

AMENDED IN SENATE MAY 26, 2009

AMENDED IN SENATE MAY 6, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 183

Introduced by Senator Lowenthal

February 17, 2009

An act to amend Sections 1102.6 and 1102.6d of the Civil Code, and to add Sections 17926, 17926.1, and 17926.2 to, and to add Chapter 8 (commencing with Section 13260) to Part 2 of Division 12 of, the Health and Safety Code, relating to residential building safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 183, as amended, Lowenthal. Residential building safety.

(1) Existing law requires certain transferors of real property improved with 1 to 4 dwelling units, as well as transferors of mobilehomes and manufactured homes, to make specified disclosures to prospective transferees regarding the characteristics of the property and prescribes forms for the purpose of making these disclosures. Existing law requires the transferor of real property containing a single-family dwelling to provide transferees written notice of compliance with specified requirements for the installation of smoke detectors. Existing law requires the seller of any real property containing a water heater to certify in writing to a prospective purchaser compliance with specified safety requirements related to those water heaters.

This bill would revise the disclosure forms, described above, to provide a seller certification that the property, at the close of escrow, will be in compliance with the requirements for smoke detectors and water heaters, described above, and to remove these provisions from

elsewhere in the forms. The bill would also revise the disclosure forms to add a disclosure regarding carbon monoxide devices and a statement specifying that installation of a listed appliance, device, or amenity is not a precondition to sale or transfer.

Existing law requires the State Fire Marshal to adopt regulations and standards regarding the quality and installation of burglar bars and safety release mechanisms for emergency escape and rescue windows, the approval and installation of smoke detectors, and the approval of portable fire extinguishers for marketing, distribution, and sale in this state. Existing law requires a smoke detector approved and listed by the State Fire Marshal to be installed in a dwelling unit intended for human occupancy. The State Housing Law creates standards for buildings used for human habitation. A violation of that law is a misdemeanor.

This bill would enact the Carbon Monoxide Poisoning Prevention Act of 2009. This bill would require the State Fire Marshal to certify and approve carbon monoxide devices for the use in dwelling units intended for human occupancy, as defined. The bill would require the State Fire Marshal to charge an appropriate fee to the manufacturer of a carbon monoxide device to cover the costs associated with the approval and listing of carbon monoxide devices ~~and the costs of the Department of Housing and Community Development for the development and proposal of building standards.~~ The bill would prohibit the marketing, distribution, or sale of devices that do not meet these standards. The bill would require a carbon monoxide device to be installed in a dwelling unit intended for human occupancy, as specified, and would generally provide that a violation of these provisions is an infraction punishable by a maximum fine of \$200 for each offense, but the bill would require that a property owner receive a 30-day notice to correct prior to the imposition of the fine. By creating a new crime, this bill would create a state-mandated local program. The bill would provide that a transfer of title is not invalidated on the basis of a failure to comply with these requirements, and that the exclusive remedy for the failure to comply is an award of actual damages not to exceed \$100, exclusive of any court costs and attorney's fees.

This bill would require an owner or the owner's agent of a dwelling unit intended for human occupancy who rents or leases the dwelling unit to a tenant to maintain carbon monoxide devices in that dwelling unit. The bill would permit the owner or the owner's agent to enter that dwelling unit to install, repair, test, and maintain carbon monoxide

devices, as specified. ~~The bill would permit the Department of Housing and Community Development, after consultation with the State Fire Marshal, to develop and propose building standards to require installation of carbon monoxide devices in dwellings intended for human occupancy.~~ The bill would permit the Department of Housing and Community Development to suspend enforcement of certain requirements on property owners if the department, in consultation with the State Fire Marshal, determines that a sufficient amount of tested and approved carbon monoxide devices are not available, and would require the department to publicize this decision, as specified. The bill would also make a statement of legislative findings.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1102.6 of the Civil Code is amended to
- 2 read:
- 3 1102.6. The disclosures required by this article pertaining to
- 4 the property proposed to be transferred are set forth in, and shall
- 5 be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF _____, 20____. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase-money liens on residential property).

Substituted Disclosures: The following disclosures and other disclosures required by law, including the Natural Hazard Disclosure Report/Statement that may include airport annoyances, earthquake, fire, flood, or special assessment information, have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:

- Inspection reports completed pursuant to the contract of sale or receipt for deposit.
 - Additional inspection reports or disclosures:
-
-
-

II

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER:



Seller ___ is ___ is not occupying the property.

A. The subject property has the items checked below (read across):*

- | | | |
|--|---|--|
| <input type="checkbox"/> Range | <input type="checkbox"/> Oven | <input type="checkbox"/> Microwave |
| <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Trash Compactor | <input type="checkbox"/> Garbage Disposal |
| <input type="checkbox"/> Washer/Dryer Hookups | | <input type="checkbox"/> Rain Gutters |
| <input type="checkbox"/> Burglar Alarms | <input type="checkbox"/> Carbon Monoxide Device(s) | <input type="checkbox"/> Fire Alarm |
| <input type="checkbox"/> TV Antenna | <input type="checkbox"/> Satellite Dish | <input type="checkbox"/> Intercom |
| <input type="checkbox"/> Central Heating | <input type="checkbox"/> Central Air Cndtng. | <input type="checkbox"/> Evaporator Cooler(s) |
| <input type="checkbox"/> Wall/Window Air Cndtng. | <input type="checkbox"/> Sprinklers | <input type="checkbox"/> Public Sewer System |
| <input type="checkbox"/> Septic Tank | <input type="checkbox"/> Sump Pump | <input type="checkbox"/> Water Softener |
| <input type="checkbox"/> Patio/Decking | <input type="checkbox"/> Built-in Barbecue | <input type="checkbox"/> Gazebo |
| <input type="checkbox"/> Sauna | | |
| <input type="checkbox"/> Hot Tub <input type="checkbox"/> Locking Safety Cover | <input type="checkbox"/> Pool <input type="checkbox"/> Child Resistant Barrier | <input type="checkbox"/> Spa <input type="checkbox"/> Locking Safety Cover |
| <input type="checkbox"/> Security Gate(s) | <input type="checkbox"/> Automatic Garage Door Opener(s) | <input type="checkbox"/> Number Remote Controls |
| Garage: <input type="checkbox"/> Attached | <input type="checkbox"/> Not Attached | <input type="checkbox"/> Carport |
| Pool/Spa Heater: <input type="checkbox"/> Gas | <input type="checkbox"/> Solar | <input type="checkbox"/> Electric |
| Water Heater: <input type="checkbox"/> Gas | | <input type="checkbox"/> Private Utility or Other_____ |
| | <input type="checkbox"/> Well | |
| Water Supply: <input type="checkbox"/> City | <input type="checkbox"/> Bottled | |
| Gas Supply: <input type="checkbox"/> Utility | <input type="checkbox"/> Window Security Bars <input type="checkbox"/> Quick-Release Mechanism on Bedroom Windows | |
| <input type="checkbox"/> Window Screens | | |

Exhaust Fan(s) in _____ 220 Volt Wiring in _____ Fireplace(s) in _____
 Gas Starter _____ Roof(s): Type: _____ Age: _____ (approx.)
 Other: _____

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? Yes No. If yes, then describe.
 (Attach additional sheets if necessary): _____

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following?
 Yes No. If yes, check appropriate space(s) below.

- Interior Walls Ceilings Floors Exterior Walls Insulation Roof(s)
 Windows Doors Foundation Slab(s) Driveways Sidewalks
 Walls/Fences Electrical Systems Plumbing/Sewers/Septics Other
 Structural Components (Describe: _____)

If any of the above is checked, explain. (Attach additional sheets if necessary): _____

* Installation of a listed appliance, device, or amenity is not a precondition of sale or transfer of the dwelling. The carbon monoxide device, garage door opener, or child-resistant pool barrier may not be in compliance with the safety standards relating to, respectively, carbon monoxide device standards of Chapter 8 (commencing with Section 13260) of Part 2 of Division 12 of, automatic reversing device standards of Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of, or the pool safety standards of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104 of, the Health and Safety Code. Window security bars may not have quick-release mechanisms in compliance with the 1995 edition of the California Building Standards Code.

C. Are you (Seller) aware of any of the following:

- 1. Substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, mold, fuel or chemical storage tanks, and contaminated soil or water on the subject property Yes No
- 2. Features of the property shared in common with adjoining landowners, such as walls, fences, and drive-ways, whose use or responsibility for maintenance may have an effect on the subject property Yes No
- 3. Any encroachments, easements or similar matters that may affect your interest in the subject property Yes No
- 4. Room additions, structural modifications, or other alterations or repairs made without necessary permits Yes No
- 5. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes Yes No
- 6. Fill (compacted or otherwise) on the property or any portion thereof Yes No
- 7. Any settling from any cause, or slippage, sliding, or other soil problems Yes No
- 8. Flooding, drainage or grading problems Yes No
- 9. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides Yes No
- 10. Any zoning violations, nonconforming uses, violations of "setback" requirements Yes No
- 11. Neighborhood noise problems or other nuisances Yes No
- 12. CC&Rs or other deed restrictions or obligations Yes No
- 13. Homeowners' Association which has any authority over the subject property Yes No
- 14. Any "common area" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others) Yes No
- 15. Any notices of abatement or citations against the property Yes No
- 16. Any lawsuits by or against the Seller threatening to or affecting this real property, including any lawsuits alleging a defect or deficiency in this real property or "common areas" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others) Yes No

If the answer to any of these is yes, explain. (Attach additional sheets if necessary.): _____

D. 1. The Seller certifies that the property, as of the close of escrow, will be in compliance with Section 13113.8 of the Health and Safety Code by having operable smoke detectors(s) which are approved, listed, and installed in



accordance with the State Fire Marshal’s regulations and applicable local standards.

- 2. The Seller certifies that the property, as of the close of escrow, will be in compliance with Section 19211 of the Health and Safety Code by having the water heater tank(s) braced, anchored, or strapped in place in accordance with applicable law.

Seller certifies that the information herein is true and correct to the best of the Seller’s knowledge as of the date signed by the Seller.

Seller _____ Date _____
 Seller _____ Date _____

III

AGENT’S INSPECTION DISCLOSURE

(To be completed only if the Seller is represented by an agent in this transaction.)

THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:

- Agent notes no items for disclosure.
- Agent notes the following items:

Agent (Broker
 Representing Seller) _____ By _____ Date _____
(Please Print) (Associate Licensee
 or Broker Signature)



1 SEC. 2. Section 1102.6d of the Civil Code is amended to read:
2 1102.6d. Except for manufactured homes and mobilehomes
3 located in a common interest development governed by Title 6
4 (commencing with Section 1351), the disclosures applicable to
5 the resale of a manufactured home or mobilehome pursuant to
6 subdivision (b) of Section 1102 are set forth in, and shall be made
7 on a copy of, the following disclosure form:

1

1

1

1

1 SEC. 3. Chapter 8 (commencing with Section 13260) is added
2 to Part 2 of Division 12 of the Health and Safety Code, to read:

3
4 CHAPTER 8. CARBON MONOXIDE POISONING PREVENTION ACT
5 OF 2009
6

7 13260. This chapter shall be known and may be cited as the
8 Carbon Monoxide Poisoning Prevention Act of 2009.

9 13261. The Legislature finds and declares all of the following:

10 (a) According to the American Medical Association, carbon
11 monoxide is the leading cause of accidental poisoning deaths in
12 the United States. The federal Centers for Disease Control and
13 Prevention estimate that carbon monoxide kills approximately 500
14 people each year and injures another 20,000 people nationwide.

15 (b) According to the United States Environmental Protection
16 Agency, a person cannot see or smell carbon monoxide. At high
17 levels carbon monoxide can kill a person in minutes. Carbon
18 monoxide is produced whenever any fuel, such as gas, oil,
19 kerosene, wood, or charcoal, is burned.

20 (c) The State Air Resources Board estimates that every year
21 carbon monoxide accounts for between 30 and 40 avoidable deaths,
22 possibly thousands of avoidable illnesses, and between 175 and
23 700 avoidable emergency room and hospital visits.

24 (d) There are well-documented chronic health effects of acute
25 carbon monoxide poisoning or prolonged exposure to carbon
26 monoxide, including, but not limited to, lethargy, headaches,
27 concentration problems, amnesia, psychosis, Parkinson's disease,
28 memory impairment, and personality alterations.

29 (e) Experts estimate that equipping every home with a carbon
30 monoxide device would cut accident-related costs by 93 percent.
31 Eighteen states and a number of large cities have laws mandating
32 the use of carbon monoxide devices.

33 (f) Carbon monoxide devices provide a vital, highly effective,
34 and low-cost protection against carbon monoxide poisoning and
35 these devices should be made available to every home in California.

36 (g) The Homeowners' Guide to Environmental Hazards prepared
37 pursuant to Section 10084 of the Business and Professions Code
38 is an important educational tool and should include information
39 regarding carbon monoxide. It is the intent of the Legislature that
40 when the booklet is next updated as existing resources permit, or

1 as private resources are made available, it be updated to include a
2 section on carbon monoxide.

3 13262. For purposes of this chapter, the following definitions
4 shall apply:

5 (a) “Carbon monoxide device” means a device that meets all of
6 the following requirements:

7 (1) A device designed to detect carbon monoxide and produce
8 a distinct, audible alarm.

9 (2) A device that is battery powered, a plug-in device with
10 battery backup, or a device installed as recommended by Standard
11 720 of the National Fire Protection Association that is either wired
12 into the alternating current power line of the dwelling unit with a
13 secondary battery backup or connected to a system via a panel.

14 (3) If the device is combined with a smoke detector, the
15 combined device shall comply with all of the following:

16 (A) The standards that apply to carbon monoxide alarms as
17 described in this chapter.

18 (B) The standards that apply to smoke detectors, as described
19 in Section 13113.7.

20 (C) The combined device emits an alarm or voice warning in a
21 manner that clearly differentiates between a carbon monoxide
22 alarm warning and a smoke detector warning.

23 (4) The device has been tested and certified, pursuant to the
24 requirements of the American National Standards Institute (ANSI)
25 and ~~Underwriters~~² *Underwriters* Laboratories Inc. (UL) as set forth
26 in either ANSI/UL 2034 or ANSI/UL 2075, or successor standards,
27 by a nationally recognized testing laboratory listed in the directory
28 of approved testing laboratories established by the Building
29 Materials Listing Program of the Fire Engineering Division of the
30 Office of the State Fire Marshal of the Department of Forestry and
31 Fire Protection.

32 (b) “Dwelling unit intended for human occupancy” includes a
33 single-family dwelling, factory-built home as defined in Section
34 19971, duplex, lodging house, dormitory, hotel, motel,
35 condominium, stock cooperative, time-share project, or dwelling
36 unit in a multiple-unit dwelling unit building or buildings.
37 “Dwelling unit intended for human occupancy” does not include
38 a property owned or leased by the state, the Regents of the
39 University of California, or a local governmental agency.

1 (c) “Fossil fuel” means coal, kerosene, oil, wood, fuel gases,
2 and other petroleum or hydrocarbon products, which emit carbon
3 monoxide as a byproduct of combustion.

4 13263. (a) (1) The State Fire Marshal shall develop a
5 certification and decertification process to approve and list carbon
6 monoxide devices and to disapprove and delist previously approved
7 devices, if necessary. The certification and decertification process
8 shall include consideration of effectiveness and reliability of the
9 devices, including, but not limited to, their propensity to record
10 false alarms.

11 (2) The State Fire Marshal shall charge an appropriate fee to
12 the manufacturer of a carbon monoxide device to cover his or her
13 costs associated with the approval and listing of carbon monoxide
14 ~~devices and the costs of the Department of Housing and~~
15 ~~Community Development for the development and proposal of~~
16 ~~building standards pursuant to Section 17926.2.~~ *devices.*

17 (b) A person shall not market, distribute, offer for sale, or sell
18 any carbon monoxide device in this state unless the device has
19 been approved and listed by the State Fire Marshal.

20 SEC. 4. Section 17926 is added to the Health and Safety Code,
21 to read:

22 17926. (a) An owner of a dwelling unit intended for human
23 occupancy shall install a carbon monoxide device, approved and
24 listed by the State Fire Marshal pursuant to Section 13263, in each
25 existing dwelling unit having a fossil fuel burning heater or
26 appliance, fireplace, or an attached garage, within the earliest
27 applicable time period as follows:

28 (1) For all existing single-family dwelling units intended for
29 human occupancy on or before January 1, 2011.

30 (2) For all other existing dwelling units intended for human
31 occupancy on or before January 1, 2012.

32 (b) With respect to the number and placement of carbon
33 monoxide devices, an owner shall install the devices in a manner
34 consistent with building standards applicable to new construction
35 for the relevant type of occupancy or with the manufacturer’s
36 instructions, if it is technically feasible to do so.

37 (c) (1) Notwithstanding Section 17995, and except as provided
38 in paragraph (2), a violation of this section is an infraction
39 punishable by a maximum fine of two hundred dollars (\$200) for
40 each offense.

1 (2) Notwithstanding paragraph (1), a property owner shall
2 receive a 30-day notice to correct. If an owner receiving notice
3 fails to correct within that time period, the owner may be assessed
4 the fine pursuant to paragraph (2).

5 (d) No transfer of title shall be invalidated on the basis of a
6 failure to comply with this section, and the exclusive remedy for
7 the failure to comply with this section is an award of actual
8 damages not to exceed one hundred dollars (\$100), exclusive of
9 any court costs and attorney's fees.

10 (e) A local ordinance requiring carbon monoxide devices may
11 be enacted or amended if the ordinance is consistent with this
12 chapter. This section is not intended to affect any duties, rights,
13 or remedies otherwise available at law.

14 SEC. 5. Section 17926.1 is added to the Health and Safety
15 Code, to read:

16 17926.1. (a) An owner or owner's agent of a dwelling unit
17 intended for human occupancy who rents or leases the dwelling
18 unit to a tenant shall maintain carbon monoxide devices in that
19 dwelling unit consistent with this section and Section 17926.

20 (b) An owner or the owner's agent may enter any dwelling unit
21 intended for human occupancy owned by the owner for the purpose
22 of installing, repairing, testing, and maintaining carbon monoxide
23 devices required by this section, pursuant to the authority and
24 requirements of Section 1954 of the Civil Code.

25 (c) The carbon monoxide device shall be operable at the time
26 that the tenant takes possession. A tenant shall be responsible for
27 notifying the owner or owner's agent if the tenant becomes aware
28 of an inoperable or deficient carbon monoxide device within his
29 or her unit. The owner or owner's agent shall correct any reported
30 deficiencies or inoperabilities in the carbon monoxide device and
31 shall not be in violation of this section for a deficient or inoperable
32 carbon monoxide device when he or she has not received notice
33 of the deficiency or inoperability.

34 (d) This section shall not affect any rights which the parties may
35 have under any other provision of law because of the presence or
36 absence of a carbon monoxide device.

37 (e) For purposes of this section, with respect to a time-share
38 project, "owner" means the homeowners' association of the
39 time-share project.

1 SEC. 6. Section 17926.2 is added to the Health and Safety Code,
2 to read:

3 ~~17926.2. (a) (1) The department may, after consultation with~~
4 ~~the State Fire Marshal, develop and propose building standards to~~
5 ~~require installation of carbon monoxide devices in dwellings~~
6 ~~intended for human occupancy.~~

7 ~~(2)~~

8 17926.2. (a) If the department, in consultation with the State
9 Fire Marshal, determines that a sufficient amount of tested and
10 approved carbon monoxide devices are not available to property
11 owners to meet the requirements of the Carbon Monoxide
12 Poisoning Prevention Act of 2009 and Sections 17926 and 17926.1,
13 the department may suspend enforcement of the requirements of
14 Sections 17926 and 17926.1 for up to six months. If the department
15 elects to suspend enforcement of these requirements, the
16 department shall notify the Secretary of State of its decision and
17 shall post a public notice that describes its findings and decision
18 on the departmental Internet Web site.

19 (b) If the California Building Standards Commission adopts or
20 updates building standards relating to carbon monoxide devices,
21 the owner or owner's agent, who has installed a carbon monoxide
22 device as required by Section 17926 or 17926.1, shall not be
23 required to install a new device meeting the requirements of those
24 building standards within an individual dwelling unit until the
25 owner makes application for a permit for alterations, repairs, or
26 additions to that dwelling unit, the cost of which will exceed one
27 thousand dollars (\$1,000).

28 SEC. 7. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

O