

By Mr. Burke, a petition (accompanied by bill, Senate, No. 959) of John P. Burke and the Massachusetts Association of Realtors, by Edmund G. Woods, president, for legislation relative to the liability of owners of multi-family residential housing for malfunction of smoke detection equipment. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-four.

AN ACT RELATIVE TO THE LIABILITY OF OWNERS OF MULTI-FAMILY RESIDENTIAL HOUSING FOR MALFUNCTION OF SMOKE DETECTION EQUIPMENT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Chapter 148 of the General Laws is hereby amended by in-
2 serting after section 26F the following section: —
- 3 *Section 26G.* Notwithstanding the requirements contained
4 in sections twenty-six B through twenty-six F, inclusive, no
5 owner of any building or structure occupied in whole or in
6 part for residential purposes and equipped with approved
7 smoke detectors shall be liable for damages to any person or
8 property occasioned either in whole or in part by the mal-
9 function, for any reason, of an approved smoke detector in-
10 stalled on the premises including, but not limited to, electrical
11 failures, manufacturing defects, unauthorized removal of bat-
12 teries or failure on the part of a tenant or occupant to re-
13 place depleted batteries in approved smoke detector systems
14 located in areas other than common areas, provided, however,
15 that as to those smoke detectors not located in a common
16 area, said owner (1) inspects the smoke detector unit for the
17 purpose of testing its operational status and performs any
18 necessary repairs in accordance with the procedures specified
19 in the manufacturer's manual (a) at the beginning of each
20 new tenancy or once each year, whichever occurs more fre-
21 quently, and (b) whenever the owner receives written notice
22 from a tenant or occupant that a smoke detector unit appears
23 not to be functioning properly. Said owner shall also inform

24 each tenant, in a writing to be signed by both parties, of said
25 tenant's responsibility (a) to maintain serviceable batteries in
26 the smoke detector unit including replacement thereof in
27 those instances where replaceable batteries constitute the
28 smoke detector's source of energy and (b) to notify the owner
29 in writing whenever a smoke detector unit appears not to be
30 functioning properly. Failure on the part of the tenant or
31 occupant to replace depleted batteries or to notify the owner
32 in writing that a smoke detector unit appears not to be func-
33 tioning properly shall be prima facie evidence that said owner
34 was not negligent for any failure to correct the condition.