



# Ohio Legislative Service Commission

## Bill Analysis

Julie A. Rishel

### **Sub. H.B. 362\***

128th General Assembly  
(As Reported by H. Commerce & Labor)

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

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## **BILL SUMMARY**

- Requires that carbon monoxide alarms and portable fire extinguishers be installed in certain residential buildings.
- Directs the Board of Building Standards to adopt rules in the Residential Building Code that establish the location and product and installation standards for carbon monoxide alarms and portable fire extinguishers.
- Specifically requires a person wishing to bring an action against a manufacturer or supplier of a carbon monoxide alarm or portable fire extinguisher required to be installed under the bill to bring that action in accordance with the Products Liability Law.
- Requires transferors of residential real property to disclose whether carbon monoxide alarms and portable fire extinguishers are installed in their property, unless otherwise exempted from complying with the general disclosure requirements.

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## **CONTENT AND OPERATION**

### **Carbon monoxide alarms and portable fire extinguishers in residential buildings**

Continuing law requires the Board of Building Standards (Board) to formulate and adopt rules establishing the residential and nonresidential building codes. Continuing law requires the Residential Construction Advisory Committee ("RCAC") to

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\* This analysis was prepared before the report of the House Commerce and Labor Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

recommend to the Board a building code for residential buildings. The RCAC must recommend a code that the RCAC may model on a residential building code issued by a national model code organization, with adaptations necessary to implement the code in Ohio. If the Board decides not to adopt a code the RCAC recommends, the RCAC must revise the code and resubmit it until the Board adopts a code the RCAC recommends as the RBC. (R.C. 4740.14(C)(1).)

Under the bill, the Board must include in the Residential Building Code (1) a requirement that carbon monoxide alarms and portable fire extinguishers be installed within each residential building<sup>1</sup> and (2) rules specifying the location and product and installation standards for those carbon monoxide alarms and portable fire extinguishers to be installed in residential buildings in accordance with the rules the Board adopts under (1) above (R.C. 3781.10(A)(1)). The bill also requires the RCAC to include the requirement and rules described in (1) and (2) above in the recommendations the RCAC makes to the Board pursuant to continuing law (R.C. 4740.14(E)). It appears that, in accordance with continuing law, this requirement applies to residential buildings for which the plans or drawings, specifications, and data are approved after the rules' effective date (R.C. 3781.12(C), not in the bill). (But see "**Disclosure in property disclosure form**," below.) The bill specifically requires, however, that 180 days after the Board adopts the rules establishing the requirements for carbon monoxide alarms and portable fire extinguishers pursuant to the bill, a residential building for which the plans or drawings, specifications, and data are approved after the rules' effective date to have installed and in operation carbon monoxide alarms and portable fire extinguishers that satisfy the standards the Board establishes (Section 3).

Under the bill, if a person wishes to bring a claim against a manufacturer or supplier of a carbon monoxide alarm or portable fire extinguisher required to be installed under rules adopted by the Board pursuant to the bill for a defect in operation of any component of such a carbon monoxide alarm or portable fire extinguisher, the bill requires the person to bring that action in accordance with the Products Liability Law (R.C. 2307.71 to 2307.80, not in the bill) (R.C. 3781.032).

### **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)

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<sup>1</sup> A "residential building" is a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to that dwelling house. "Residential building" includes a one-family, two-family, or three-family dwelling house that is used as a model to promote the sale of a similar dwelling house. "Residential building" does not include an industrialized unit, a manufactured home, or a mobile home. (R.C. 3791.06(C)(9), not in the bill.)

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, not later than 18 months after the bill's effective date, the Director must revise the disclosure form to include a provision to permit a transferor to disclose whether the property contains carbon monoxide alarms and portable fire extinguishers that comply with the standards the Board adopts pursuant to the bill (see "**Carbon monoxide alarms and portable fire extinguishers in residential buildings**" above). (R.C. 5302.30(D).) Under continuing law, a transferor of residential real property is not liable in damages in a civil action for injury, death, or loss to person or property that allegedly arises from any error in, inaccuracy of, or omission of any item of information required to be disclosed in the property disclosure form if the error, inaccuracy, or omission was not within the transferor's actual knowledge. If any item of information that is disclosed in the property disclosure form is rendered inaccurate after the delivery of the form to the transferee of residential real property or the transferee's agent as a result of any act, occurrence, or agreement, the subsequent inaccuracy does not cause, and must not be construed as causing, the transferor of the residential real property to be in noncompliance with the requirements concerning providing and completing the disclosure form. (R.C. 5302.30(F).)

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## 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)).

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## HISTORY

ACTION	DATE
Introduced	11-10-09
Reported, H. Commerce & Labor	---

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