

SENATE No. 2474

The Commonwealth of Massachusetts

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

SENATE, October 19, 2023.

The committee on Consumer Protection and Professional Licensure, to whom was referred the petitions (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; and (accompanied by bill, House, No. 245) of Brian M. Ashe and others for legislation to provide for a right to home inspections for buyers, reports the accompanying bill (Senate, No. 2474).

For the committee,
John J. Cronin

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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 new 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 the results
40 are not satisfactory to Buyer, in Buyer's sole discretion, Buyer shall have the right to give written
41 notice received by the Seller or Seller's agent by 5:00 p.m. on the tenth day after Seller's
42 acceptance of Buyer's offer to purchase (or such longer period as Seller and Buyer may agree in
43 writing), terminating this agreement. Upon receipt of such notice this agreement shall be void
44 and all monies deposited by the Buyer shall be returned. Failure to provide timely notice of
45 termination shall constitute a waiver. In the event that the Buyer does not exercise the right to
46 have such inspection(s) or to so terminate, the Seller and the listing broker are each released
47 from claims relating to the condition of the Premises that the Buyer or the Buyer's inspector
48 could have reasonably discovered."

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

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

58 whichever is greater. A violation of this chapter by a person engaged in trade or commerce shall
59 be an unfair and deceptive act or practice as defined in section two of chapter 93A. A violation
60 of this chapter by any person performing or attempting to perform an act authorized by any
61 license under chapter 112 shall constitute a violation for which the licensee's board of
62 registration may take any action authorized thereunder. The attorney general may take such
63 action as may be necessary to enforce the provisions of this chapter.

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