

Massachusetts Residential Home Inspections

Summary of final regulation on residential home inspection waivers effective October 15, 2025.

Required pursuant to the Affordable Homes Act, Chapter 150 of the Acts of 2024, the Executive Office of Housing and Livable Communities (EOHLC) has adopted 760 CMR 74.00, a regulation designed to protect prospective homebuyers by ensuring their right to obtain a home inspection is not unfairly waived, restricted, or undermined in residential real estate transactions.

Why are you being provided the home inspection disclosure form? If a real estate professional fails to give buyers the required home inspection disclosure, it shall be considered an unfair or deceptive business practice under M.G.L. c. 93A.

1. Purpose

The regulation protects the informed decision-making of homebuyers. It prohibits sellers and their agents from requiring or encouraging buyers to waive their right to a home inspection as a condition for having their offer accepted — except in limited, clearly defined circumstances.

2. Prohibited Conduct by Sellers and Agents

- Sellers and their agents may not condition the acceptance of an offer or sale agreement on the buyer's agreement to waive or limit a home inspection, unless exempted.
- Sellers may not accept offers indicating that a buyer intends to waive a home inspection.

3. Applicability & Requirements

- The regulation applies to the sale of residential buildings of 1-4 units, including single family homes, condominium units within buildings of any size, and residential co-op sales.
- Home inspections must be completed by a licensed home inspector.
- The home inspection must conform to state standards of practice for home inspections and include a written evaluation.

4. Required Disclosure ([mass.gov/doc/massachusetts-mandatory-residential-home-inspection-disclosure/download](https://www.mass.gov/doc/massachusetts-mandatory-residential-home-inspection-disclosure/download))

- Before or at the signing of the first purchase contract (either the offer to purchase or the purchase and sale agreement), the seller or agent must provide a separate written disclosure affirming the buyer's right to a home inspection.
- Both buyer and seller must sign the form, which guarantees the buyer a reasonable opportunity to obtain and review a home inspection and withdraw from the sale based on its results.

5. Ban on Undermining Inspections

- Any contract provision that effectively renders a home inspection meaningless — such as unreasonably restricting scheduling or denying buyers the option to back out based on inspection results—violates the regulation.
- However, parties may mutually agree to set reasonable monetary thresholds for repair costs or limits on deposit refunds in the event of termination of a sale based on the results of a home inspection.

6. Buyer Discretion

- Nothing in the regulation requires a buyer to have the home inspected. A buyer may forego a home inspection after receiving proper disclosures and without any coercion or inducement from the seller or their agent.

7. Exemptions

The regulation does not apply to:

- Sales between relatives or former spouses under a divorce order.
- Transactions executed prior to October 15, 2025.
- Foreclosures, deeds-in-lieu, or debt-releasing reconveyances.
- Estate planning transfers (e.g., via trust) to relatives.
- Pre-completion sales of newly constructed homes where:
 - Construction is not yet substantially complete, and
 - The seller offers a one-year written warranty covering systems and structural integrity.

8. Enforcement and Legal Effect

Violations of the regulation may constitute unfair or deceptive practices under the state consumer protection law (M.G.L. c. 93A), especially when committed by real estate professionals acting in a business context. Consequences may include:

- Consumer protection claims.
- Disciplinary action by the Board of Registration of Real Estate Brokers and Salespersons.
- Use of noncompliance as evidence of misrepresentation in civil proceedings against the seller.

Source: <https://www.mass.gov/info-details/residential-home-inspections> (Last updated: June 17, 2025)



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