

Fire Administration Authorization Act of 1992

Legal Opinion: GHM-0064

Index: 3.200, 3.260

Subject: Fire Administration Authorization Act of 1992

January 28, 1993

MEMORANDUM FOR: Philip J. Salamone, Deputy Assistant Secretary  
for Housing, HM

FROM: John J. Daly, Associate General Counsel, Insured  
Housing and Finance, GH

SUBJECT: "Fire Administration Authorization Act of 1992"  
(Pub. L. 102-522)

On January 8, 1993, I sent you a Memorandum addressing issues related to the "Fire Administration Authorization Act of 1992," which Act establishes requirements for federally assisted housing, a term which encompasses insured housing. (Attachment.) In that memorandum I recommended that you communicate with the Field Offices, providing them with general instructions that would facilitate compliance with those parts of the Act that are immediately effective, as well as to inform the field of certain other requirements that will be effective in the near future, until an Interim Regulation can be published. However, regarding the requirements in Section 106 of the Act applicable to those units designated as covering "any other dwelling unit," (i.e., presumably all units of federally assisted multifamily housing not fitting within the statutory definition of new construction of four or more stories, or the definition for "rebuilt" housing), I advised you that "we currently are reviewing this requirement to ascertain the extent to which it may affect existing units, including those which may already have installed smoke detectors pursuant to HUD regulations published at 57 FR 33846 (July 30, 1992)." The statutory requirement for this "any other dwelling unit" category is for covered units to be protected by a hard-wired or battery-operated smoke detector, which term has been defined in Section 106 of the Act to mean "single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion installed in accordance with the National Fire Protection Association Standard 74 or any successor standard thereto."

The Office of Legislation and Regulations has advised us that there was an understanding between the Department and the Congress that those units which already had smoke detectors in compliance with the requirements of the HUD Smoke Detector Rule at the time of its publication, or which had installed smoke detectors pursuant to such Rule, would not have to comply with the additional requirements set out in the 1992 Act. We believe a regulation should be drafted, which makes clear that units

falling within the statutory classification of "other" units, need comply only with the HUD smoke detector rule if those units have a firm commitment before the effective date for the statutory provision regarding "other" units. Under the legislation the effective date is 180 days after October 26, 1992. Units with firm commitments issued on or after the effective date of the Act for the "any other dwelling unit" category would have to comply with the statutory provisions of the 1992 Act.

We have been advised by the attorney in the Office of Legislation and Regulations who is going to draft the amended smoke detector regulation that he is unable to provide us with a definite timetable for when an amended rule will be published, particularly since it is presently unclear what the work priorities will be during the transition period. Therefore, I recommend that you communicate with the Field Offices, providing them with general instructions on how to address this issue in advance of the amended regulation.

Attachment