

**HOUSE . . . . . No. 245**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Brian M. Ashe***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/13/2023</i>
<i>John J. Cronin</i>	<i>Worcester and Middlesex</i>	<i>1/31/2023</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/31/2023</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>	<i>1/31/2023</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/31/2023</i>
<i>Michael J. Finn</i>	<i>6th Hampden</i>	<i>1/31/2023</i>
<i>Jennifer Balinsky Armini</i>	<i>8th Essex</i>	<i>2/1/2023</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>2/1/2023</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>	<i>2/1/2023</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/2/2023</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>2/2/2023</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>	<i>2/3/2023</i>
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>2/6/2023</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/6/2023</i>
<i>Carol A. Doherty</i>	<i>3rd Bristol</i>	<i>2/6/2023</i>
<i>Gerard J. Cassidy</i>	<i>9th Plymouth</i>	<i>2/7/2023</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>2/7/2023</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/8/2023</i>

<i>William J. Driscoll, Jr.</i>	<i>7th Norfolk</i>	<i>2/8/2023</i>
<i>Mark J. Cusack</i>	<i>5th Norfolk</i>	<i>2/8/2023</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>2/9/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>2/13/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/17/2023</i>
<i>Christopher Richard Flanagan</i>	<i>1st Barnstable</i>	<i>2/24/2023</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/27/2023</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>3/1/2023</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/8/2023</i>

**HOUSE . . . . . No. 245**

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By Representative Ashe of Longmeadow, a petition (accompanied by bill, House, No. 245) of Brian M. Ashe and others for legislation to provide for a right to home inspections for buyers. Consumer Protection and Professional Licensure.

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**The Commonwealth of Massachusetts**

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

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

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

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

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

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

10 standards of practice promulgated by the board of registration of home inspectors established in  
11 section 96 of chapter 13.

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

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

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

31 (3) Each offer to purchase a residential structure or residential condominium unit shall  
32 include the following language: “Buyer is entitled under section 115 of chapter 93 of the General  
33 Laws to choose to have the premises inspected at Buyer’s expense within 10 days, or longer as  
34 Seller and Buyer may agree in writing, of Seller’s acceptance of Buyer’s offer to purchase.  
35 Unless one of the exceptions in said section 115 applies, neither Seller nor Buyer may make  
36 acceptance of this offer to purchase contingent upon waiver, limitation or restriction of Buyer’s  
37 right to choose to obtain a home inspection. Should Buyer choose to have the premises  
38 inspected, if it is the inspector’s opinion that the premises contain serious structural, mechanical  
39 or other defects and if the repair of such defects would cost Buyer in the aggregate more than the  
40 amount indicated by the Buyer herein (\$\_\_\_\_\_), then Buyer shall have the option of revoking  
41 this offer to purchase by written notice to the Seller or Seller’s agent within 5 business days of  
42 the date of the inspection, or longer as Seller and Buyer may agree in writing. Such notice shall  
43 be accompanied by a copy of the inspector’s opinion and a copy of cost estimates obtained by  
44 Buyer.”

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

50 (e) Any seller who fails to comply with the provisions of this section shall be liable to the  
51 prospective purchaser for all damages caused by the failure to comply and shall be subject to  
52 assessment of a civil penalty not to exceed 4 per cent of the sale price of the residential structure  
53 or residential condominium unit as recorded with the registry of deeds or \$10,000, whichever is

54 greater. A violation of this section by a person engaged in trade or commerce shall be an unfair  
55 and deceptive act or practice as defined in section 2 of chapter 93A. A violation of this chapter  
56 by any person performing or attempting to perform an act authorized by any license under  
57 chapter 112 shall constitute a violation for which the licensee's board of registration may take  
58 any action authorized thereunder. The attorney general may take such action as may be necessary  
59 to enforce the provisions of this section.