



MASSACHUSETTS
ASSOCIATION OF REALTORS®



Home Inspection Law

What is the law?



BUYER'S RIGHT TO INSPECT A
PROPERTY



REQUIRED SELLER
DISCLOSURE

What do REALTORS® Need to Know?

Law requires a disclosure from the seller to potential buyers notifying them of their right to have the home inspected.

Failure to do so is a violation of MA Consumer Protection Law, Chapter 93A

Disclosure is a state issued standalone form

Must be completed prior to executing a contract to purchase and signed by the buyer and seller

Seller can still sell home “as-is”. There is no requirement to renegotiate based on inspection findings

Additional Details

- Applies to residential purchases of one to four units
- Time period to conduct and decide is negotiable between buyer and seller. Must be reasonable
- Buyer does not have to conduct an inspection.
- Buyer can waive their right to an inspection *after* acceptance of their offer.
- Applies to contracts entered into on October 16 and after



What Constitutes a Home Inspection?

A home inspection as defined in regulation and conducted by a licensed home inspector.

- Roofing
- Exterior
- Structure
- Electrical
- Plumbing
- Heating and Cooling
- General Interior Condition
- Insulation

Exclusions

New construction where the contract is entered into prior to substantial completion and includes a warranty

Sales to relatives and as part of a divorce proceeding

Estate planning

Foreclosure transfers

What is not Allowed

Anything that would “render a home inspection meaningless”:

- unreasonably limiting the Prospective Purchaser’s ability to schedule, receive and review a Home Inspection; or
- prohibiting a Prospective Purchaser from choosing not to proceed with the transaction if the results of the Home Inspection are not satisfactory to the Prospective Purchaser;

What is Allowed

A Seller and Prospective Purchaser may agree to:

- limit a Proposed Purchaser's choice not to proceed with the transaction after a Home Inspection if the estimated aggregate cost of repairs does not exceed a reasonable monetary threshold agreed upon by the parties

MAR Forms Updates!

MAR Forms Content Advisory Committee

- Contract to purchase-inspection clause
- Purchase & Sale Agreement
- Post-Contract Termination of Inspection Rights Addendum

PLUS
State Disclosure Form!



MASSACHUSETTS MANDATORY RESIDENTIAL HOME INSPECTION DISCLOSURE

Pursuant to Massachusetts regulation 760 CMR 74.00 *Residential Home Inspection Waivers*, this form must be signed by the buyer and seller prior to signing the first written contract to purchase a Residential Property in Massachusetts (unless one of the exceptions under 760 CMR 74.00 applies). Residential Property and Home Inspection shall be defined pursuant to 760 CMR 74.02.

Limitations on Home Inspection Waivers:

Every seller of Residential Property is notified that M.G.L. c. 143, § 101 and 760 CMR 74.00 prohibit a seller from accepting an agreement to purchase contingent upon waiver, limitation, or restriction of buyer's choice to obtain a Home Inspection, in whole or in part (unless one of the exceptions under 760 CMR 74.00 applies). A buyer of a Residential Property may choose to have the premises inspected by a licensed home inspector of the buyer's choice. If the buyer chooses to have a Home Inspection, the buyer shall have a reasonable period of time after the full execution of the first written contract, as agreed to by the seller and the buyer, to decide whether to proceed with the transaction if the results of the inspection are not satisfactory to the buyer.

Seller's Disclosure

Pursuant to 760 CMR 74.00, Seller warrants and represents that the agreement to purchase is not, and in no event shall be, contingent upon waiver, limitation, or restriction of Buyer's choice to obtain a Home Inspection, in whole or in part (unless one of the exceptions under 760 CMR 74.00 applies). Seller agrees and acknowledges that Buyer may choose to have the premises inspected by a licensed home inspector of the Buyer's choice. The Seller further agrees, warrants, and represents that, if the Buyer chooses to have a Home Inspection, the Buyer shall have a reasonable period of time after the full execution of the first written contract as agreed to by the Seller and the Buyer, to decide whether to proceed with the transaction if the results of the inspection are not satisfactory to the Buyer.

Buyer's Acknowledgment

Each buyer hereby acknowledges that they may choose to have the premises inspected by a licensed home inspector of the buyer's choice and acknowledges that this disclosure has been provided to the buyer herein.

Agent's Acknowledgment

Seller's agent hereby acknowledges that each seller has been informed of the seller's obligations under 760 CMR 74.00 and further acknowledges that this disclosure has been provided to each seller and buyer herein.

Certification of Accuracy

The following parties have reviewed the information above and certify that the information they have provided is true and accurate.

Property Address:

State Issued Disclosure

- Seller signs and upload to MLS
- ***Must*** be completed before offer is accepted.
- Failure results in ***93A Strict Liability***

Contract to
Purchase

What is a home
inspection?

When is the home
inspection?

What is the contingency
trigger?

What is a home inspection?

Inspection Contingency. The BUYER'S obligations under this Offer and any Purchase and Sale Agreement signed pursuant to this Offer are subject to the BUYER'S right to obtain inspection(s) of the Premises or any aspect thereof, including, but not limited to, a home inspection in accordance with 760 CMR 74.00 by a licensed Massachusetts home inspector; pest, radon, lead paint, energy usage/efficiency, septic/sewer, water quality, and water drainage by consultant(s) regularly in the business



The MAR Contract to Purchase includes the opportunity for buyers to conduct inspections in addition to the state-defined “home inspection”.



Similar to the existing MAR Home Inspection Contingency



How many consumers and real estate agents think of a home inspection

When is the home inspection?

at BUYER'S sole cost by _____.
(Insert Date)



BUYER must indicate a date that provides the BUYER a *reasonable* amount of time to conduct the inspections.



BUYER has until 5PM on the calendar day after the date above to notify SELLER if they are withdrawing

What is the contingency trigger?

If the results are not satisfactory to BUYER, (*choose one*)

- in BUYER'S sole discretion,
- and the estimated aggregate cost of repairs exceeds \$ _____ as indicated in writing by consultant(s) regularly in the business of providing such repairs, remediations, or improvements:



It is ***EITHER*** at the buyer's sole discretion—meaning for any reason identified



OR the estimated cost of repairs exceeds a *reasonable* amount.

Levels of
reasonableness:



