NJ ST 30:5B-5.2

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