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.

LBD14013-01-4

2. (a) No seller of residential real property, a condominium unit, or a cooperative apartment, 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 such residential real property, a condominium unit, or a cooperative apartment inspected except when the sale of the residential real property, condominium unit, or cooperative apartment is to occur at an auction.

(b) 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.

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

"Buyer is entitled under section 468 of the real property law to choose to have the premises inspected at Buyer's expense within 10 days, or longer as Seller and Buyer may agree in writing, of Seller's acceptance of Buyer's offer to purchase. Unless one of the exceptions in said section 468 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 it is the inspector's opinion that the premises contain serious structural, mechanical or other defects and if the repair of such defects would cost Buyer in the aggregate more than the amount indicated by the Buyer herein ($), then Buyer shall have the option of revoking this offer to purchase by written notice to the Seller or Seller's agent within 5 business days of the date of the inspection, or longer as Seller and Buyer may agree in writing. Such notice shall be accompanied by a copy of the inspector's opinion and a copy of cost estimates obtained by Buyer."

3. 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 ten 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.

4. 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 four per cent of the sale price of the residential real property, condominium unit, or cooperative apartment or ten thousand dollars, whichever is greater. A violation of this section by a person engaged in trade or commerce shall also be considered an unfair and deceptive act or practice as defined in section three hundred forty-nine of the general business law. A violation of this section by an agent shall constitute a violation of section four hundred forty-two-e of this chapter. The attorney general may take such action as may be necessary to enforce the provisions of this section.

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