New York State Association of REALTORS®, Inc.

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MEMORANDUM IN OPPOSITION

S.8729-B by Senator Rachel May
Status: Senate Judiciary Committee

A.9629-C by Assemblymember Sarah Clark
Status: Assembly Judiciary Committee

Date: May 2026
Contact: Michael Kelly

The New York State Association of REALTORS® (NYSAR) **strongly opposes S.8729-B/A.9629-C** which would amend the state's Property Condition Disclosure Statement (PCDS) to prohibit a seller and prospective purchaser of residential real property, including cooperatives and condominiums, from agreeing to waive a home inspection; and would impose unnecessary delays in real estate transactions by requiring an up to 14-day waiting period following the buyer's receipt of a purchase agreement signed by both parties.

NYSAR recognizes the value of a home inspection when purchasing residential real property, in fact, REALTORS® convey its importance to their buyer clients. However, this legislation remains technically flawed and removes choices and options from the buyer as the decision to obtain a home inspection is unique to each transaction. Furthermore, financial and lending institutions already maintain their own varying requirements to obtain a home inspection when financing the purchase of residential real property. While we acknowledge and appreciate amendments to the bill by the sponsors, we must unfortunately continue to oppose this legislation for the reasons detailed below.

Importantly, this legislation fails to recognize the distinct contrasts between residential real estate transactions in the upstate and downstate markets. Downstate home inspections are typically performed by the buyer prior to the signing of a purchase agreement. The omission of any exemption in these instances provides for an extended delay and unnecessary uncertainty for both parties as other offers may arise during that time.

This bill has the potential to harm middle-class homebuyers with less capital and liquidity by limiting a potential competitive advantage in a tight housing market. Requiring an up to 14-day waiting period for a home inspection decision from a buyer will delay the transaction, during which time additional and higher purchase offers could price out middle-income buyers. Additionally, in New York, most real estate contracts have a contingency for an attorney approval window (typically 3 days). The up to 14-day waiting period for a home inspection decision proposed in this bill does not align with and far surpasses the established attorney approval window and would therefore be excessively restrictive.

The bill also disregards any threshold for material defects which would allow a buyer to cancel a purchase contract for even the most minor, inexpensive issue or repair. Currently, the threshold is approximately $2,000, and requires buyers to provide the portion of the inspection report identifying the material defect

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to a seller. This bill would eliminate the current practice and make the inspection report confidential to the buyer. At a minimum, the bill should be revised to include clear and objective standards for determining what constitutes an unsatisfactory home inspection, rather than leaving that determination to the sole discretion of the buyer. Additionally, the legislation should require the buyer to attach a copy of the home inspection report to the written notice of cancellation – this requirement would help to prevent buyers from cancelling purchase agreements on false pretenses and help sellers become aware of any issues that arise in the inspection so they can resolve them for future prospective buyers.

Furthermore, if a buyer cancels a purchase agreement based on the findings of a home inspection, by not providing a copy of the inspection report, the seller would not be able to disclose the defect to subsequent buyers since the seller does not have actual knowledge and proof of the defect. This will put subsequent buyers at a disadvantage.

The penalties included in the bill are excessive. A home seller could be assessed a civil penalty of more than $17,000 on a median priced home for any violation of the bill while navigating the complexity of a real estate transaction.

Just as REALTORS®, licensed under the Department of State, play a critical role in the transaction of residential real property, there are no current laws requiring home buyers and home sellers to consider hiring a REALTOR® or licensed real estate professional within a required set timeframe. Their utilization is strongly recommended; however, it is at the discretion of the home buyer or home seller to determine what is best for their individual personal and financial circumstances.

For these reasons, the New York State Association of REALTORS® **strongly opposes S.8729-B/A.9629-C.**

The New York State Association of REALTORS® is a not-for-profit trade organization representing approximately 60,000 of New York State's real estate professionals. The term REALTOR® is a registered trademark, which identifies real estate professionals who subscribe to a strict code of ethics as members of the National Association of REALTORS®. These REALTORS® are also members of the New York State Association of REALTORS® as well as their local board or association of REALTORS®.

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