

## Legal Bulletin 193

### CARBON MONOXIDE ALARMS

*By Northwest Multiple Listing Service*

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#### **1. Introduction**

This bulletin summarizes new “point of sale” requirements related to the installation of carbon monoxide alarms and the corresponding revisions to NWMLS’s purchase and sale agreements.

#### **2. When is a seller required to install a carbon monoxide alarm?**

Effective April 1, 2012, RCW 19.27.530 requires the seller of any owner-occupied single-family residence to equip the residence with carbon monoxide alarms in accordance with the state building code before a buyer or any other person may legally occupy the residence following the sale.<sup>1</sup> This requirement applies to all single family residences, including single family homes, condominiums, and manufactured/mobile homes.

The building code (WAC 51-51-0315) requires that an alarm be installed: (1) outside of each separate sleeping area in the immediate vicinity of each bedroom; (2) on each level of the dwelling; and (3) in accordance with the manufacturer's recommendations. The building code also requires that single station carbon monoxide alarms comply with UL 2034.<sup>2</sup> There are no exceptions for properties that do not have fuel-fired appliances or an attached garage. The alarms may be battery operated and can be purchased for as little as \$25 from a variety of sources.

In addition, effective April 1<sup>st</sup>, the building code requires a property owner to install carbon monoxide alarms when alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created. There has been a requirement to install carbon monoxide alarms in new construction since January 1, 2011.

#### **3. What is carbon monoxide and why are alarms necessary?**

Carbon monoxide (CO) is a poisonous gas that kills approximately 500 people in the United States every year. Carbon monoxide killed over 1,000 Washington residents between 1990 and 2005. You cannot hear, taste, see or smell carbon monoxide. In many cases of reported carbon monoxide poisoning, victims were aware they were not well, but became so disoriented that they were unable to save themselves by either exiting the building or calling for assistance. Young children and household pets are typically the first affected.

Carbon monoxide alarms are intended to trigger at carbon monoxide levels below those that cause a loss of ability to react to the danger of carbon monoxide exposure.

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<sup>1</sup> RCW 19.27.530 was adopted in 2009. However, in WAC 51-51-0315, the building code council provided an exception for owner-occupied dwellings. That exception will be deleted from WAC 51-51-0315 on April 1<sup>st</sup>, which gives effect to the point of sale requirement in RCW 19.27.530.

<sup>2</sup> UL is a global independent safety science company. UL 2034 is the standard for safety of single and multiple station carbon monoxide alarms.

#### **4. How will NWMLS forms be revised?**

NWMLS revised its purchase and sale agreements (Forms 20, 21, 23, and 28) to make clear that it is the seller's (not the brokers') responsibility to install the alarms. The agreements also provide that the buyer and seller will hold the brokers and their real estate firms harmless from the seller's failure to install the alarms.

The revised purchase and sale agreements should be used for all transactions where the parties reach mutual acceptance on or after April 1<sup>st</sup>. For transactions that were agreed to before April 1<sup>st</sup>, but will not close until on or after April 1<sup>st</sup>, the seller is still responsible for installing the alarms as required by the building code. However, the revised forms should not be used for those transactions because the parties already have a binding agreement.

The new language in General Term "f" of the purchase and sale agreements (Closing and Possession) provides:

RCW 19.27.530 requires the seller of any owner-occupied single-family residence to equip the residence with a carbon monoxide alarm(s) in accordance with the state building code before a buyer or any other person may legally occupy the residence following the sale. The parties acknowledge that the Brokers are not responsible for ensuring that Seller complies with RCW 19.27.530. Buyer and Seller shall hold the Brokers and their Firms harmless from any claim resulting from Seller's failure to install a carbon monoxide alarm(s) in the Property.

The revised purchase and sale agreements will be available in hard-copy for order and distribution later this month and will be published on Xpress Forms on April 1, 2012.

#### **5. Related Legislation**

Senate Bill 6472 has been passed by the legislature and awaits the governor's signature. That bill revises the Seller Disclosure Act (RCW 64.06) to include a new question about carbon monoxide alarms on both Form 17 (Improved Residential Real Property) and Form 17 Commercial (Commercial Property). The new question asks the seller whether carbon monoxide alarms have been installed in the property and reminds the seller, in Form 17, that RCW 19.27.530 requires the seller to install carbon monoxide alarms in accordance with the state building code.

In addition, Senate Bill 6472 modifies RCW 19.27.530 to provide that "Real estate brokers licensed under chapter 18.85 RCW shall not be liable in any civil, administrative, or other proceeding for the failure of any seller or other property owner to comply with the requirements of this section or rules adopted by the building code council." This means that, in addition to the protections in the purchase and sale agreement, real estate brokers also have a statutory exemption from liability.

If signed by the governor, Senate Bill 6472 will likely be effective in June 2012. Please look for later announcements from NWMLS about revisions to Form 17 and Form 17 Commercial.

#### **6. Additional Information**

Additional information about carbon monoxide is available at the Washington State Department of Health's website (<http://www.doh.wa.gov/>).