

**2019 DRAFTING REQUEST**

**Bill**

For: **Daniel Riemer (608) 266-1733** Drafter: **kpleviak**  
 By: **George** Secondary Drafters:  
 Date: **8/27/2019** May Contact:

Same as LRB:

Submit via email: **YES**  
 Requester's email: **Rep.Riemer@legis.wisconsin.gov**  
 Carbon copy (CC) to: **krista.pleviak@legis.wisconsin.gov**  
**fern.knepp@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Disclosures regarding radon in real estate transactions

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kpleviak 9/5/2019	kfollett 9/9/2019			
/P1	kpleviak 1/21/2020		dwalker 9/9/2019		State
/1		kfollett 1/21/2020	lparisi 1/21/2020	lparisi 1/21/2020	State

FE Sent For: *at intro*

<END>

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Table with 6 columns: Vers., Drafted, Reviewed, Submitted, Jacketed, Required. Row 1: /?, kpleviak 9/5/2019, kfollett 9/9/2019. Row 2: /P1, dwalker 9/9/2019, State.

FE Sent For:

<END>

Handwritten note in a circle: Jacket for Assembly - krp

## Pleviak, Krista

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**From:** Gillis, George  
**Sent:** Monday, August 26, 2019 3:01 PM  
**To:** Knepp, Fern; Pleviak, Krista  
**Subject:** Drafting Request: Radon Awareness Act  
**Attachments:** Minnesota Radon Awareness Act.docx

Fern, Krista,

I have a drafting request.

Rep. Riemer would like a P Draft creating a Wisconsin Radon Awareness Act for real estate transfers. I've included the Minnesota Act as a sample for what we are looking for.

Please let me know if you have any questions,

-G

George Jeffrey Gillis Jr.  
Office of Representative Daniel Riemer  
O: (608) 266-1733

# **144.496 MINNESOTA RADON AWARENESS ACT.**

## **Subdivision 1.Citation.**

This section may be cited as the "Minnesota Radon Awareness Act."

## **Subd. 2.Definitions.**

- (a) The following terms used in this section have the meanings given them.
- (b) "Buyer" means a person negotiating or offering to acquire for value, legal or equitable title, or the right to acquire legal or equitable title to residential real property.
- (c) "Mitigation" means measures designed to permanently reduce indoor radon concentrations.
- (d) "Radon test" means a measurement of indoor radon concentrations according to established industry standards for residential real property.
- (e) "Residential real property" means property occupied as, or intended to be occupied as, a single-family residence, including a unit in a common interest community as defined in section 515B.1-103, clause (10), regardless of whether the unit is in a common interest community not subject to chapter 515B.
- (f) "Seller" means a person who owns legal or equitable title to residential real property.
- (g) "Elevated radon concentration" means a radon concentration at or above the United States Environmental Protection Agency's radon action level.

## **Subd. 3.Radon disclosure.**

- (a) Before signing an agreement to sell or transfer residential real property, the seller shall disclose in writing to the buyer any knowledge the seller has of radon concentrations in the dwelling. The disclosure shall include:
  - (1) whether a radon test or tests have occurred on the real property;
  - (2) the most current records and reports pertaining to radon concentrations within the dwelling;
  - (3) a description of any radon concentrations, mitigation, or remediation;
  - (4) information regarding the radon mitigation system, including system description and documentation, if such system has been installed in the dwelling; and

(5) a radon warning statement meeting the requirements of subdivision 4.

(b) The seller shall provide the buyer with a copy of the Minnesota Department of Health publication entitled "Radon in Real Estate Transactions."

(c) The seller's radon disclosure requirements in this section apply to the transfer of any interest in residential real estate, whether by sale, exchange, deed, contract for deed, lease with an option to purchase, or any other option.

(d) The seller's radon disclosure requirements in this section do not apply to any of the following:

(1) real property that is not residential real property;

(2) a gratuitous transfer;

(3) a transfer made pursuant to a court order;

(4) a transfer to a government or governmental agency;

(5) a transfer by foreclosure or deed in lieu of foreclosure;

(6) a transfer to heirs or devisees of a decedent;

(7) a transfer from a cotenant to one or more other cotenants;

(8) a transfer made to a spouse, parent, grandparent, child, or grandchild of the seller;

(9) a transfer between spouses resulting from a decree of marriage dissolution or from a property settlement agreement incidental to that decree;

(10) an option to purchase a unit in a common interest community, until exercised;

(11) a transfer to a person who controls or is controlled by the grantor as those terms are defined with respect to a declarant under section 515B.1-103, clause (2);

(12) a transfer to a tenant who is in possession of the residential real property; or

(13) a transfer of special declarant rights under section 515B.3-104.

(e) A seller may provide the written disclosure required under this section to a real estate licensee representing or assisting a prospective buyer. The written disclosure provided to the real estate licensee representing or assisting a prospective buyer is considered to have been provided to the prospective buyer. If the written disclosure is provided to the real estate licensee representing or assisting the prospective buyer, the real estate licensee must provide a copy to the prospective buyer.

## **Subd. 4. Radon warning statement.**

The radon warning statement must include the following language:

"Radon Warning Statement

The Minnesota Department of Health strongly recommends that ALL homebuyers have an indoor radon test performed prior to purchase or taking occupancy, and recommends having the radon levels mitigated if elevated radon concentrations are found. Elevated radon concentrations can easily be reduced by a qualified, certified, or licensed, if applicable, radon mitigator.

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

## **Subd. 5. Liability; transfer not invalidated.**

(a) A seller who fails to make a radon disclosure as required by this section, and is aware of material facts pertaining to radon concentrations in the dwelling, is liable to the buyer.

(b) A buyer who is injured by a violation of this section may bring a civil action and recover damages and receive other equitable relief as determined by the court. An action under this subdivision must be commenced within two years after the date on which the buyer closed the purchase or transfer of the real property.

(c) This section does not invalidate a transfer solely because of the failure of any person to comply with a provision of this section. This section does not prevent a court from ordering a rescission of the transfer.

§

## **Subd. 6. Effective date.**

This section is effective January 1, 2014, and applies to agreements to sell or transfer residential real property executed on or after that date.



State of Wisconsin  
2019 - 2020 LEGISLATURE

IN: 09/05/19  
DUE: 09/09/19 (Mon.)

LRB-4115/?  
KRP...  
PI  
gf

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 **AN ACT ...; relating to:** disclosures regarding radon in real estate transactions.

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***Analysis by the Legislative Reference Bureau***

Under current law, with certain exceptions, an owner of residential real property with one to four dwelling units (residential real property) must give a prospective buyer a form, known as a real estate condition report form, on which the owner discloses certain conditions of, and other information about, the residential real property of which the owner is aware. The bill requires an owner to disclose on the report whether the owner has notice or knowledge of the presence of radon on the residential real property, tests for radon conducted on the residential real property, or the presence of radon mitigation systems serving the residential real property.

The bill also requires that, in addition to the report, the owner must provide to the prospective buyer a pamphlet developed by the Department of Health Services that describes the risks of, testing for, and mitigation of indoor radon. Under current law, DHS must develop and disseminate current radon information to the news media, builders, realtors, and the general public, and the bill specifies that DHS must develop and disseminate the pamphlet.

Finally, the bill requires that the owner of residential real property must include in a contract of sale or option contract a statement explaining potential risks from dangerous levels of indoor radon gas.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 254.34 (1) (h) 1. of the statutes is amended to read:

2           254.34 (1) (h) 1. Develop and disseminate current radon information to the  
3 news media, builders, realtors, and the general public, including a pamphlet for  
4 home buyers and sellers that describes the risks of, testing for, and mitigation of  
5 indoor radon.

History: 1985 a. 29; 1985 a. 182 s. 57; 1987 a. 399; 1989 a. 31; 1993 a. 27 s. 228; Stats. 1993 s. 254.34; 1995 a. 27 ss. 6333, 6334, 9116 (5); 1997 a. 27; 1999 a. 9 ss. 2456 to 2462, 2475; 2001 a. 16; 2009 a. 28, 42.

Cross-reference: See also ch. DHS 157, Wis. adm. code.

6           **SECTION 2.** 709.01 (1) of the statutes is amended to read:

7           709.01 (1) Except as provided in sub. (2), all persons who transfer real property  
8 located in this state, including a condominium unit and time-share property, by sale,  
9 exchange, or land contract, unless the transfer is exempt from the real estate  
10 transfer fee under s. 77.25, shall comply with ss. 709.02 to 709.04 and, 709.06, and  
11 709.09.

History: 1991 a. 162; 1995 a. 180; 2011 a. 107.

12           **SECTION 3.** 709.02 (1) of the statutes is renumbered 709.02 (1) (a) and amended  
13 to read:

14           709.02 (1) (a) In Subject to par. (b), in regard to transfers a transfer described  
15 in s. 709.01, the owner of the real property shall furnish, not later than 10 days after  
16 acceptance of a contract of sale or option contract, to the prospective buyer of the real  
17 property a completed copy of the a report under s. 709.03 or 709.033, whichever is  
18 applicable, subject to s. 709.035, ~~except that~~ and, for real property, as defined in s.  
19 709.001 (5) (a), a copy of the pamphlet developed by the department of health services  
20 under s. 254.34 (1) (h) 1. that describes the risks of, testing for, and mitigation of  
21 indoor radon.

22           (b) For any entry in a report furnished under par. (a), the owner of the real  
23 property may substitute for any entry information supplied by a licensed engineer,



1 professional land surveyor, as defined in s. 443.01 (7m), or structural pest control  
 2 operator, by an individual who is a qualified 3rd party, or by a contractor about  
 3 matters within the scope of the contractor's occupation, if the information is in  
 4 writing and is furnished on time and if the entry to which it relates is identified, ~~and~~  
 5 ~~except that.~~ For any entry in a report furnished under par. (a), the owner may  
 6 substitute for any entry information supplied by a public agency. Information that  
 7 substitutes for an entry on the report under s. 709.03 or 709.033 and that is supplied  
 8 by a person specified in this section paragraph may be submitted and certified on a  
 9 supplemental report prepared by the person, as long as the information otherwise  
 10 satisfies the requirements under this section.

11 (c) A prospective buyer who does not receive a report or, if applicable, the  
 12 pamphlet within the ~~10 days~~ 10-day period described in par. (a) may, within 2  
 13 business days after the end of that 10-day period, rescind the contract of sale or  
 14 option contract by delivering a written notice of rescision to the owner or to the owner's  
 15 agent.

History: 1991 a. 162; 1995 a. 180; 1999 a. 150 s. 672; 2003 a. 283; 2011 a. 107, 203; 2013 a. 165, 358.

Note: 2003 Wis. Act 283, which affected this section, contains extensive explanatory notes.

16 SECTION 4. 709.03 (form) C2. of the statutes is amended to read:

17 709.03 (form)

*Change font*

Are you aware of a defect caused by unsafe concentrations of, or unsafe conditions relating to, radon, radium in water supplies, high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the property, lead in paint, lead in soil, or other potentially hazardous or toxic substances on the property?

NOTE: Specific federal lead paint disclosure requirements must be complied with in the sale of most residential properties built before 1978.

YES	NO	N/A
....	....	....

18 SECTION 5. 709.03 (form) C2m. of the statutes is created to read:

19 709.03 (form)

YES	NO	N/A
...	...	...

C2m.

Are you aware of the presence of radon on the property, tests for radon conducted on the property, or the presence of radon mitigation systems serving the property? (If "yes," specify in the additional information space all of the following: a) the most current records and test results related to radon concentrations on the property; b) a description of any radon concentrations, mitigation, or remediation on the property; and c) if applicable, a description of the radon mitigation system installed on the property.)

*Change form*

1           **SECTION 6.** 709.08 of the statutes is amended to read:

2           **709.08 Waiver.** A buyer may waive in writing the right to rescind under s.  
3 709.05. If a buyer proceeds to closing, the buyer's right to rescind under s. 709.05 is  
4 terminated. A buyer may waive in writing the right to receive the report or pamphlet  
5 required under s. 709.02.

History: 1991 a. 162.

6           **SECTION 7.** 709.09 of the statutes is created to read:

7           **709.09 Additional disclosure; risks from indoor radon.** In regard to a  
8 transfer described in s. 709.01, the owner of real property, as defined in s. 709.001  
9 (5) (a), shall include in the contract of sale or option contract a statement explaining  
10 potential risks from dangerous levels of indoor radon gas in substantially the  
11 following form: "The Department of Health Services recommends testing for radon  
12 during real estate transactions to better understand radon levels and lung cancer  
13 risk. Radon is a naturally occurring, odorless, colorless, radioactive gas that can  
14 cause lung cancer. Radon can leak into your home and is common in Wisconsin.  
15 Behind smoking, radon is the second leading cause of lung cancer in the United  
16 States."

\*\*\*\*NOTE: The language for the warning statement is copied from information provided on the Department of Health Services Internet site. Let me know if you want to use different language.

17           **SECTION 8. Nonstatutory provisions.**

18           (1) **REAL ESTATE CONDITION REPORT.** Notwithstanding s. 709.035, the treatment  
19 of s. 709.03 (form) C2. and C2m. does not require a property owner that has furnished

1 to a prospective buyer of the property an original or amended report before the  
2 effective date of this subsection to submit an amended report with respect to the  
3 information required by s. 709.03 (form) C2. and C2m.

4 **SECTION 9. Initial applicability.**

5 (1) REAL ESTATE CONDITION REPORT. The treatment of s. 709.03 (form) C2. and  
6 C2m. first applies to a report that is furnished on the effective date of this subsection.

7 **SECTION 10. Effective date.**

8 (1) This act takes effect on the first day of the 7th month beginning after  
9 publication.

\*\*\*\*NOTE: This effective date is a placeholder. Please let me know if you would  
prefer to use a different effective date.

10

**(END)**

## **Pleviak, Krista**

---

**From:** Gillis, George  
**Sent:** Tuesday, January 21, 2020 11:09 AM  
**To:** Pleviak, Krista  
**Cc:** McMorrow, Aidan  
**Subject:** RE: LRBs 4305/P1 and 4115/P1

Absolutely, drafts are fine as is.

Senate Author is Senator Taylor.

I've CCed Aidan from her office here.

-G

---

**From:** Pleviak, Krista <Krista.Pleviak@legis.wisconsin.gov>  
**Sent:** Tuesday, January 21, 2020 11:07 AM  
**To:** Gillis, George <George.Gillis@legis.wisconsin.gov>  
**Subject:** RE: LRBs 4305/P1 and 4115/P1

LRB-4115/P1 has two notes on page 6. Should I assume that the draft is fine as is, and no changes are necessary to address the notes?

Also, please let me know who will be the senate author of the companion bills.

**Krista R. Pleviak**  
Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 504-5818  
[krista.pleviak@legis.wisconsin.gov](mailto:krista.pleviak@legis.wisconsin.gov)

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**From:** Gillis, George <George.Gillis@legis.wisconsin.gov>  
**Sent:** Tuesday, January 21, 2020 10:59 AM  
**To:** Pleviak, Krista <Krista.Pleviak@legis.wisconsin.gov>  
**Subject:** LRBs 4305/P1 and 4115/P1

Can you make LRB 4305/P1 and 4115/P1 Introducible and draft a senate companion and jacket them for introduction?

-G

George J. Gillis Jr.  
Office of Representative Daniel Riemer



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-4115/P1  
KRP:kjf

TODAY

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to renumber and amend* 709.02 (1); *to amend* 254.34 (1) (h) 1., 709.01  
2 (1), 709.03 (form) C2. and 709.08; and *to create* 709.03 (form) C2m. and 709.09  
3 of the statutes; **relating to:** disclosures regarding radon in real estate  
4 transactions.

---

*Analysis by the Legislative Reference Bureau*

Under current law, with certain exceptions, an owner of residential real property with one to four dwelling units (residential real property) must give a prospective buyer a form, known as a real estate condition report form, on which the owner discloses certain conditions of, and other information about, the residential real property of which the owner is aware. The bill requires an owner to disclose on the report whether the owner has notice or knowledge of the presence of radon on the residential real property, tests for radon conducted on the residential real property, or the presence of radon mitigation systems serving the residential real property.

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2 **property** may substitute ~~for any entry~~ information supplied by a licensed engineer,  
3 professional land surveyor, as defined in s. 443.01 (7m), or structural pest control  
4 operator, by an individual who is a qualified 3rd party, or by a contractor about  
5 matters within the scope of the contractor's occupation, if the information is in  
6 writing and is furnished on time and if the entry to which it relates is identified, ~~and~~  
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13           **(c) A prospective buyer who does not receive a report or, if applicable, the**  
14 **pamphlet** within the ~~10 days~~ 10-day period described in par. (a) may, within 2  
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19           **709.03 (form)**

C2m. Are you aware of the presence of radon on the .....  
property, tests for radon conducted on the .....  
property, or the presence of radon mitiga- .....  
tion systems serving the property? (If “yes,”  
specify in the additional information space  
all of the following: a) the most current  
records and test results related to radon  
concentrations on the property; b) a  
description of any radon concentrations,  
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1 SECTION 5. 709.03 (form) C2. of the statutes is amended to read:

2 709.03 (form)



C2. Are you aware of a defect caused by unsafe concentrations of, or unsafe conditions relating to, ~~radon~~, radium in water supplies, high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the property, lead in paint, lead in soil, or other potentially hazardous or toxic substances on the property?

NOTE: Specific federal lead paint disclosure requirements must be complied with in the sale of most residential properties built before 1978.

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6 (1) REAL ESTATE CONDITION REPORT. Notwithstanding s. 709.035, the treatment  
7 of s. 709.03 (form) C2. and C2m. does not require a property owner that has furnished  
8 to a prospective buyer of the property an original or amended report before the  
9 effective date of this subsection to submit an amended report with respect to the  
10 information required by s. 709.03 (form) C2. and C2m.

11 **SECTION 9. Initial applicability.**

12 (1) REAL ESTATE CONDITION REPORT. The treatment of s. 709.03 (form) C2. and  
13 C2m. first applies to a report that is furnished on the effective date of this subsection.

14 **SECTION 10. Effective date.**

15 (1) This act takes effect on the first day of the 7th month beginning after  
16 publication.

\*\*\*\*NOTE: This effective date is a placeholder. Please let me know if you would prefer to use a different effective date.

17 (END)