

SENATE No. 197

The Commonwealth of Massachusetts

PRESENTED BY:

Michael O. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting consumer rights in purchasing safe and habitable homes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael O. Moore</i>	<i>Second Worcester</i>	
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>2/1/2023</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>	<i>2/1/2023</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>2/1/2023</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>2/8/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>2/8/2023</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>2/8/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/22/2023</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>3/2/2023</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/8/2023</i>

SENATE No. 197

By Mr. Moore, a petition (accompanied by bill, Senate, No. 197) of Michael O. Moore, John J. Cronin, John H. Rogers, Angelo J. Puppolo, Jr. and other members of the General Court for legislation to protect consumer rights in purchasing safe and habitable homes. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act protecting consumer rights in purchasing safe and habitable homes.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 143 the
2 following chapter:

3 CHAPTER 143A

4 INSPECTION OF CERTAIN RESIDENTIAL PROPERTY PRIOR TO SALE

5 Section 1. Notwithstanding any general or special law to the contrary, except as
6 otherwise provided in this chapter, a prospective purchaser of a residential structure or a
7 residential condominium unit shall have the right to have said structure or unit inspected by a
8 home inspector licensed under section 222 of chapter 112, within ten days (or such longer period
9 as seller and prospective purchaser may agree in writing) of the seller’s acceptance of an offer to
10 purchase made by said prospective purchaser.

11 For the purposes of this chapter, an inspection shall mean the process by which a home
12 inspector observes and provides, pursuant to the sale and transfer of a residential structure or
13 residential condominium unit, a written evaluation of the following readily accessible
14 components of the residential structure or, if a residential condominium unit, the unit and its
15 associated common areas: heating, cooling, plumbing and electrical systems, structural
16 components, foundation, roof, masonry structure, exterior and interior components and any other
17 related residential housing components. Unless requested otherwise by the prospective purchaser
18 in writing, an inspection shall conform in all respects with the regulations on the standards of
19 practice promulgated by the Board of Registration of Home Inspectors.

20 Section 2. No seller of a residential structure or of a residential condominium unit, or
21 agent thereof, shall condition the acceptance of an offer to purchase on the prospective
22 purchaser's agreement to waive, limit, restrict, or otherwise forego prospective purchaser's right
23 have said structure or unit inspected, other than when the sale of the structure or unit is to occur
24 at an auction conducted by an auctioneer licensed under chapter 100.

25 No seller shall accept an offer to purchase from any prospective purchaser or agent
26 thereof who, in advance of seller's acceptance of said offer, informs the seller either directly or
27 indirectly that the prospective purchaser intends to waive in whole or in part the prospective
28 purchaser's right to inspection, except that the seller may accept such an offer without violating
29 this chapter when the prospective purchaser is (i) the spouse, sibling, child, parent, grandparent,
30 grandchild, great-grandchild, or great-grandparent of the seller, or (ii) the former spouse of the
31 seller and the sale of the structure or unit is being made pursuant to a judgment or order under
32 chapter 208.

33 Each offer to purchase a residential structure or a residential condominium unit shall
34 include the following: “Buyer is entitled under Chapter 143A of the General Laws to choose to
35 have the premises inspected within ten days (or such longer period as Seller and Buyer may
36 agree in writing) of Seller’s acceptance of Buyer’s offer to purchase, at Buyer’s expense. Unless
37 one of the exceptions in Chapter 143A applies, neither Seller nor Buyer may make acceptance of
38 this offer to purchase contingent upon waiver, limitation, or restriction of Buyer’s right to choose
39 to obtain a home inspection. Should Buyer choose to have the premises inspected, if it is the
40 inspector’s opinion that the premises contain serious structural, mechanical or other defects, and
41 if the repair of such defects would cost Buyer in the aggregate more than the amount indicated
42 by the Buyer herein (\$_____), then Buyer shall have the option of revoking this offer to
43 purchase by written notice to the Seller and/or Seller’s agent within five business days of the date
44 of the inspection (or such longer period as Seller and Buyer may agree in writing). Such notice
45 shall be accompanied by a copy of the inspector’s opinion and a copy of cost estimates obtained
46 by Buyer.”

47 Section 3. Nothing in this chapter shall be construed to require, mandate, or otherwise
48 compel a prospective purchaser to obtain an inspection following the acceptance by the seller of
49 an offer to purchase. The prospective purchaser’s right to obtain an inspection shall expire if no
50 inspection occurs within ten days of the seller’s acceptance of a prospective purchaser’s offer to
51 purchase (or such longer period as seller and prospective purchaser may agree in writing).

52 Section 4. Any seller who fails to comply with the provisions of this chapter shall be
53 liable to the prospective purchaser for all damages caused by the failure to comply and, in
54 addition, shall be subject to assessment of a civil penalty not to exceed four percent of the sale
55 price of the structure or unit as recorded at the registry of deeds or ten thousand dollars,

56 whichever is greater. A violation of this chapter by a person engaged in trade or commerce shall
57 be an unfair and deceptive act or practice as defined in section two of chapter ninety-three A. A
58 violation of this chapter by any person performing or attempting to perform an act authorized by
59 any license under chapter one hundred twelve shall constitute a violation for which the licensee's
60 board of registration may take any action authorized thereunder. The attorney general may take
61 such action as may be necessary to enforce the provisions of this chapter.

62 SECTION 2. This act shall take effect upon its passage.