



Ohio Legislative Service Commission

Bill Analysis

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H.B 362

128th General Assembly
(As Introduced)

Reps. Chandler, Weddington, B. Williams, Yuko, Domenick, Newcomb

BILL SUMMARY

- Requires that fire extinguishers and carbon monoxide detectors be installed in residential units.
- Directs the Board of Building Standards to adopt rules that establish product and installation standards for fire extinguishers and carbon monoxide detectors.
- Requires the Director of Commerce to prescribe product and installation standards for fire extinguishers and carbon monoxide detectors that are consistent with the rules adopted by the Board of Building Standards.
- Requires transferors of residential real property to disclose whether fire extinguishers and carbon monoxide detectors are installed in their property, unless otherwise exempted from complying with the general disclosure requirements.
- Prohibits a transferor of residential real property from entering into a transfer agreement unless functioning fire extinguishers and carbon monoxide detectors that comply with the Director's standards are installed in the property.
- Allows a transferee to rescind a transfer agreement if the transferee receives a form indicating that the property does not contain functioning fire extinguishers and carbon monoxide detectors as required.

CONTENT AND OPERATION

Fire extinguishers and carbon monoxide detectors in residential buildings

Continuing law requires the Board of Building Standards (Board) to formulate and adopt rules establishing the residential and nonresidential building codes. Under

the bill, the Board must require in the Residential Building Code that each residential unit have installed a portable fire extinguisher on each floor of the unit and a carbon monoxide detector outside each separate sleeping area. The Residential Building Code must specify product and installation standards for portable fire extinguishers and carbon monoxide detectors. It also must require portable fire extinguishers to be of a type tested and listed by "Underwriters Laboratory," "Factory Mutual," or other similar quality standards specified or established by rule (R.C. 3781.10(A)(1)). Under the bill, 180 days after the Board files its rules establishing the requirements for fire extinguishers and carbon monoxide detectors for the Residential Building Code, all residential units must have installed and in operation fire extinguishers and carbon monoxide detectors that meet the standards the Board establishes (R.C. 3781.104(B)). It appears that, in accordance with continuing law, this requirement applies to buildings for which the plans or drawings, specifications, and data are approved after the rule's effective date (R.C. 3781.12(C), not in the bill). (But see "**Disclosure in property disclosure form**," below.) The bill defines "residential unit" as any unit used or intended for residential occupancy located in an apartment building or a condominium, or a "residential building" as defined in the Board of Building Standards Law (R.C. Chapter 3781.) (R.C. 3781.104(C)(4)).

Disclosure in property disclosure form

Under current law, unless otherwise exempted, a person who intends to transfer residential real property by sale, land installment contract, lease with option to purchase, exchange, or lease for a term of 99 years and renewable forever, must: (1) complete all applicable items in a property disclosure form that is prescribed by the Director of Commerce, and (2) deliver a signed and dated copy of the completed form, in accordance with requirements specified in continuing law, to each prospective transferee or prospective transferee's agent as soon as is practicable (R.C. 5302.30(C) and (D)) (see **COMMENT** for exemptions). Current law requires the Director to include specified statements and instructions in the form.

Under the bill, the Director must prescribe product and installation standards for fire extinguishers and carbon monoxide detectors that are consistent with the standards the Board adopts by rule pursuant to the bill. The bill requires the Director to include a provision in the disclosure form to indicate whether the property contains fire extinguishers and carbon monoxide detectors that comply with the standards the Director prescribes. (R.C. 5302.30(D) and (M)(2).) Except with respect to transfers that are exempt from the disclosure requirements, the bill prohibits a transferor from entering into an agreement to transfer residential real property unless that property has installed operative fire extinguishers and carbon monoxide detectors that comply with the standards the Director establishes under the bill. If a transferee receives a form that

indicates that the property does not contain functioning fire extinguishers and carbon monoxide detectors as required, the transferee may rescind a transfer agreement in the same manner that a transferee may rescind an agreement under current law. This provision does not apply to transfers that are exempt from the disclosure requirements. (R.C. 5302.30(M)(1).)

COMMENT

Under current law, the following types of transfers are exempt from the disclosure form requirements:

(1) A transfer pursuant to court order, including a transfer ordered by a probate court during the administration of a decedent's estate, and a transfer pursuant to a writ of execution, by a trustee in bankruptcy, as a result of the exercise of the power of eminent domain, or that results from a decree for specific performance of a contract or other agreement between persons;

(2) A transfer to a mortgagee by a mortgagor by deed in lieu of foreclosure or in satisfaction of the mortgage debt;

(3) A transfer to a beneficiary of a deed of trust by a trustor in default;

(4) A transfer by a foreclosure sale that follows a default in the satisfaction of an obligation secured by a mortgage;

(5) A transfer by a sale under a power of sale following a default in the satisfaction of an obligation that is secured by a deed of trust or another instrument containing a power of sale;

(6) A transfer by a mortgagee, or a beneficiary under a deed of trust, who has acquired the residential real property at a sale conducted pursuant to a power of sale under a mortgage or a deed of trust or who has acquired the residential real property by a deed in lieu of foreclosure;

(7) A transfer by a fiduciary in the course of the administration of a decedent's estate, a guardianship, a conservatorship, or a trust;

(8) A transfer from one co-owner to one or more other co-owners;

(9) A transfer made to the transferor's spouse or to one or more persons in the lineal line of consanguinity of one or more of the transferors;

(10) A transfer between spouses or former spouses as a result of a decree of divorce, dissolution of marriage, annulment, or legal separation or as a result of a property settlement agreement incidental to a decree of divorce, dissolution of marriage, annulment, or legal separation;

(11) A transfer to or from the state, a political subdivision of the state, or another governmental entity;

(12) A transfer that involves newly constructed residential real property that previously has not been inhabited;

(13) A transfer to a transferee who has occupied the property as a personal residence for one or more years immediately prior to the transfer;

(14) A transfer from a transferor who both has not occupied the property as a personal residence within one year immediately prior to the transfer and has acquired the property through inheritance or devise (R.C. 5302.30(B)(2)).

HISTORY

ACTION	DATE
Introduced	11-10-09

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