



*The Voice of the Home Inspection Profession in the Empire State*

## New York State Right to Home Inspection (RTHI) Bills S5772 (May) / A4883 (Clark)

### What is a Home Inspector?

A home is not a simple structure - it is a complex system of interdependent components spanning multiple construction specialties. Even seasoned tradesmen and engineers require substantial training to become professional Home Inspectors.

A Home Inspector is best understood as a **professional specializing in general home evaluation**, much like a family doctor. They also provide **unbiased assessments**, acting as an umpire calling material defects and safety issues in residential structures of 1–4 units, including condos and apartments. Like your General Practitioner doctor who is specially trained to recognize problems in a very broad range of health concerns and to recommend critical tests or the right specialists for further evaluation and treatment of your ailment, they are **Specialists in General Evaluation**.

In 2006, New York State formally recognized this profession through the *Home Inspection Professional Licensing Law* (Article 12b of NYS Real Property Law). This law:

- Established licensing standards under the Department of State.
- Requires training, examinations, and continuing education.
- Mandates liability insurance.
- Sets a Code of Ethics, to protect confidentiality and to discourage of conflicts of interest.
- Defines *Standards of Practice* (SoP), outlining the minimum scope of inspections and reporting requirements.

### What is a Home Inspection?

A Home Inspection is an **on-site evaluation** of a property, conducted by a licensed professional according to the SoP, documented by a **confidential written report** delivered to the client.

**Inspections cover “readily accessible” areas, including:**

- Lots and grounds
- Roof and exterior
- Living spaces
- Structure and foundation
- HVAC, plumbing, electrical systems
- Garages, and carports

### Excluded areas include:

- Concealed conditions
- Environmental issues (lead, mold, radon, asbestos, pests, etc.)
- Wells and septic systems
- Specialty systems (pools, solar panels, generators, etc.)

Inspectors often offer **ancillary services** to address these excluded areas.

## Who Hires a Home Inspector?

Most often the client is a **home buyer** who is undertaking due diligence in what may be the largest financial decision of their life. A professional inspection:

- Documents the home's condition.
- Identifies safety issues or costly defects.
- Informs Client's decision to proceed, withdraw, or negotiate.

Without inspection, a buyer risks purchasing a “money pit” or “sick home,” with consequences that could potentially lead to financial ruin, serious injury, illness, or worse.

Homeowners and sellers may also hire inspectors to prepare for sale or evaluate conditions. However, buyers should not rely on a seller's Home Inspection report because of the risk of bias and conflict of interest.

## Market Conditions Undermine Home Inspection Protection

Recent years have seen **extraordinary housing market conditions**:

- **Extremely low housing inventory** (sometimes as little as one month of supply vs. the six months considered healthy).
- **High interest rates** discouraging owners from selling.
- **COVID Urban-to-rural migration** drove up demand and gobbled up available homes.
- **Strong seller's market**, with flash sales and “as-is” offers becoming the norm.

This has led to troubling practices:

- **Waiver of Home Inspection** to make offers more competitive.
- **Blind bidding**, where buyers have no visibility into competing offers.
- **Severe time constraints**, leaving buyers unable to secure the inspector of their choice.
- **“Information-only” inspections**, which provide no recourse for buyers even if serious defects are discovered. Large earnest deposits are at risk.
- **Inspections before offer**, particularly downstate, where buyers may pay for multiple inspections only to be repeatedly outbid.

# Why Existing Laws Don't Adequately Protect Buyers

While NYS has consumer protections on paper, they are largely ineffective in practice:

- **Property Condition Disclosure Law** – Sellers can check “unknown” or may misrepresent issues. Proving fraud is extremely difficult and lawsuits are rare.
- **Real Estate Agent disclosure obligations** – Commissions create powerful incentives not to disclose problems. Enforcement is reactive and rare.
- **Bank/loan inspections** – Appraisals assess value, not safety. HUD/FHA/VA inspections are cursory and not substitutes for Home Inspection. Buyer's may be improperly encouraged to accept these other inspections in lieu of a full regulated Home Inspection.

## What is the Right to Home Inspection (RTHI)?

The RTHI bills (S5772/A4883) would:

- Guarantee every home buyer the **right to a NYS regulated Home Inspection** by the inspector of their choice, **BUT NOT MANDATE HOME INSPECTION**.
- Ensure **reasonable time** for inspection and review.
- Allow buyers to **withdraw without penalty** and receive a prompt refund of earnest deposits if the inspection reveals unacceptable conditions.
- Prohibit offers or agreements that waive or restrict this right.
- Establish **penalties for violations**, particularly for professionals or businesses.
- Require a **state-issued advisory form** informing both buyer and seller of these rights.

**Exclusions** would apply for court-ordered transfers, family transfers, and regulated auctions.

## Why RTHI is Needed

- Current market forces **pressure buyers to waive inspections**, undermining due diligence.
- Buyers are sometimes misled into believing inspections are prohibited.
- Agents, despite fiduciary duties, face strong incentives to push for no-contingency offers.
- First-time and lower-income buyers are disproportionately at risk, while wealthy or corporate buyers have reserves to absorb surprises.
- Buyers are frequently encouraged to bid well over asking price, leaving no funds for repairs.
- Buyers are also commonly encouraged to make very high earnest deposits. With *for-information-only* inspections, that large deposit is at risk if home conditions warrant withdrawal from purchase.

**Without RTHI, buyers face catastrophic risks, including:**

- Insurance cancellation and foreclosure due to unanticipated repair demands after closing.
- Undisclosed toxic hazards like mold and radon, perhaps causing unlivable homes.
- Inheriting construction unapproved by local authorities and associated costs to correct.
- Long-term financial and social costs, including foreclosure, ruined credit, homelessness, family strife and burden on public resources.

## **Broader Benefits of RTHI**

- **Protects consumers** in what is often the largest purchase of their lives.
- **Reduces liability** for sellers and agents by ensuring transparency.
- **Strengthens mortgage and insurance industries** by documenting home condition.
- **Supports public welfare and tax base** by reducing foreclosures, homelessness and abandoned “zombie homes.”
- **Helps level the playing field** for first-time and lower-income buyers.

## **Real Estate Agency Benefits**

For real estate professionals, RTHI provides:

- Substantially **lower liability**, no interference with buyer due diligence
- Stronger **fiduciary reputation** and client trust.
- Reduced conflict with buyers who later discover defects, fewer “sleeper” claims
- Return to the “old normal,” where inspections were a **standard, expected step** in home sale transactions.

**NYSAHI supports further refinement but strongly endorses the bills as a critical step forward.**

## **NYSAHI Leadership**

The **New York State Association of Home Inspectors (NYSAHI)** is the first and primary advocate for RTHI in New York. In February 2023, NYSAHI initiated the RTHI movement after learning of Massachusetts’ emergency RTHI legislation (now law, though with implementation issues). NYSAHI has since continuously lobbied the NYS Legislature for strong and enforceable buyer protections and will continue to do so until the bill is advanced and enacted. Consumer protection remains central to NYSAHI’s mission and as such, we urge passage of the RTHI bill.