



Q&A on the Smoke and Carbon Monoxide Detector Affidavit Law

Question: What is the status of the Smoke and Carbon Monoxide Detector Affidavit law?

Answer: Effective July 1, 2014, there are statutory revisions to the affidavit and the requirements from what was in place when it first went into effect on January 1, 2014. The affidavit now clearly states that there is not a warranty beyond the time of transfer, that a carbon monoxide detector is no longer required to have a digital readout, and language that stated the detectors could not exceed the standards was removed. There may be municipalities that have stronger disclosure requirements that must still be followed; it was not the intent of the law to prohibit compliance with municipal rules.

Question: Who has the duty to explain to the Seller the liability of providing the Buyer with a signed affidavit versus the \$250 credit?

Answer: The closing attorneys.

Question: Are agents required to get a signed affidavit at the time of listing?

Answer: No, the affidavit is furnished and handled by the closing attorney. Agents and brokers should direct their clients to the closing attorney to review this document and to answer questions about it. The real estate licensee is not a party to the affidavit. Since the affidavit is a statement under oath, it must be signed before an attorney or notary.

Question: Where can I find a copy of the affidavit?

Answer: The affidavit created by the Connecticut Bar Association is at this link:
<http://www.ctrealtor.com/carbonmonoxide/PDF/CO-affidavit.pdf>

Question: Are mobile homes, condo and co-op units exempt?

Answer: The requirements of the statute apply "to any real property containing a residential building designed to be occupied by one or two families". There is no specific exception for a mobile home, condo or co-op.

Question: What about rental properties? Is an affidavit required for leases?

Answer: The Smoke and Carbon Monoxide Detector Law does not require an affidavit between the landlord and tenant. However, local ordinances may impose an obligation on the landlord with regard to smoke and carbon monoxide detectors, and landlords should be directed to their local health

department or health district for information.

Question: What if the seller is uncomfortable providing an affidavit or the seller's attorney advises the seller not to provide the affidavit. Is there a penalty?

Answer: Similar to the Property Condition Disclosure law, a seller who does not provide the affidavit must provide the purchaser with a \$250 credit at closing. If the closing does not take place the Seller does not have to provide the Buyer with either the signed affidavit or the \$250 credit.

Question: I am representing a relocation company. Is the relocation company required to provide an affidavit?

Answer: If the relocation company has taken title to the property, then the relocation company must furnish the affidavit. If the relocation company has not taken title to the property (in other words, title to the property is still in the name of the employee) then the affidavit should be provided by the employee who has title. Relocation companies themselves are not exempt.

Question: I am representing a bank which is selling property it acquired in a foreclosure. Must the bank provide an affidavit?

Answer: Yes. There is no exemption for REO properties

Questions: Are persons holding a power of attorney exempt?

Answer: No.

Question: Are executors, administrators, conservators and trustees exempt?

Answer: Yes.

Question: The seller has never occupied the property. Must the seller provide an affidavit?

Answer: Yes. There is no exemption for non-owner occupied or investment properties.

Question: What if the detectors aren't working a week after closing?

Answer: There is no warranty regarding the functionality of the detectors that survives the closing. The affidavit merely states they are working as of the date of the affidavit. A buyer may test them as part of their walk through process prior to closing along with other equipment.

Question: How does a seller know the detectors are working or are installed correctly?

Answer: The manufacturer's instructions include details about testing, maintaining and locating detectors. Sellers may find those online using any Internet search engine. There is no obligation under the law to have detectors professionally tested. Some home inspectors may inspect or note the condition of detectors as part of their reports, but the law affidavit law does not specifically require this be done.

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