



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Department of Fire Services



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PETER J. OSTROSKY
STATE FIRE MARSHAL

MEMORANDUM

TO: Heads of Fire Departments

FROM: Peter J. Ostroskey, State Fire Marshal

DATE: February 1, 2017

RE: **Inspection requirements of residential structures upon sale or transfer to assure compliance with the Commonwealth’s carbon monoxide alarm requirements.**

During the cold weather months, we see an increase of incidents of carbon monoxide (CO) exposure that all too often, results in the tragic loss of life. In many of these cases, the CO alarms were not functioning or were missing altogether.

Over 10 years ago, Massachusetts lead the nation in this regard by enacting “Nicole’s Law” (M.G.L. c. 148A, s. 26F½), which required the mandatory retrofit installation of carbon monoxide alarm protection in every structure in the Commonwealth occupied for residential purposes. The Board of Fire Prevention Regulations (BFPR), in accordance with that law, developed a comprehensive set of regulations detailing the various technical requirements of that law (527 CMR 1.00, 13.7).

A crucial aspect of this law, is the mandatory CO compliance inspection triggered upon a sale or transfer of such buildings conducted by the head of the fire department. In some CO responses made by departments, CO alarms are either missing or have malfunctioned in such buildings that were “sold or transferred” after the effective date of Nicole’s law.

My legal staff has advised me that the statute’s (M.G.L. c. 148A, s. 26F½) use of both words “sale” or “transfer” can apply to any legally recognized change of ownership of the building or structure, in whole or in part, by means of a written document. In most instances, this involves the transfer of the property for any consideration (sale or payment of some sort) with a written deed being recorded at the Registry of Deeds. However, such change in ownership, could also

occur without any consideration at all and without being properly recorded. (Examples: could include a transfer of the property by a gifted deed or a transfer into a realty trust, which has not been recorded at the Registry).

I have sent this guidance document to other interested groups and associations, including the Massachusetts Commissioner of Banks, the Massachusetts Association of Realtors, and the Massachusetts Real Estate Bar to make them uniformly aware of this requirement.

If you have any questions or concerns regarding this Memorandum, please feel free to contact Department of Fire Services, Legal Department at (978) 567-3181.