

Testimony of Elton B. Harvey

In SUPPORT of

**SB 427, An Act Concerning Smoke and Carbon Monoxide Detectors in
Certain Residential Buildings at the Time the Title Is Transferred**

Public Safety and Security Committee
March 11, 2014

Sen. Hartley, Rep. Dargan, members of the Committee:

My name is Elton B. Harvey, III and I am a transactional lawyer with the law firm of Baillie & Hershman, P.C. I am also the Chair of the Connecticut Bar Association Real Property Section. While the Connecticut Bar Association has not yet taken an official position in support of the proposed amendment to PA 13-272, it is expected that we will support such changes and forward written support shortly. I am here today as a lawyer who represents buyers and sellers of real property in Connecticut.

On its face, PA 13-272 seems like a good thing, to protect people and especially children by requiring working smoke detectors and carbon monoxide detectors in every home. However, when we take a look at this law, we can see where it becomes unworkable and needs amending.

First and foremost, unlike the Residential Property Condition Disclosure Report, required in most sales, there is no safe harbor that provides that the representations are not warranties and are only made to the best of the seller's knowledge and belief.

Few sellers have the technical knowledge or expertise necessary to ensure that the smoke or carbon monoxide detectors have been installed in accordance with the manufacturer's instructions, do not exceed the standards under which they were tested and approved, and whether the carbon monoxide detector measures in parts per million.

Accordingly, when faced with the necessity of "certifying" to the above items, even if the client is willing to guess, as the lawyer representing their interests in a sale, my fellow attorneys and I will advise our clients that the liability risk that they run for making a false statement, even if innocently made, far outweighs the penalty of \$250.00 for refusing to make such representation. Accordingly, the law, as written, provides a disincentive for homeowner's to purchase and install working smoke detectors and carbon monoxide detectors, in favor of paying a penalty and not installing the same.

I would urge the Committee to support Raised Bill No. 427, "An Act Concerning Smoke and Carbon Monoxide Detectors in Certain Residential Buildings at the Time the Title Is Transferred" which makes it clear that the representations of the Seller will not be construed to create any new implied or express warranties and expands the list of exempted transfers to include short sales, strict foreclosures, foreclosures by sale, and relocation sales, and does not require sellers of homes to make certifications about subjects for which they are not qualified.

Thank you for your consideration.