

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a right to home inspection for buyers therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

Chapter 93 of the General Laws is hereby amended by adding the following section: -

Section 115. (a) For the purposes of this section, “inspection” shall mean the process by which a home inspector observes and provides, pursuant to the sale and transfer of a residential structure or residential condominium unit, a written evaluation of the following readily accessible components of the residential structure or, if a residential condominium unit, the unit and its associated common areas, including heating, cooling, plumbing and electrical systems, structural components, foundation, roof, masonry structure, exterior and interior components and any other related residential housing components. Unless requested otherwise by the prospective purchaser in writing, an inspection shall conform in all respects with the regulations on the standards of practice promulgated by the board of registration of home inspectors established in section 96 of chapter 13.

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

(c)(1) No seller of a residential structure or residential condominium unit, or agent thereof, shall condition the acceptance of an offer to purchase on the prospective purchaser’s agreement to waive, limit, restrict or otherwise forego the prospective purchaser’s right to have the structure or unit inspected except when the sale of the structure or unit is to occur at an auction conducted by an auctioneer licensed under chapter 100.

(2) No seller shall accept an offer to purchase from any prospective purchaser or agent thereof who, in advance of the seller’s acceptance of the offer, informs the seller either directly or indirectly that the prospective purchaser intends to waive in whole or in part the prospective purchaser’s right to inspection; provided, however, that the seller may accept such an offer without violating this section if the prospective purchaser is (i) the spouse, sibling, child, parent, grandparent, grandchild, great-grandchild or great-grandparent of the seller or (ii) the former spouse of the seller and the sale of the structure or unit is being made pursuant to a judgment or order pursuant to chapter 208.

(3) Each offer to purchase a residential structure or a residential condominium unit shall include the following: “Buyer is entitled under Chapter 143A of the General Laws to choose to have the premises inspected within ten days (or such longer period as Seller and Buyer may agree in writing) of Seller’s acceptance of Buyer’s offer to purchase, at Buyer’s expense. Unless one of the exceptions in Chapter 143A applies, neither Seller nor Buyer may make acceptance of this offer to purchase contingent upon waiver, limitation, or restriction of Buyer’s right to choose to

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

(d) Nothing in this section shall be construed to require, mandate or otherwise compel a prospective purchaser to obtain an inspection following the acceptance by the seller of an offer to purchase. The prospective purchaser's right to obtain an inspection shall expire if no inspection occurs within 10 days, or longer as agreed upon by the seller and perspective purchaser in writing, of the seller's acceptance of a prospective purchaser's offer to purchase.

(e) Any seller who fails to comply with the provisions of this section shall be liable to the prospective purchaser for all damages caused by the failure to comply and shall be subject to assessment of a civil penalty not to exceed 4 per cent of the sale price of the residential structure or residential condominium unit as recorded with the registry of deeds or \$10,000, whichever is greater. A violation of this section by a person engaged in trade or commerce shall be an unfair and deceptive act or practice as defined in section 2 of chapter 93A. A violation of this chapter by any person performing or attempting to perform an act authorized by any license under chapter 112 shall constitute a violation for which the licensee's board of registration may take any action authorized thereunder. The attorney general may take such action as may be necessary to enforce the provisions of this section.