

Public Safety and Security Committee

JOINT FAVORABLE REPORT

Bill No.: HB-6580

AN ACT REVISING THE REQUIREMENTS OF THE SMOKE AND CARBON

Title: MONOXIDE DETECTOR AFFIDAVIT.

Vote Date: 3/16/2023

Vote Action: JOINT FAVORABLE Substitute

PH Date: 2/14/2023

File No.: 354

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SPONSORS OF BILL:

Public Safety and Security Committee.

REASONS FOR BILL:

The proposed legislation aims to amend the state's smoke detector and carbon monoxide affidavit, which currently mandates that residential buildings occupied by one or two families must have smoke and carbon monoxide detectors at the time of sale. At present, property sellers can either sign an affidavit confirming that their alarms are compliant with all applicable fire safety and building codes or offer a \$250 credit to buyers to upgrade the alarms themselves. However, there are concerns that many sellers are opting for the credit, leading to insufficient alarm systems in recently sold homes. The new bill seeks to remove the affidavit and replace it with a compliance form that exposes sellers to less legal risk. Additionally, the \$250 credit option would be eliminated, and buyers would instead notify sellers of non-compliance within ten days of closing. The seller would then be required to bring the property up to the relevant fire codes.

SUBSTITUTE LANGUAGE:

- Instances of "affidavit" on lines 6 and 14 were substituted with, "a compliance form" to allow sellers to certify to the best of their knowledge that the property is compliant with smoke and carbon monoxide detector regulations, rather than providing a sworn, written attestation. This was viewed as a major hinderance to ensuring compliance.
- The sentence "The compliance form shall be signed and dated by the transferor" was added to line 15 to reflect the requirements of the compliance form and provide accurate dating to ensure a 10-day period for review of the alarms by the buyer is possible.

- Section (b) was substituted with "If the transferee notifies the transferor, by certified mail, not later than ten days after the date of closing that the residential dwelling lacks any smoke detection and warning equipment or carbon monoxide detection and warning equipment as required by this section, or that any such equipment is inoperable, the transferor shall, not later than ten days after receiving such notice, comply with the provisions of this section. A violation of the provisions of this section shall not create a defect in title." This implements a system where a buyer can require the seller to bring the properties alarm system in compliance with fire codes upon providing a written request up to 10 days after closing. This substitution eliminates the option for sellers to provide a \$250 credit to buyers in lieu of updating the alarm system, which is expected to increase compliance with fire codes.

RESPONSE FROM ADMINISTRATION/AGENCY:

None expressed.

NATURE AND SOURCES OF SUPPORT:

[CATAC, VP and Senior Underwriting Counsel, Jonathan Anderson](#): supports this bill because it revises the requirements of the Smoke and Carbon Monoxide Affidavit. It is stated that language added to Section 29-453 of the General Statutes last year by Section 3 of Public Act 22-75, which requires the transferor to present an affidavit certifying that the residential building being transferred is equipped with smoke detection and warning equipment complying with certain technical standards, is impractical and unrealistic since most sellers of residential real estate are not equipped to provide such technical information. As a result, the most common reaction has been for sellers to credit the buyer the sum of \$250 rather than make the required updates.

[Connecticut General Assembly, 13th Assembly District, Representative Jason Doucette](#): supports this bill and the concept of simplifying the smoke and carbon monoxide detector affidavit because experience as a realtor that provided firsthand knowledge of the need for revision. It is stated that the current affidavit has had the unintended consequence of forcing most sellers to provide a \$250 credit to buyers at closing instead of assuming the risk of potential liability. This is due to the new language requiring the homeowner to make specific and technical representations about the smoke detectors and their home, and to sign a sworn statement attesting to compliance with all applicable fire safety and building codes. It is also stated that this is an unreasonable expectation for the average homeowner to make under oath with absolute certainty and may lead to potential liability issues.

[Baillie & Hershman, PC, Attorney, Jay Hershman](#): supports this bill as he also serves as a firefighter but criticizes the current law, Public Act 22-75, which requires sellers to certify compliance with fire safety, fire prevention, and building codes. It was stated that this law is causing confusion and leading to sellers opting for a credit instead of signing the affidavit. It was also stated that there is an error in the current law that requires homes built between 1976 and 1985 to have hard wired smoke detectors when the CT Building Code did not

require them until 1985. Further it was stated that it is not realistic to expect lay people to read and interpret complex building codes, and that this responsibility should be left to certified building officials and fire marshals.

NATURE AND SOURCES OF OPPOSITION:

[Connecticut Fire Marshals Association, Co-Legislative Representative, Fire Marshal for South Windsor, Walter Summers](#): spoke on the raised bill and supports revising the requirements surrounding smoke and carbon monoxide detectors but expresses concern with the way this bill was drafted. It was recommended that the \$250 credit given to a buyer from a seller when working smoke and carbon monoxide detectors are not present in a home be eliminated and the current affidavit be replaced with a document like what is used by the State of Vermont, where both the seller and buyer verify that the seller has working smoke and carbon monoxide detectors at the time of closing. **The adopted amendment addresses these concerns*

[Connecticut Realtors, Realtor, Joanne Breen](#): provides comments on the proposed bill and supports efforts to revise requirements of the smoke and carbon monoxide affidavit. It is proposed that the Committee removes affidavit and \$250 requirement and suggests replacing it with a certificate of compliance provided by the seller at the time of closing. It is also stated that the certificate would certify that the property has operational smoke and carbon monoxide detectors in accordance with state law. Further, If the detectors are found to be non-operational after conveyance of the property, there is a provision for the buyer to notify the seller of the duty to cure within 10 days. **The adopted amendment addresses these concerns*

Reported by: Lukas Houle

Date: 3/23/2023