

# NOTES FROM THE LEGAL HOTLINE

Massachusetts Association of Realtors®

## April 2020

This month's edition of the Notes from the Legal Hotline focuses on disruptions to the real estate industry as a result of COVID-19. These are just a few of the many questions we know you have. MAR is here to help you navigate through these uncertain times with the latest information and updates. Please watch for emails from MAR and check [www.MARCOVID19.com](http://www.MARCOVID19.com) for all the latest news. Also let us know what other concerns you have and any problems you are seeing in the marketplace as a result of the pandemic. And most importantly, stay safe.

**Q. My town is not conducting Smoke Inspections – how am I supposed to close?**

**A.** Your inability to obtain a smoke certificate at this time does not mean your transactions are stuck in limbo indefinitely. MAR advocated in conjunction with the Fire Prevention Association of Massachusetts to secure a solution to this issue. On March 20, 2020, Governor Baker issued an [emergency order](#) that permits home buyers and sellers to defer the smoke and carbon monoxide detector inspection requirements that are otherwise required under the General Laws of Massachusetts. During the current COVID-19 State of Emergency, a Smoke Inspection may be deferred so long as the following conditions are met:

1. The Parties to the sale or transfer have agreed in writing that the buyer assumes responsibility for equipping the property with approved smoke detectors and carbon monoxide alarms.
2. The buyer agrees as a condition of taking title to equip the property with approved smoke detectors and carbon monoxide alarms immediately upon taking title.
3. An inspection as otherwise required under Massachusetts General Laws Chapter 148, Sections 26F and 26F½ occurs no more than 90 days after the state of emergency is lifted.

MAR has developed an addendum that addresses the requirements of the emergency order. The addendum can be found through the MAR Forms Library or may be downloaded [here](#).

**Q. I've been presented with a lot of new forms in the last few weeks related to COVID-19. Are these forms legal? Are they mandatory?**

- A. MAR is aware that a number of brokerages have been developing their own forms to address the COVID-19 pandemic and the myriad issues that have arisen in the real estate world as a result. **None of these forms are mandatory.** Any forms developed for use by a brokerage should be done so with the guidance of legal counsel. It is also important that brokers looking to incorporate any forms into a transaction that are not legally required do so only at the direction of their client. Further, any “screening” type questions, such as questions about where a person has traveled or whether they are experiencing any symptoms of illness, must be asked equally to avoid any fair housing issues.

In addition to the Smoke and Carbon Monoxide Inspection Addendum mentioned above, MAR has also developed a COVID-19 Addendum to address any delays that may occur as a direct result of COVID-19. This form is also available through the MAR Forms Library, or you may download it [here](#).

**Q. How can I apply for unemployment benefits under the CARES Act?**

- A. Although independent contractors, self-employed individuals, and others who don’t qualify for traditional unemployment insurance benefits are eligible for unemployment benefits under the federal CARES Act, the actual logistics of the program will be administered by Massachusetts. At this time, Massachusetts is awaiting guidance from the Federal Government, and applications are not being accepted until this guidance is received.

The Governor has requested that individuals who would qualify for unemployment benefits under this new program wait to apply until after Massachusetts has received this guidance in order to streamline the process.

Regular updates will be posted to the [COVID-19 Unemployment webpage](#)

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Written by: Justin Davidson, General Counsel; Catherine Taylor, Associate Counsel; and Jonathan Schreiber, Legislative & Regulatory Counsel.

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