



PA 23-164—sHB 6580

Public Safety and Security Committee

AN ACT REVISING REQUIREMENTS FOR THE AFFIDAVIT RELATED TO SMOKE AND CARBON MONOXIDE DETECTORS IN RESIDENTIAL BUILDINGS

SUMMARY: This act makes several changes to the smoke and carbon monoxide detector disclosure law for residential buildings.

Under prior law, the transferor (e.g., seller) of a one- or two-family residence had to generally give the transferee (e.g., buyer) an affidavit certifying certain conditions about the detectors or credit the transferee with \$250 at the closing. The act eliminates the credit option and extends the affidavit requirement to all transfers of units in residential common interest communities. (The law previously applied to common interest community residential units located in single-family buildings and duplexes; the act's extension presumably applies to units in buildings designed to be occupied by more than two families.)

The act changes when the affidavit must be given and its contents, such as the details about the condition of the residence's detectors. It also expands the exemptions from the law's requirements by exempting transfers of property acquired by a judgment of strict foreclosure or by foreclosure by sale.

Additionally, the act requires the State Fire Marshal's Office to create a (1) model form that may be used for the affidavit and (2) guide outlining smoke detector requirements to help transferors complete the affidavit. The office must consult with an association representing fire marshals' interests for the model form and guide, as well as with a bar association and an association representing realtors' interests for the model form.

EFFECTIVE DATE: October 1, 2023

AFFIDAVIT CHANGES

Under prior law, the affidavit had to be given before transferring title and certify that the residence:

1. has smoke detection and warning equipment (i.e., smoke detectors) that satisfy specified conditions in the law, the Fire Safety Code, the State Fire Prevention Code, and the State Building Code and
2. either (a) has carbon monoxide detection and warning equipment (i.e., carbon monoxide detectors) that satisfy the law's conditions or (b) does not pose a risk of carbon monoxide poisoning because it does not have a fuel-burning appliance, fireplace, or attached garage.

The act instead requires it to be (1) given at the time of the transaction's closing and (2) signed and dated by the transferor. It also requires the transferor to state, rather than certify, that the equipment satisfies the law's conditions, except the act

OLR PUBLIC ACT SUMMARY

changes several of them, eliminating the requirement that the smoke detectors satisfy the above fire and building codes, and requiring specific disclosures about any smoke detectors (see below). By law, nothing in the affidavit constitutes a warranty beyond the transfer of title.

SMOKE DETECTOR CONDITIONS

Under prior law, the residence's smoke detectors had to be:

1. able to sense visible or invisible smoke particles;
2. installed following the manufacturer's instructions and in the immediate vicinity of each bedroom;
3. able to give an alarm suitable to warn occupants when activated;
4. powered by the household electrical service, unless the residence was issued a new occupancy building permit before October 1, 1976 (in which case, it may have battery-operated detectors);
5. for residences issued a new occupancy building permit on or after October 16, 1989, interconnected so that activating one smoke detector alarm causes all the alarms for all detectors to activate; and
6. for residences issued a new occupancy building permit on or after May 1, 1999, in all sleeping areas.

The act eliminates most of these required conditions. Under the act, the residence's smoke detectors must be installed in or in the immediate vicinity of each bedroom and produce an audible alarm when the equipment's test button is depressed.

SMOKE DETECTOR DISCLOSURES

Under the act, the required affidavits must specify, if applicable and to the best of the transferor's knowledge, whether the smoke detectors:

1. are battery powered or powered by the household electrical service;
2. are in or in the immediate vicinity of each bedroom;
3. are interconnected in a way that the alarm activation on any detector in the residence or unit causes the alarms on all the residence's or unit's detectors to activate; and
4. have the following statement: "State law requires that all properties have operable smoke and carbon monoxide detection and warning equipment. This law is to save lives—your life, and the lives of your family members and your pets—as well as to protect your property."

However, for any residence or unit built before January 1, 1990, the act allows a transferor to specify on the affidavit that the conditions about interconnectivity are not applicable to the residence or unit.

CARBON MONOXIDE DETECTOR CONDITIONS

Under prior law, the carbon monoxide detectors had to be able to (1) sense the amount of carbon monoxide present in parts per million and (2) give an alarm

OLR PUBLIC ACT SUMMARY

suitable to warn occupants when activated. Prior law also required them to be installed according to the manufacturer's instructions. The act instead requires them to produce an audible alarm when the detectors' test buttons are depressed. By law, unchanged by the act, the detectors may be battery-operated.

EXEMPTIONS

Existing law exempts transferors from the affidavit requirements during the following transfers:

1. from one co-owner to another;
2. to the transferor's spouse, parent, sibling, child, grandparent, or grandchild where no consideration is paid;
3. under a court order or by executors, administrators, trustees, or conservators;
4. by the federal government or any of its political subdivisions;
5. by deed in lieu of foreclosure;
6. involving refinancing of an existing mortgage debt; or
7. by mortgage deed or other instrument to secure a debt where the transferor's title to the property is subject to a preexisting mortgage debt.

The act additionally exempts properties transferred through a judgment of strict foreclosure or by foreclosure by sale.