

# STATE OF NEW YORK

8889

## IN ASSEMBLY

January 26, 2024

Introduced by M. of A. WALLACE -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to establishing the right to inspection of residential real properties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The article heading of article 14 of the real property law, as added by chapter 456 of the laws of 2001, is amended to read as follows:

PROPERTY CONDITION DISCLOSURE AND RIGHT TO INSPECTION  
IN THE SALE OF RESIDENTIAL REAL  
PROPERTY

§ 2. Section 461 of the real property law is amended by adding a new subdivision 7 to read as follows:

7. "Inspection" mean the process by which a home inspector observes and provides, pursuant to the transfer of title of residential real property, condominium units, or cooperative apartments, a written evaluation of the following readily accessible components of the residential structure including, but not limited to, heating, cooling, plumbing and electrical systems, structural components, foundation, roof, masonry structure, exterior and interior components and any other related residential housing components and, for the purposes of condominium units and cooperative apartments, any associated common areas.

§ 3. The real property law is amended by adding a new section 468 to read as follows:

§ 468. Right to inspection. 1. Notwithstanding any law to the contrary, except as otherwise provided in this section, a prospective purchaser of residential real property, a condominium unit, or a cooperative apartment shall have the right to have such residential real property, a condominium unit, or a cooperative apartment inspected by a home inspector licensed under article twelve-B of this chapter, within ten 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.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1     2. (a) No seller of residential real property, a condominium unit, or  
2     a cooperative apartment, or agent thereof, shall condition the accept-  
3     ance of an offer to purchase on the prospective purchaser's agreement to  
4     waive, limit, restrict or otherwise forego the prospective purchaser's  
5     right to have such residential real property, a condominium unit, or a  
6     cooperative apartment inspected except when the sale of the residential  
7     real property, condominium unit, or cooperative apartment is to occur at  
8     an auction.

9     (b) No seller shall accept an offer to purchase from any prospective  
10    purchaser or agent thereof who, in advance of the seller's acceptance of  
11    the offer, informs the seller either directly or indirectly that the  
12    prospective purchaser intends to waive in whole or in part the prospec-  
13    tive purchaser's right to inspection; provided, however, that the seller  
14    may accept such an offer without violating this section if the prospec-  
15    tive purchaser is: (i) the spouse, sibling, child, parent, grandparent,  
16    grandchild, great-grandchild or great-grandparent of the seller; or (ii)  
17    the former spouse of the seller and the sale of the structure or unit is  
18    being made pursuant to a judgment or order.

19    (c) Each offer to purchase residential real property, a condominium  
20    unit, or a cooperative apartment shall include the following language:

21    "Buyer is entitled under section 468 of the real property law to  
22    choose to have the premises inspected at Buyer's expense within 10 days,  
23    or longer as Seller and Buyer may agree in writing, of Seller's accept-  
24    ance of Buyer's offer to purchase. Unless one of the exceptions in said  
25    section 468 applies, neither Seller nor Buyer may make acceptance of  
26    this offer to purchase contingent upon waiver, limitation or restriction  
27    of Buyer's right to choose to obtain a home inspection. Should Buyer  
28    choose to have the premises inspected, if it is the inspector's opinion  
29    that the premises contain serious structural, mechanical or other  
30    defects and if the repair of such defects would cost Buyer in the aggre-  
31    gate more than the amount indicated by the Buyer herein (\$       ),  
32    then Buyer shall have the option of revoking this offer to purchase by  
33    written notice to the Seller or Seller's agent within 5 business days of  
34    the date of the inspection, or longer as Seller and Buyer may agree in  
35    writing. Such notice shall be accompanied by a copy of the inspector's  
36    opinion and a copy of cost estimates obtained by Buyer."

37    3. Nothing in this section shall be construed to require, mandate or  
38    otherwise compel a prospective purchaser to obtain an inspection follow-  
39    ing the acceptance by the seller of an offer to purchase. The prospec-  
40    tive purchaser's right to obtain an inspection shall expire if no  
41    inspection occurs within ten days, or longer as agreed upon by the sell-  
42    er and perspective purchaser in writing, of the seller's acceptance of a  
43    prospective purchaser's offer to purchase.

44    4. Any seller who fails to comply with the provisions of this section  
45    shall be liable to the prospective purchaser for all damages caused by  
46    the failure to comply and shall be subject to assessment of a civil  
47    penalty not to exceed four per cent of the sale price of the residential  
48    real property, condominium unit, or cooperative apartment or ten thou-  
49    sand dollars, whichever is greater. A violation of this section by a  
50    person engaged in trade or commerce shall also be considered an unfair  
51    and deceptive act or practice as defined in section three hundred  
52    forty-nine of the general business law. A violation of this section by  
53    an agent shall constitute a violation of section four hundred  
54    forty-two-e of this chapter. The attorney general may take such action  
55    as may be necessary to enforce the provisions of this section.

1     § 4. This act shall take effect on the first of January next succeed-  
2     ing the date on which it shall have become a law. Effective immediately,  
3     the addition, amendment and/or repeal of any rule or regulation neces-  
4     sary for the implementation of this act on its effective date are  
5     authorized to be made and completed on or before such effective date.