

Smoke and CO Detector Law

Highlights and FAQs



****Disclaimer****

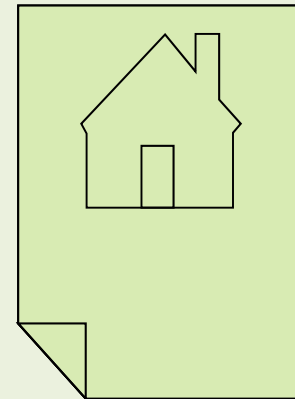
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What does the Law require?

- Sellers Affidavit
 - Attestation re: Smoke and CO Detectors
- Or \$250 closing credit
- To the Buyer
- At Closing



Who Does it Affect?



- Sellers of Residential Properties
- Buyers
- Closing Attorneys

Who Does it Affect?

Sellers

- Property with a residential building
- Residence designed to be occupied by one or two families
- Affidavit
- \$250 Closing Credit

Buyers

- Receive Affidavit
- \$250 Closing Credit
- *Sometimes Waiver or Acknowledgment*

Who Does it Affect?

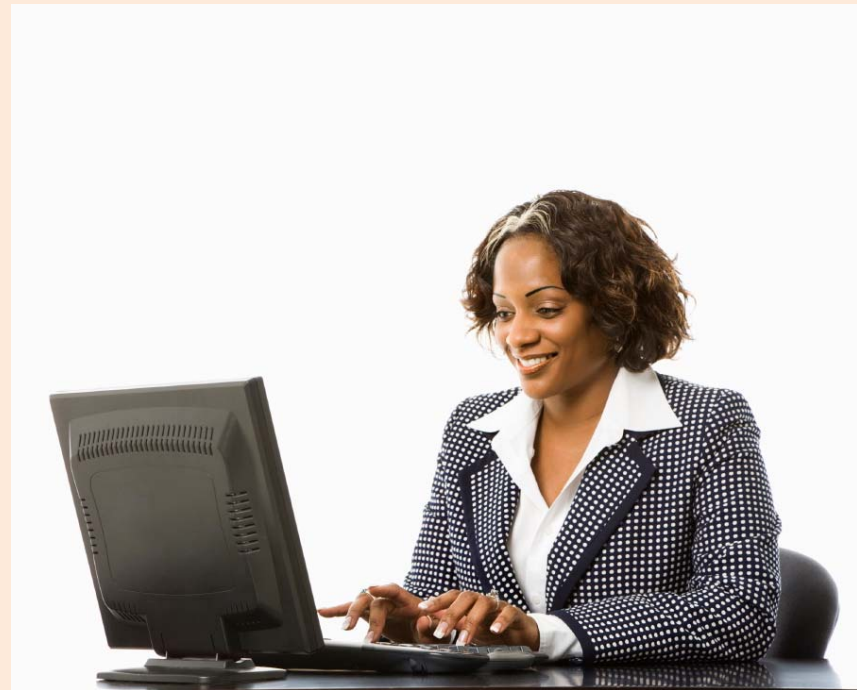
Closing Attorneys:

- Seller's Attorney
 - Have Seller Execute and provide Affidavit *or* \$250 HUD credit
- Buyer's Attorney
 - Collect Executed Affidavit *or* \$250 HUD credit
 - Sometimes Have Buyer Execute and Provide Waiver or Acknowledgment

Who is Not Affected?

1. “CATE” – the Exempted Sellers

- **C**onservators
- **A**dministrators
- **T**rustees
- **E**xecutors



Who is Not Affected?

2. Sellers of Residence with Three or More Units
3. Buyers and Sellers of Commercial Properties
4. Landlords and Tenants Only Negotiating Rental Contracts
5. Non-Owner Occupants





Who is Not Affected?

Certain sellers in specific conveyance transactions:

1. One or more co-owners to one or more other co-owners

Examples:



Owners A and B; A and B  A only

Owners W, X, Y, Z; W  X, Y, Z

Who is Not Affected?

Certain sellers in specific conveyance transactions:

2. Intra-family transfers **and** no consideration paid, conveyed to:
 - Spouse, parent, grandparent, sibling, child, grandchild

Examples: Husband  wife for \$0
Grandparent  grandchild by bequest

Who is Not Affected?

Certain sellers in specific conveyance transactions:

3. Transfers pursuant to Court Orders

Examples:

Foreclosure by Sale

Strict Foreclosure



Who is Not Affected?

Certain sellers in specific conveyance transactions:

4. Transfers by the Federal Government or any political subdivision thereof

Examples: HUD, US Department of the Treasury

**Does not mean Fannie Mae or Freddie Mac



Who is Not Affected?

Certain sellers in specific conveyance transactions:



5. Deed in Lieu of Foreclosure

6. Title Transfers incident to mortgage refinancing

- Includes all types of mortgages

The Seller's Affidavit

“Affidavit” – a written statement or declaration, signed and sworn to before a person authorized to administer an oath



For use in certain Connecticut Real Estate Transactions
AFFIDAVIT CONCERNING SMOKE AND CARBON MONOXIDE DETECTORS
Pursuant to Connecticut Public Acts, Effective July 1, 2014

(Prior to transferring title to real property containing a residential building designed to be occupied by one or two families)*

State of _____)
County of _____) ss:

I/we, _____ being the owner(s) of premises situated in _____, Connecticut, known as _____, swear that they have no reason to believe the following statements are untrue:

(A) EXEMPTION FOR NEWER HOMES: a building permit for new occupancy of the premises named above was issued on or after October 1, 2005. (If checked, skip rest of form and sign below before a notary or commissioner of the superior court)

(B) PARTIAL EXEMPTION FOR CERTAIN HOMES: a building permit for new occupancy of the premises named above was issued on or after October 1, 1985. (If checked, skip to Section D below)

(C) SMOKE DETECTORS: The premises named above is equipped with smoke detection equipment in working order that is capable of sensing visible or invisible smoke particles, is installed in accordance with the manufacturer's instructions and in the immediate vicinity of each bedroom, and is capable of providing an alarm suitable to warn occupants when such equipment is activated. The smoke detector(s) are:

- Hard-wired
- Battery-operated or plug-in with battery backup

(D) NO COMBUSTION: the premises named above does not contain any fuel-burning appliance, fireplace or attached garage. (If checked, skip Section E and sign below before a notary or commissioner of the superior court)

(E) CARBON MONOXIDE DETECTORS: The premises named above is equipped with carbon monoxide detection equipment in working order that is capable of sensing carbon monoxide present in parts per million, is installed in accordance with the manufacturer's instructions, and is capable of providing an alarm suitable to warn occupants when such equipment is activated. The carbon monoxide detector(s) are:

- Hard-wired
- Battery-operated or plug-in with battery backup

Nothing in this affidavit shall constitute a warranty beyond the transfer of title. By acceptance of this affidavit, Buyer(s) acknowledge that affiants possess no special technical knowledge regarding the inner workings of smoke and carbon monoxide detectors and that Buyer(s) have had an opportunity to perform a home inspection and have had the opportunity of assessing whether the installed detectors satisfy the requirements detailed above.

I/we understand that I/we will credit the Buyer(s) with the sum of \$250 at closing for failing to provide this affidavit.

Owner

Owner

Subscribed and sworn to, before me, this _____ day of _____.

Notary Public/ Commissioner of the Superior Court
My Commission expires:

* This affidavit is not required for (1) Any transfer from one or more co-owners solely to one or more of the other co-owners; (2) transfers made to the spouse, mother, father, brother, sister, child, grandparent or grandchild of the transferor where no consideration is paid; (3) transfers pursuant to an order of the court; (4) transfers by the federal government or any political subdivision thereof; (5) transfers by deed in lieu of foreclosure; (6) any transfer of title incident to the refinancing of an existing debt secured by a mortgage; (7) transfers by mortgage deed or other instrument to secure a debt where the transferor's title to the real property being transferred is subject to a preexisting debt secured by a mortgage; and (8) transfers made by executors, administrators, trustees or conservators.

Seller's Affidavit

- Certificate of Occupancy issued on or after 10/1/2005
 - No further attestations
- Certificate of Occupancy issued between 10/1/1985 and 9/30/2005
 - Fuel burning appliance, fireplace or attached garage at premises?
 - If not, no further attestations

Seller's Affidavit

- Certificate of Occupancy issued between 10/1/1985 and 9/30/2005
 - Fuel burning appliance, fireplace or attached garage at premises?
 - If yes, further attestations required for Smoke Detector(s) and CO Detector(s) at premises

Seller's Affidavit

- Smoke detector(s)
 - » installed at premises
 - » Have detection equipment in working order capable of sensing visible or invisible smoke particles
 - » Installed in accordance with manufacturer's instructions
 - » Immediate vicinity of each bedroom
 - » Capable of providing alarm suitable to warn occupants when activated
 - » Type?
 - Hard wired?
 - Battery operated or plug-in with battery back up?



Seller's Affidavit

- Carbon Monoxide Detector(s)
 - » Installed at premises
 - » Have detection equipment in working order capable of sensing carbon monoxide present in parts per million
 - » Installed in accordance with manufacturer's instructions
 - » Capable of providing alarm suitable to warn occupants when activated
 - » Type?
 - Hard wired?
 - Battery operated or plug-in with battery back up?



Seller's Affidavit

- CO issued before 10/1/1985
 - Same attestations on Smoke and CO Detectors



When Seller Does Not Provide

\$250 credit at closing to Buyer

Shown on the HUD

No further duty or requirement

Buyer's Role – No Duty

No statutory duty or requirements

No duty to confirm installation, condition, working order, operation, or alarm notification

Limited Warranty

Statute update effective July 1, 2014
Affidavit **does not** grant any warranty
“beyond the transfer of title”

Best Practices

“No one saves us but ourselves. No one can and no one may. We ourselves must walk the path”

-Gautama Buddha, *Sayings of Buddha*

Best Practices

Seller's Agent:

1. Remind Seller of the Smoke and CO Detector Law
2. Direct Seller to consult with their Attorney
3. May assist Seller to collect Certificate of Occupancy date
4. May assist Seller and Attorney regarding information on fuel burning appliances, fireplace, and attached garage at premises

Buyer's Agent:

1. Remind them of the Smoke and CO Detector Law
2. Direct Buyer to consult with their Attorney
3. Buyer may still want to install new Detectors or new batteries

Takeaways...

- Most Sellers are required to provide either the Affidavit or the \$250 closing credit
- Seller and their *Attorney* determine whether to provide Affidavit or \$250 credit
- Buyer may not choose to receive either the Affidavit or \$250 credit –it is Seller's choice
- Agents may assist collecting info about the property

**No warranty beyond transfer of
title!**

Agents may still encourage Buyers to
replace Detector(s) or Batteries *every
time*



Questions

We hope you enjoyed our presentation.

Please direct questions to CTR Associate Counsel Kristen Haseney,
Kristen@ctrealtors.com, or CTR Government Affairs Director & Chief Lobbyist
Jim Heckman, Jim@ctrealtors.com