



strength in members.

## **Support: The Right to Home Inspection Act**

### **S.8729 (Senator May)**

### **A.9629 (Assemblymember Clark)**

The New York Credit Union Association, representing credit unions that serve over 7 million New Yorkers, supports the passage of S.8729/A.9629, the Right to Home Inspection Act. This legislation establishes critical consumer protections for homebuyers by creating a non-waivable right to professional home inspection within a defined period following execution of a purchase agreement. The bill directly advances the financial security of credit union members by ensuring they can make informed decisions about what is typically their largest lifetime investment.

The legislation addresses a significant market failure in New York's residential real estate sector: the increasing pressure on buyers in competitive markets to waive inspection contingencies before they have obtained professional assessment of a property's condition, a practice that exposes homebuyers to substantial financial risk. S.8729/A.9629 establishes reasonable protections without restricting seller autonomy or prohibiting "as is" sales, creating a balanced framework that serves all stakeholders while prioritizing informed consumer choice.

### **Current Legal Framework and Market Conditions**

New York follows the common law doctrine of caveat emptor in residential real estate transactions, placing the burden on buyers to discover property defects before purchase. While sellers must disclose known material defects under Real Property Law Section 462, buyers bear primary responsibility for investigating property condition. Professional home inspections have become standard industry practice, providing technical evaluation of structural components, mechanical systems, and other property features that untrained buyers cannot adequately assess. However, the inspection contingency remains a negotiable contract term. In competitive housing markets across New York, buyers increasingly face pressure to waive inspection rights at the offer stage to make their bids more attractive to sellers.

### **The Problem S.8729/A.9629 Addresses**

The legislation responds to a structural imbalance in residential real estate transactions. Sellers possess superior knowledge of their property's condition, while buyers, particularly first-time purchasers, lack technical expertise to evaluate structural integrity, mechanical systems, and latent defects. Licensed home inspectors provide professional assessment that casual observation cannot replicate. When buyers preemptively waive inspection rights to compete for properties, they surrender access to this critical professional evaluation, assuming substantial financial risk without informed understanding of the property's true condition.

## **Benefits to Consumers**

### **Consumer Protection for New York Homebuyers**

S.8729/A.9629 establishes fundamental consumer protections that directly benefit homebuyers by addressing information asymmetry and ensuring access to professional property assessment.

#### **Addressing Information Asymmetry**

Section 467(1) creates a mandatory inspection period, ensuring that homebuyers have access to professional technical expertise before finalizing property purchase. This provision directly addresses the knowledge imbalance between sellers and buyers. Sellers have lived in the property and possess intimate knowledge of its condition, maintenance history, and any problems that have occurred. Buyers, particularly first-time homebuyers, lack this knowledge and cannot replicate it through casual observation or limited showing visits.

Licensed home inspectors provide objective, professional assessment based on industry standards and technical training. This information enables homebuyers to make informed decisions about whether to proceed with purchase, negotiate repairs, request price adjustments, or withdraw from the transaction.

#### **Protection Against Undisclosed Defects**

While Real Property Law Section 462 requires sellers to disclose known material defects, it does not require sellers to conduct inspections to discover defects they may not know exist. Many property defects are latent, not readily apparent even to sellers. Professional inspection identifies these hidden problems before purchase.

Section 467 ensures that homebuyers have the opportunity to discover these defects before purchase, rather than after closing when they have assumed full financial responsibility for the property. This prevents the financial devastation that occurs when buyers purchase homes with major undisclosed defects, suddenly facing repair costs they may not be able to afford while carrying mortgage obligations.

#### **Prevention of Coercive Market Practices**

Section 467(2)(a) and (2)(b) prohibit sellers and their agents from conditioning offer acceptance on inspection waiver or accepting offers where buyers have indicated intent to waive inspection rights. These provisions prevent coercive market practices that have emerged in competitive housing markets.

In high-demand markets across New York, buyers face intense pressure to waive inspection contingencies to make their offers more attractive. Sellers may explicitly state they will only accept offers without inspection contingencies, or may favor such offers over competing bids. Buyers, fearing they will lose the property to competing purchasers, agree to waive inspection rights before they have any professional assessment of the property's condition.

When homebuyers waive inspection rights preemptively, they cannot make informed decisions about property condition, leaving them vulnerable to purchasing homes with serious defects they would have discovered through professional inspection.

S.8729/A.9629 prevents these coercive practices while preserving market competition. Sellers remain free to accept the highest offer, negotiate prices and terms, and sell property "as is." However, they cannot leverage competitive pressure to force buyers to surrender fundamental consumer protection.

## **Buyer Flexibility**

Section 467(3) clarifies that buyers are not required to conduct inspection; they simply have the right to do so. Buyers who feel comfortable with property condition, who are purchasing from family members, or who choose to assume property condition risk may decline inspection. The legislation protects the right to inspect while preserving buyer autonomy.

Section 467(6) permits buyers to cancel during the inspection period if unsatisfied with inspection results, with full refund of deposits. This provision ensures that the inspection right is meaningful. If inspection reveals problems, buyers can withdraw from the transaction without financial penalty, protecting them from being locked into purchasing defective property.

## **Market Fairness and Transparency**

Current market practices create significant disparities between buyers based on financial resources and risk tolerance. Well-capitalized buyers or institutional purchasers may be willing to assume property condition risk, giving them competitive advantage over buyers who need to ensure property soundness before committing their savings.

S.8729/A.9629 levels the playing field by ensuring all buyers have inspection rights. This prevents a race to the bottom where buyers compete by waiving fundamental protections. Homebuyers can compete for properties based on price and other legitimate factors, rather than being pressured to assume unreasonable risk.

The legislation is particularly important for first-time homebuyers, as they often lack experience evaluating property condition and are more vulnerable to market pressure. S.8729/A.9629 ensures these buyers have access to professional inspection regardless of market conditions.

## **Preventing Pressure Tactics**

Section 467(2) directly prohibits sellers from using inspection waiver as a selection criterion. Sellers cannot condition offer acceptance on waiver, cannot accept offers where buyers have indicated intent to waive, and cannot pressure buyers to surrender inspection rights.

These provisions eliminate coercive tactics that have become common in competitive markets. Sellers may no longer explicitly state they will only accept offers without inspection contingencies, implicitly favor such offers, or create bidding dynamics that pressure buyers to waive protections.

By prohibiting these practices, S.8729/A.9629 ensures that homebuyers can exercise inspection rights without fear of losing properties to competing buyers. This reduces pressure-driven decision making and promotes informed, rational property acquisition decisions.

## **Promoting Transparency**

Section 462(2-a) requires sellers to provide buyers with a Right to Inspection Advisory Statement explaining inspection rights and procedures. This mandatory disclosure ensures that homebuyers understand their rights before executing purchase agreements.

Transparency requirements complement existing Real Property Law disclosure obligations, creating a comprehensive framework that ensures buyers receive both property condition information and procedural rights information.

## **Legitimate Exceptions**

S.8729/A.9629 recognizes appropriate exceptions where inspection rights would be impractical or unnecessary. Section 467(2)(a) excludes auction sales, which follow distinct procedures and attract different purchaser types. Section 467(2)(b) excludes family transfers and divorce-related sales, where parties have existing relationships and different information dynamics.

These exceptions are narrowly tailored to situations where the legislation's protections are not needed or would interfere with legitimate transaction types, demonstrating the bill's balanced approach.

## **Benefits to Credit Union Lending Operations**

S.8729/A.9629 will benefit credit union mortgage lending operations by improving loan quality, reducing default risk, decreasing post-closing disputes, and enhancing member satisfaction.

### **Improvement in Loan Quality**

Credit unions originate mortgage loans with the expectation that borrowers have made informed decisions about property acquisition and that properties securing the loans are sound. When buyers purchase homes without inspection, loan quality is impaired because the property securing the loan may have undisclosed defects affecting its value.

Professional home inspection improves loan quality by ensuring that purchasers understand property conditions before borrowing. Members who discover significant defects during inspection may withdraw from purchase, negotiate repairs that enhance property value, or adjust purchase price to reflect property condition. These outcomes ensure that mortgage loans are secured by properties of expected quality.

Section 467 benefits credit unions by systematizing inspection as a standard transaction component. Rather than relying on members to voluntarily conduct inspection, the legislation ensures all members have access to inspection, improving the overall quality of credit union mortgage portfolios.

### **Reduction of Default Risk**

Members who purchase homes with undiscovered major defects face elevated default risk. When serious problems emerge post-purchase, homebuyers must simultaneously service mortgage debt and fund substantial repairs. If they lack financial capacity to do both, they may default on the mortgage. Home inspection is a critical component of due diligence.

S.8729/A.9629 reduces default risk by ensuring homebuyers can identify problems before closing. Members who discover serious defects during inspection can withdraw from purchase rather than assuming unsustainable financial obligations. This prevents loans that would likely default from being originated.

For credit unions, reduced default risk means lower loan loss reserves, fewer foreclosure proceedings, and more stable mortgage portfolios. These benefits translate to improved financial performance and ability to offer competitive mortgage rates to members.

### **Decrease in Post-Closing Disputes**

When homebuyers purchase homes without inspection and later discover defects, disputes frequently arise among sellers, buyers, real estate agents, and lenders. Buyers may assert that defects should have been disclosed, that agents failed to advise them properly, or that lenders should have required inspection.

S.8729/A.9629 reduces these disputes by ensuring systematic inspection. When homebuyers have professional inspections before closing, disputes about undisclosed defects substantially decrease. Buyers cannot credibly claim they were unaware of problems that inspection revealed, and sellers cannot claim buyers waived their right to know the property condition.

**The New York Credit Union Association urges the Legislature to pass the Right to Home Inspection Act, providing critical consumer protections for homebuyers while promoting market fairness and enhancing financial stability.**

For the over 7 million New Yorkers served by credit unions, S.8729/A.9629 provides essential protection for what is typically their largest financial investment. The legislation ensures that credit union members can access professional home inspection, understand property condition before purchase, and make informed decisions about homeownership. These protections are particularly critical for first-time homebuyers and moderate-income members who have limited financial reserves and are most vulnerable to the devastating financial impact of purchasing homes with serious undiscovered defects.