

AMENDMENTS TO LB427

Introduced by Health and Human Services

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 7 of this act shall be known and
4 may be cited as the Carbon Monoxide Safety Act.

5 Sec. 2. For purposes of the Carbon Monoxide Safety Act:

6 (1) Carbon monoxide alarm means a device that detects
7 carbon monoxide and that:

8 (a) Produces a distinct, audible alarm;

9 (b) Is listed by a nationally recognized, independent
10 product-safety testing and certification laboratory to conform to
11 the standards for carbon monoxide alarms issued by such laboratory
12 as determined by the State Fire Marshal;

13 (c) (i) Is battery powered;

14 (ii) Plugs into a dwelling's electrical outlet and has a
15 battery backup;

16 (iii) Is wired into a dwelling's electrical system and
17 has a battery backup; or

18 (iv) Is connected to an electrical system via an
19 electrical panel; and

20 (d) May be combined with a smoke detecting device if the
21 combined device complies with applicable law regarding both smoke
22 detecting devices and carbon monoxide alarms and if the carbon
23 monoxide alarm is distinct and descriptively annunciated from a

1 smoke detecting alarm;

2 (2) Dwelling unit means a single unit providing complete
3 independent living facilities for one or more persons, including
4 permanent provisions for living, sleeping, eating, cooking, and
5 sanitation;

6 (3) Fuel means coal, kerosene, oil, fuel gases, or other
7 petroleum products or hydrocarbon products such as wood that emit
8 carbon monoxide as a byproduct of combustion;

9 (4) Installed means that a carbon monoxide alarm is
10 installed in a dwelling unit in accordance with the National
11 Fire Protection Association Standard 720 as such standard existed
12 on January 1, 2014, and in accordance with the instructions for
13 installation from the manufacturer, in one of the following ways:

14 (a) If the alarm is battery-powered, attached to the wall
15 or ceiling of the dwelling unit;

16 (b) Directly plugged into an electrical outlet without a
17 switch other than a circuit breaker; or

18 (c) Wired directly into the dwelling's electrical system;

19 (5) Multifamily dwelling means any improved real property
20 used or intended to be used as a residence and that contains more
21 than one dwelling unit. Multifamily dwelling includes a condominium
22 or cooperative;

23 (6) Operational means working and in service in
24 accordance with the manufacturer's instructions; and

25 (7) Single-family dwelling means any improved real
26 property used or intended to be used as a residence and that
27 contains one dwelling unit.

1 Sec. 3. Any multifamily dwelling or single-family
2 dwelling constructed on or after January 1, 2016, that has a
3 fuel-fired heater or appliance, a fireplace, or an attached garage
4 shall have a carbon monoxide alarm installed (1) on each habitable
5 floor of each dwelling unit in a multifamily dwelling and on each
6 habitable floor in a single-family dwelling or (2) in a location
7 specified in any building code adopted by the state or by the
8 political subdivision in which the dwelling is located.

9 Sec. 4. (1) The seller of a single-family dwelling that
10 is offered for sale or transfer on or after January 1, 2016, and
11 that has a fuel-fired heater or appliance, a fireplace, or an
12 attached garage shall ensure that an operational carbon monoxide
13 alarm is installed on each habitable floor of the dwelling or in a
14 location specified in any building code adopted by the state or by
15 the political subdivision in which the dwelling is located.

16 (2) If the owner of a single-family dwelling that has
17 a fuel-fired heater or appliance, a fireplace, or an attached
18 garage makes any interior alteration, repair, fuel-fired appliance
19 replacement, or addition on or after January 1, 2016, where a
20 permit is required, the owner shall ensure that an operational
21 carbon monoxide alarm is installed on each habitable floor of the
22 dwelling where the alteration, repair, replacement, or addition
23 occurs or in a location specified in any building code adopted by
24 the state or by the political subdivision in which the dwelling is
25 located. This subsection applies only to interior alterations. This
26 subsection does not apply to exterior alterations which require a
27 building permit.

1 (3) No person shall remove batteries from, or in any
2 way render inoperable, a carbon monoxide alarm except as part of
3 a process to inspect, maintain, repair, or replace the alarm or
4 replace the batteries in the alarm.

5 Sec. 5. (1) The seller of a dwelling unit of an
6 existing multifamily dwelling shall ensure that an operational
7 carbon monoxide alarm is installed on each habitable floor of the
8 dwelling unit or in a location specified in any building code
9 adopted by the state or by the political subdivision in which the
10 dwelling unit is located when the dwelling unit is offered for sale
11 or transfer on or after January 1, 2016, if the dwelling unit has a
12 fuel-fired heater or appliance, a fireplace, or an attached garage.

13 (2) The owner of a dwelling unit of a multifamily
14 dwelling shall ensure that an operational carbon monoxide alarm
15 is installed on each habitable floor of the dwelling unit or in
16 a location specified in any building code adopted by the state
17 or by the political subdivision in which the dwelling unit is
18 located if the dwelling unit has a fuel-fired heater or appliance,
19 a fireplace, or an attached garage and if the owner, on or after
20 January 1, 2016, makes any of the following where a permit is
21 required: Any interior alteration, repair, fuel-fired appliance
22 replacement, or addition.

23 (3) No person shall remove batteries from, or in any
24 way render inoperable, a carbon monoxide alarm except as part of
25 a process to inspect, maintain, repair, or replace the alarm or
26 replace the batteries in the alarm.

27 Sec. 6. (1) The owner of a single-family dwelling or a

1 dwelling unit in a multifamily dwelling that is used for rental
2 purposes shall ensure that an operational carbon monoxide alarm
3 is installed on each habitable floor of the dwelling or dwelling
4 unit or in a location specified in any building code adopted by
5 the state or by the political subdivision in which the dwelling or
6 dwelling unit is located if the dwelling or dwelling unit has a
7 fuel-fired heater or appliance, a fireplace, or an attached garage
8 and if the owner, on or after January 1, 2016, makes any of the
9 following where a permit is required: Any interior alteration,
10 repair, fuel-fired appliance replacement, or addition.

11 (2) The owner of an existing single-family dwelling or
12 existing dwelling unit in a multifamily dwelling that is used for
13 rental purposes and that has a change in tenant occupancy on or
14 after January 1, 2016, shall ensure that an operational carbon
15 monoxide alarm is installed on each habitable floor of the dwelling
16 or dwelling unit or in a location specified in any building code
17 adopted by the state or by the political subdivision in which the
18 dwelling or dwelling unit is located.

19 (3)(a) The owner of any rental property specified in
20 subsection (1) or (2) of this section shall:

21 (i) Prior to the commencement of a new tenant occupancy,
22 replace any carbon monoxide alarm that was stolen, removed, found
23 missing, or found not operational after the previous occupancy;

24 (ii) Ensure that any batteries necessary to make the
25 carbon monoxide alarm operational are provided to the tenant at the
26 time the tenant takes residence in the dwelling unit;

27 (iii) Replace any carbon monoxide alarm if notified by a

1 tenant as specified in subdivision (4) (b) of this section that any
2 carbon monoxide alarm was stolen, removed, found missing, or found
3 not operational during the tenant's occupancy; and

4 (iv) Fix any deficiency in a carbon monoxide alarm if
5 notified by a tenant as specified in subdivision (4) (c) of this
6 section.

7 (b) Except as provided in subdivision (a) of this
8 subsection, the owner of a single-family dwelling or dwelling
9 unit in a multifamily dwelling that is used for rental purposes is
10 not responsible for the maintenance, repair, or replacement of a
11 carbon monoxide alarm or the care and replacement of batteries for
12 the carbon monoxide alarm.

13 (4) The tenant of any rental property specified in
14 subsection (1) or (2) of this section shall:

15 (a) Keep, test, and maintain all carbon monoxide alarms
16 in good repair;

17 (b) Notify the owner of the single-family dwelling or
18 dwelling unit of a multifamily dwelling, or the owner's authorized
19 agent, if any carbon monoxide alarm is stolen, removed, found
20 missing, or found not operational during the tenant's occupancy
21 of the single-family dwelling or dwelling unit in the multifamily
22 dwelling; and

23 (c) Notify the owner of the single-family dwelling or
24 dwelling unit of a multifamily dwelling, or the owner's authorized
25 agent, of any deficiency in any carbon monoxide alarm that the
26 tenant cannot correct.

27 (5) No person shall remove batteries from, or in any

1 way render inoperable, a carbon monoxide alarm except as part of
2 a process to inspect, maintain, repair, or replace the alarm or
3 replace the batteries in the alarm.

4 Sec. 7. Nothing in the Carbon Monoxide Safety Act shall
5 be construed to limit a city, village, or county from adopting or
6 enforcing any requirements for the installation and maintenance
7 of carbon monoxide alarms that are more stringent than the
8 requirements set forth in the act.

9 Sec. 8. Section 76-2,120, Revised Statutes Cumulative
10 Supplement, 2012, is amended to read:

11 76-2,120 (1) For purposes of this section:

12 (a) Ground lease coupled with improvements shall mean
13 a lease for a parcel of land on which one to four residential
14 dwelling units have been constructed;

15 (b) Purchaser shall mean a person who acquires, attempts
16 to acquire, or succeeds to an interest in land;

17 (c) Residential real property shall mean real property
18 which is being used primarily for residential purposes on which no
19 fewer than one or more than four dwelling units are located; and

20 (d) Seller shall mean an owner of real property who
21 sells or attempts to sell, including lease with option to purchase,
22 residential real property, whether an individual, partnership,
23 limited liability company, corporation, or trust. A sale of a
24 residential dwelling which is subject to a ground lease coupled
25 with improvements shall be a sale of residential real property for
26 purposes of this subdivision.

27 (2) Each seller of residential real property located in

1 Nebraska shall provide the purchaser with a written disclosure
2 statement of the real property's condition. The disclosure
3 statement shall be executed by the seller. The requirements of this
4 section shall also apply to a sale of improvements which contain
5 residential real property when the improvements are sold coupled
6 with a ground lease and to any lease with the option to purchase
7 residential real property.

8 (3) The disclosure statement shall include language at
9 the beginning which states:

10 (a) That the statement is being completed and delivered
11 in accordance with Nebraska law;

12 (b) That Nebraska law requires the seller to complete the
13 statement;

14 (c) The real property's address and legal description;

15 (d) That the statement is a disclosure of the real
16 property's condition as known by the seller on the date of
17 disclosure;

18 (e) That the statement is not a warranty of any kind
19 by the seller or any agent representing a principal in the
20 transaction;

21 (f) That the statement should not be accepted as a
22 substitute for any inspection or warranty that the purchaser may
23 wish to obtain;

24 (g) That even though the information provided in the
25 statement is not a warranty, the purchaser may rely on the
26 information in deciding whether and on what terms to purchase the
27 real property;

1 (h) That any agent representing a principal in the
2 transaction may provide a copy of the statement to any other
3 person in connection with any actual or possible sale of the real
4 property; and

5 (i) That the information provided in the statement is
6 the representation of the seller and not the representation of any
7 agent and that the information is not intended to be part of any
8 contract between the seller and purchaser.

9 (4) In addition to the requirements of subsection (3) of
10 this section, the disclosure statement shall disclose the condition
11 of the real property and any improvements on the real property,
12 including:

13 (a) The condition of all appliances that are included in
14 the sale and whether the appliances are in working condition;

15 (b) The condition of the electrical system;

16 (c) The condition of the heating and cooling systems;

17 (d) The condition of the water system;

18 (e) The condition of the sewer system;

19 (f) The condition of all improvements on the real
20 property and any defects that materially affect the value of
21 the real property or improvements;

22 (g) Any hazardous conditions, including substances,
23 materials, and products on the real property which may be an
24 environmental hazard;

25 (h) Any title conditions which affect the real property,
26 including encroachments, easements, and zoning restrictions;

27 (i) The utility connections and whether they are public,

1 private, or community; ~~and~~

2 (j) The existence of any private transfer fee obligation
3 as defined in section 76-3107; ~~and-~~

4 (k) Information relating to compliance with the
5 requirements for a carbon monoxide alarm as provided in sections
6 4 and 5 of this act.

7 (5) The disclosure statement shall be completed to the
8 best of the seller's belief and knowledge as of the date the
9 disclosure statement is completed and signed by the seller. If
10 any information required by the disclosure statement is unknown to
11 the seller, the seller may indicate that fact on the disclosure
12 statement and the seller shall be in compliance with this section.
13 On or before the effective date of any contract which binds the
14 purchaser to purchase the real property, the seller shall update
15 the information on the disclosure statement whenever the seller has
16 knowledge that information on the disclosure statement is no longer
17 accurate.

18 (6) This section shall not apply to a transfer:

19 (a) Pursuant to a court order, a foreclosure sale, or a
20 sale by a trustee under a power of sale in a deed of trust;

21 (b) By a trustee in bankruptcy;

22 (c) To a mortgagee by a mortgagor or successor in
23 interest or to a beneficiary of a deed of trust by a trustor or
24 successor in interest;

25 (d) By a mortgagee, a beneficiary under a deed of trust,
26 or a seller under a land contract who has acquired the real
27 property at a sale conducted pursuant to a power of sale under a

1 deed of trust, at a sale pursuant to a court-ordered foreclosure,
2 or by a deed in lieu of foreclosure;

3 (e) By a fiduciary in the course of the administration of
4 a decedent's estate, guardianship, conservatorship, or trust except
5 when the fiduciary is also the occupant or was an occupant of one
6 of the dwelling units being sold;

7 (f) From one or more co-owners to one or more other
8 co-owners;

9 (g) Made to a spouse or to a person or persons in the
10 lineal line of consanguinity of one or more of the transferors;

11 (h) Between spouses resulting from a decree of
12 dissolution of marriage or a decree of legal separation or from a
13 property settlement agreement incidental to such a decree;

14 (i) Pursuant to a merger, consolidation, sale, or
15 transfer of assets of a corporation pursuant to a plan of merger or
16 consolidation filed with the Secretary of State;

17 (j) To or from any governmental entity;

18 (k) Of newly constructed residential real property which
19 has never been occupied; or

20 (l) From a third-party relocation company if the
21 third-party relocation company has provided the prospective
22 purchaser a disclosure statement from the most immediate seller
23 unless the most immediate seller meets one of the exceptions
24 in this section. If a disclosure statement is required, and if
25 a third-party relocation company fails to supply a disclosure
26 statement from its most immediate seller on or before the effective
27 date of any contract which binds the purchaser to purchase the real

1 property, the third-party relocation company shall be liable to the
2 prospective purchaser to the same extent as a seller under this
3 section.

4 (7) The disclosure statement and any update to the
5 statement shall be delivered by the seller or the agent of the
6 seller to the purchaser or the agent of the purchaser on or before
7 the effective date of any contract which binds the purchaser to
8 purchase the real property, and the purchaser shall acknowledge in
9 writing receipt of the disclosure statement or update.

10 (8) The seller shall not be liable under this section
11 for any error, inaccuracy, or omission of any information in a
12 disclosure statement if the error, inaccuracy, or omission was not
13 within the personal knowledge of the seller.

14 (9) A person representing a principal in the transaction
15 shall not be liable under this section for any error, inaccuracy,
16 or omission of any information in a disclosure statement unless
17 that person has knowledge of the error, inaccuracy, or omission on
18 the part of the seller.

19 (10) A person licensed as a salesperson or broker
20 pursuant to the Nebraska Real Estate License Act shall not
21 be required to verify the accuracy or completeness of any
22 disclosure statement prepared pursuant to this section, and the
23 only obligation of a buyer's agent pursuant to this section is to
24 assure that a copy of the statement is delivered to the buyer on or
25 before the effective date of any purchase agreement which binds the
26 buyer to purchase the property subject to the disclosure statement.
27 This subsection does not limit the duties and obligations provided

1 in section 76-2418 or in subsection (9) of this section with
2 respect to a buyer's agent.

3 (11) A transfer of an interest in real property subject
4 to this section may not be invalidated solely because of the
5 failure of any person to comply with this section.

6 (12) If a conveyance of real property is not made in
7 compliance with this section, the purchaser shall have a cause of
8 action against the seller and may recover the actual damages, court
9 costs, and reasonable attorney's fees. The cause of action created
10 by this section shall be in addition to any other cause of action
11 that the purchaser may have. Any action to recover damages under
12 the cause of action shall be commenced within one year after the
13 purchaser takes possession or the conveyance of the real property,
14 whichever occurs first.

15 (13) The State Real Estate Commission shall adopt and
16 promulgate rules and regulations to carry out this section. By
17 January 1, 2016, the commission shall adopt and promulgate rules
18 and regulations to amend the disclosure statement prepared pursuant
19 to this section to be in compliance with the requirements of
20 subdivision (4)(k) of this section.

21 Sec. 9. Original section 76-2,120, Revised Statutes
22 Cumulative Supplement, 2012, is repealed.