

House Bill 2118
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SECTION 1. Section 2, Article 5.43-2, Insurance Code, is amended by amending Subdivision (8) and adding Subdivision (17) to read as follows:

(8) "Monitoring" means the receipt of fire alarm and supervisory signals [~~and—retransmission~~] or communication of those signals to a fire service communications center that is located in this state or serves property in this state.

(17) "Residential fire alarm technician" means a licensed individual who is designated by a registered firm to install, service, inspect, and certify residential single-family or two-family fire alarm or detection systems.

Same as House version.

SECTION 2. Section 3, Article 5.43-2, Insurance Code, is amended by amending Subsection (b) and adding Subsections (d) and (e) to read as follows:

(b) The licensing provisions of this article shall not apply to:

(1) a person or organization in the business of building construction that installs electrical wiring and devices that may include in part the installation of a fire alarm or detection system if:

(A) the person or organization is a party to a contract that provides that the installation will be performed under the direct supervision of and certified by a licensed employee or agent of a firm registered to install and certify such an alarm or detection device and that the registered firm assumes full responsibility for the installation of the alarm or detection device; and

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- (B) the person or organization does not plan, certify, lease, sell, service, or maintain fire alarms or detection devices or systems;
- (2) a person or organization that owns and installs fire detection or fire alarm devices on the person's or organization's own property or, if the person or organization does not charge for the device or its installation, installs it for the protection of the person's or organization's personal property located on another's property and does not install the devices as a normal business practice on the property of another;
- (3) a person who holds a license or other form of permission issued by an incorporated city or town to practice as an electrician and who installs fire or smoke detection and alarm devices in no building other than a single family or multifamily residence if:
- (A) the devices installed are:
- (i) single station detectors; or
- (ii) multiple station detectors capable of being connected in such a manner that actuation of one detector causes all integral or separate alarms to operate, if the detectors are not connected to a control panel or to an outside alarm, do not transmit a signal off the premises, and do not use more than 120 volts; and
- (B) all installations comply with provisions of the adopted edition of [~~Household Fire Warning Equipment,~~] National Fire Protection Association Standard No. 72 [74];
- (4) a person or organization that sells fire detection or fire alarm devices if the sales are exclusively over-the-

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counter or by mail order and if the person or organization does not plan, certify, install, service, or maintain this equipment;

(5) response to a fire alarm or detection device by a law enforcement agency or fire department or by a law enforcement officer or fireman acting in an official capacity;

(6) a Texas registered professional engineer acting solely in his professional capacity;

(7) a person or an organization that provides and installs at no charge to the property owners or residents a battery-powered smoke detector in a single-family or two-family residence if:

(A) the smoke detector bears a label of listing or approval by a testing laboratory approved by the State Board of Insurance;

(B) the installation complies with provisions of the adopted edition of National Fire Protection Association Standard No. 72 [74];

(C) the installers are knowledgeable in fire protection and the proper use of smoke detectors; and

(D) the detector is a single station installation and not a part of or connected to any other detection device or system;

(8) an [~~a regular~~] employee of a registered firm who is under the direct on-site supervision of a licensee;

(9) a building owner, the owner's managing agent, or their employees who install battery-operated single-station smoke detectors or who monitor fire alarm or fire detection devices or systems in the owner's building, and

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in which the monitoring is performed at the owner's property and monitored at no charge to the occupants of the building, and complies with applicable standards of the National Fire Protection Association as may be adopted by rule promulgated under this Act, and utilizes equipment approved by a testing laboratory approved by the State Board of Insurance for fire alarm monitoring;

(10) a person employed by a registered firm that sells and installs a smoke or heat detector in a single-family or two-family residence if:

(A) the detector bears a label of listing or approval by a testing laboratory approved by the State Board of Insurance;

(B) the installation complies with provisions of the adopted edition of National Fire Protection Association Standard No. 72 [74];

(C) the installers are knowledgeable in fire protection and the proper use and placement of detectors; and

(D) the detector is a single station installation and not a part of or connected to any other detection device or system; or

(11) a person or organization licensed to install or service burglar alarms under Chapter 1702, Occupations Code, [~~the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes)~~] that provides and installs in a single-family or two-family residence a combination keypad that includes a panic button to initiate a fire alarm signal if the fire alarm signal:

(A) is monitored by a fire alarm firm registered under

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this article; and

(B) is not initiated by any fire or smoke detection device.

(d) A political subdivision may not require a registered firm, a licensee, or an employee of a registered firm to maintain a business location or residency within that political subdivision to engage in a business or perform any activity authorized under this article.

(e) A municipality or county may by ordinance require a registered firm to make a telephone call to a monitored property before the firm notifies the municipality or county of an alarm signal received by the firm from a fire detection device.

SECTION 3. Section 5, Article 5.43-2, Insurance Code, is amended by adding Subsection (c-1) to read as follows:

Same as House version.

(c-1) A residential fire alarm technician must obtain a license issued by the board. The amount of the initial fee for the license may not exceed \$50, and the amount of the annual license renewal fee may not exceed \$50.

SECTION 4. Sections 5B(e) and (f), Article 5.43-2, Insurance Code, are amended to read as follows:

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(e) For a person who is licensed to install or service burglar alarms under Chapter 1702, Occupations Code ~~[the Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas~~

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~~Civil Statutes~~], compliance with the insurance requirements of that ~~chapter~~ [Act] constitutes compliance with the insurance requirements of this section if the insurance held by the person complies with the requirements of this section in amounts and types of coverage.

(f) For a person who is licensed to install or service burglar alarms under Chapter 1702, Occupations Code ~~[the Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes)]~~, compliance with the bond and insurance requirements of that ~~chapter~~ [Act] constitutes compliance with the bond and insurance requirements of this section.

SECTION 5. Section 5D, Article 5.43-2, Insurance Code, is amended by adding Subsection (a-2) and amending Subsection (d) to read as follows:

(a-2) An applicant for a residential fire alarm technician license must provide with the required license application evidence of the applicant's successful completion of the required instruction from a training school approved by the State Fire Marshal in accordance with this section.

(d) The training curriculum for a residential fire alarm technician course shall consist of at least eight hours of instruction on installing, servicing, and maintaining single-family and two-family residential fire alarm systems as defined by National Fire Protection Association Standard No. 72 ~~[The training curriculum~~

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~~for a fire alarm technician and a residential fire alarm superintendent course shall consist of 16 hours of classroom instruction on all categories of licensure].~~

SECTION 6. Article 5.43-2, Insurance Code, is amended by adding Section 5G to read as follows:

Sec. 5G. CONFIDENTIALITY OF RECORDS. Records maintained by the department under this article on the home address, home telephone number, driver's license number, or social security number of an applicant or a license or registration holder are confidential and are not subject to mandatory disclosure under Chapter 552, Government Code.

Same as House version.

SECTION 7. Section 6A, Article 5.43-2, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) The commissioner may not adopt a rule to administer this article that requires a person who holds a license under this article to obtain additional certification that imposes a financial responsibility on the licensee.

Same as House version.

SECTION 8. Section 7, Article 5.43-2, Insurance Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) Except as provided by Subsection (c), a political subdivision may not offer [~~residential~~] alarm system

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sales, service, installation, or monitoring unless it has been providing monitoring services ~~[to residences]~~ within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.

(f) A residential fire alarm technician may only provide direct on-site supervision to an employee of a registered firm for work performed under this article in a single-family or two-family dwelling.

SECTION 9. Sections 9(d) and (e), Article 5.43-2, Insurance Code, are amended to read as follows:

(d) No fire detection or fire alarm device may be sold or installed in this state unless accompanied by printed information supplied to the owner by the supplier or installing contractor concerning:

(1) instructions describing the installation, operation, testing, and proper maintenance of the device;

(2) information which will aid in establishing an emergency evacuation plan for the protected premises;
~~[and]~~

(3) the telephone number and location, including notification procedures, of the nearest fire department;
and

(4) information that will aid in reducing the number of false fire alarms.

(e) Each registered firm that employs persons that are exempt from the licensing provisions of this article pursuant to Section 3(b)(10) of this article is required to

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appropriately train and supervise such exempt persons so as to ensure that each installation complies with the adopted provisions of National Fire Protection Association Standard No. 72 [74] or other adopted standards, that each smoke or heat detector installed or sold carries a label or listing of approval by a testing laboratory approved by the State Board of Insurance, and that such exempt persons are knowledgeable in fire protection and the proper use and placement of detectors.

SECTION 10. Subtitle A, Title 9, Health and Safety Code, is amended by adding Chapter 766 to read as follows:

CHAPTER 766. SMOKE DETECTORS IN CERTAIN RESIDENTIAL DWELLINGS

Sec. 766.001. DEFINITIONS. In this chapter:

(1) "One-family or two-family dwelling" means a structure that has one or two residential units that are occupied as, or designed or intended for occupancy as, a residence by individuals.

(2) "Smoke detector" has the meaning assigned by Section 792.001.

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SECTION 10. Subtitle A, Title 9, Health and Safety Code, is amended by adding Chapter 766 to read as follows:

CHAPTER 766. FIRE SAFETY IN RESIDENTIAL DWELLINGS

Sec. 766.001. DEFINITIONS. In this chapter:

(1) "Carbon monoxide alarm" means a device that detects and sounds an alarm to indicate the presence of a harmful level of carbon monoxide gas.

(2) "Department" means the Texas Department of Insurance.

(3) "Fossil fuel" includes coal, kerosene, oil, wood, fuel gases, and other petroleum or hydrocarbon products.

(4) "One-family or two-family dwelling" means a structure that has one or two residential units that are occupied as, or designed or intended for occupancy as, a residence by individuals.

(5) "Smoke detector" means a device or a listed component of a system that detects and sounds an alarm

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Sec. 766.002. RESPONSIBILITY OF TITLE INSURANCE OR CLOSING AGENT. A title insurance agent or other closing agent involved in the transfer of title to a one-family or two-family dwelling is not, on sale or transfer of the dwelling, responsible for:

(1) verifying that the seller has complied with the requirements of this chapter; or

(2) ensuring that the dwelling complies with the requirements of this chapter.

Sec. 766.003. SMOKE DETECTOR REQUIRED. (a) Each one-family or two-family dwelling must have a working smoke detector installed in the dwelling in accordance with Subsection (b) if construction on the dwelling commences on or after January 1, 2008. If the dwelling is constructed before January 1, 2008, there must be a working smoke detector installed in the dwelling in accordance with Subsection (b) before the owner of the dwelling may sell or otherwise transfer ownership of the dwelling to another person.

(b) A smoke detector must be installed in accordance with the requirements of Sections 92.254, 92.255, and 92.257, Property Code.

(c) A residential fire alarm technician as defined by Section 2, Article 5.43-2, Insurance Code, may install, service, inspect, or certify a smoke detector required under this section.

to indicate the presence of visible or invisible products of combustion in the air.

(6) "Smoke detector for hearing-impaired persons" has the meaning assigned by Section 792.001.

Sec. 766.002. SMOKE DETECTOR REQUIREMENT.

(a) Each one-family or two-family dwelling constructed in this state must have working smoke detectors installed in the dwelling in accordance with the smoke detector requirements of the building code in effect in the political subdivision in which the dwelling is located, including performance, location, and power source requirements.

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Sec. 766.004. RULES. (a) The commissioner of insurance shall adopt rules requiring:

(1) each one-family or two-family dwelling the construction of which commences on or after January 1, 2008, to be equipped with a smoke detector; and

(2) each one-family or two-family dwelling the ownership of which is sold or transferred on or after January 1, 2008, to be equipped with a smoke detector.

(b) The rules adopted under Subsection (a) must prescribe requirements relating to the placement, installation, maintenance, and number of smoke detectors required in a one-family or two-family dwelling.

(b) If a one-family or two-family dwelling does not comply with the smoke detector requirements of the building code in effect in the political subdivision in which the dwelling is located, any home improvement to the dwelling that requires the issuance of a building permit must include the installation of smoke detectors in accordance with the building code in effect in the political subdivision in which the dwelling is located, including performance, location, and power source requirements.

Sec. 766.0021. SMOKE DETECTOR FOR HEARING-IMPAIRED PERSONS. (a) A purchaser under a written contract for the sale of a one-family or two-family dwelling may require the seller to install smoke detectors for hearing-impaired persons if:

(1) the purchaser or a member of the purchaser's family who will reside in the dwelling is a hearing-impaired

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person;

(2) the purchaser provides written evidence of the hearing impairment signed by a licensed physician; and

(3) not later than the 10th day after the effective date of the contract, the purchaser requests in writing that the seller install smoke detectors for hearing-impaired persons and specifies the locations in the dwelling where the smoke detectors are to be installed.

(b) If the seller is required to install smoke detectors for hearing-impaired persons under Subsection (a), the seller and purchaser may agree:

(1) which party will bear the cost of installing the smoke detectors; and

(2) which brand of smoke detectors to install.

(c) The seller must install the smoke detectors not later than the closing date of the sale of the dwelling.

(d) A purchaser may terminate the contract to purchase the dwelling if the seller fails to install smoke detectors for hearing-impaired persons as required by this section.

Sec. 766.0025. FRATERNITY AND SORORITY HOUSES. (a) In this section, "fraternity or sorority house" means a dwelling that:

(1) is a separate structure and that is not a multiunit residential property composed of multiple independent residential units; and

(2) serves as living quarters for members of a fraternity or sorority.

(b) The owner of a fraternity or sorority house must have working smoke detectors installed in the fraternity house or sorority house in accordance with the smoke

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detector requirements of the building code in effect in the political subdivision in which the fraternity or sorority house is located, including performance, location, and power source requirements.

Sec. 766.003. INFORMATION RELATING TO FIRE SAFETY AND CARBON MONOXIDE DANGERS.

(a) The department shall prepare information of public interest relating to:

- (1) fire safety in the home; and
- (2) the dangers of carbon monoxide.

(b) The information must inform the public about:

- (1) ways to prevent fires in the home, and actions to take if a fire occurs in the home;
- (2) the need to test smoke detectors every month to ensure the smoke detector is working;
- (3) replacing the battery in a battery-operated smoke detector every six months;
- (4) the need to have fire safety equipment in the home, including fire extinguishers and emergency escape ladders;
- (5) the need to develop and practice a fire escape plan;
- (6) the availability of carbon monoxide detectors;
- (7) using carbon monoxide alarms as a backup to prevent carbon monoxide poisoning; and
- (8) the need to properly use and maintain fossil fuel-burning appliances.

(c) The department shall distribute the information described by this section to the public in any manner the department determines is cost-effective, including providing the information on the department's Internet

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website and publishing informational pamphlets.

No equivalent provision.

SECTION 11. Subsection (b), Section 5.008, Property Code, is amended to read as follows:

(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE
CONCERNING THE PROPERTY
AT _____
(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller ___ is ___ is not occupying the Property.
If unoccupied, how long since Seller has occupied the Property?

1. The Property has the items checked below:
Write Yes (Y), No (N), or Unknown (U).
Roof Type: _____ Age: _____
_____(approx)
Are you (Seller) aware of any of the above items that are

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not in working condition, that have known defects, or that are in need of repair? Yes No Unknown.
If yes, then describe. (Attach additional sheets if necessary):

2. Does the property have working smoke detectors installed in accordance with the smoke detector requirements of Chapter 766, Health and Safety Code? Yes No Unknown.

If the answer to the question above is no or unknown, explain. (Attach additional sheets if necessary):

3. Are you (Seller) aware of any known defects/malfunctions in any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

 Other Structural Components
(Describe): _____

If the answer to any of the above is yes, explain. (Attach additional sheets if

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necessary): _____

4 [~~3~~]. Are you (Seller) aware of any of the following conditions?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

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

5 [4]. Are you (Seller) aware of any item, equipment, or system in or on the property that is in need of repair? ___

Yes (if you are aware) ___ No (if you are not aware). If yes, explain (attach additional sheets as necessary).

6 [~~5~~]. Are you (Seller) aware of any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

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

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Date _____ Signature of Seller _____
The undersigned purchaser hereby acknowledges receipt of the foregoing notice and acknowledges the property complies with the smoke detector requirements of Chapter 766, Health and Safety Code, or, if the property does not comply with the smoke detector requirements of Chapter 766, the buyer waives the buyer's rights to have smoke detectors installed in compliance with Chapter 766.

Date _____ Signature of Purchaser _____

No equivalent provision.

SECTION 12. Subchapter F, Chapter 92, Property Code, is amended by adding Section 92.2571 to read as follows:
Sec. 92.2571. ALTERNATIVE COMPLIANCE. A landlord complies with the requirements of this subchapter relating to the provision of smoke detectors in the dwelling unit if the landlord:
(1) has a fire detection device, as defined by Article 5.43-2, Insurance Code, that includes a smoke detection device installed in a dwelling unit; or
(2) for a dwelling unit that is a one-family or two-family dwelling unit, installs smoke detectors in compliance with Chapter 766, Health and Safety Code.

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No equivalent provision.

SECTION 13. The change in law made by this Act to Section 5.008, Property Code, applies only to a notice executed on or after the effective date of this Act. A notice executed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 11. (a) Not later than March 1, 2008, the commissioner of insurance shall adopt the rules and forms necessary to implement the changes in law made by this Act to Article 5.43-2, Insurance Code.

(b) Notwithstanding Article 5.43-2, Insurance Code, a residential fire alarm technician is not required to obtain a license under that article before June 1, 2008.

SECTION 14. Same as House version.

SECTION 12. The commissioner of insurance shall adopt rules under Section 766.004, Health and Safety Code, as added by this Act, not later than December 1, 2007.

No equivalent provision.

SECTION 13. This Act takes effect September 1, 2007.

SECTION 15. Same as House version.