



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB1727

Introduced 2/25/2005, by Sen. Martin A. Sandoval

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Residential Inspection Ordinance Act. Provides that any ordinance, local law, rule, or regulation calling or providing for the inspection of residential property, whether owned or leased, shall require the consent of the owner or the owner's agent or, if different than the owner, the occupant of the premises before the inspection occurs. Provides that no local ordinance, law, rule, or regulation may require a prospective buyer or prospective tenant to consent to future inspections of real property as a condition of owning or occupying that real property. Prohibits a municipality, county, or other local governmental body, or any official or officer thereof, from refusing to issue real estate transfer stamps in connection with the sale or conveyance of real property on the basis that an inspection of the real property required by ordinance has not been completed or that the issues or problems identified by an inspection have not been corrected or completed. Provides that a local or municipal inspection ordinance may provide that prior to a sale or lease of the real estate an escrow be established in an amount equal to the lower of a reasonable amount required by the municipality to effect the repairs or an amount indicated by a contractor in a proposal to complete the required repairs. Preempts home rule.

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HOME RULE NOTE  
ACT MAY APPLY

1 AN ACT concerning residential inspections.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Residential Inspection Ordinance Act.

6 Section 5. Purpose. The General Assembly has determined  
7 that basic limits and guarantees of rights need to be adopted  
8 by the State of Illinois regarding the enforcement of local  
9 inspection ordinances and to that end this Act is enacted.

10 Section 10. Consent. Any local ordinance, law, rule, or  
11 regulation calling or providing for the inspection of  
12 residential property, whether owned or leased, shall require  
13 the consent of the owner or the owner's agent or, if different  
14 than the owner, the occupant of the premises before the  
15 inspection occurs. If consent is denied or cannot be reasonably  
16 obtained, the ordinance shall provide a process or procedure  
17 for an administrative warrant to be obtained that, at a  
18 minimum, provides for those protections guaranteed by the  
19 constitutions of the United States of America and the State of  
20 Illinois. No action, sanction, or penalty may be taken or  
21 imposed against an owner or occupant for exercising his or her  
22 constitutional right to refuse to consent to a warrantless  
23 inspection. No local ordinance, law, rule, or regulation may  
24 require a prospective buyer or prospective tenant to consent to  
25 future inspections of real property as a condition of owning or  
26 occupying that real property.

27 Section 15. Real estate transfer stamps. No municipality,  
28 county, or other local governmental body, and no official or  
29 officer thereof, may refuse to issue real estate transfer  
30 stamps in connection with the sale or conveyance of real

1 property on the basis that an inspection of the real property  
2 required by ordinance has not been completed or that the issues  
3 or problems identified by an inspection have not been corrected  
4 or completed.

5 Section 20. Escrow. A local or municipal inspection  
6 ordinance may provide that an escrow must be established prior  
7 to the sale or lease of real estate in an amount equal to the  
8 lower of a reasonable amount required by the municipality to  
9 effect the repairs or an amount indicated by a contractor in a  
10 proposal to complete the required repairs. The ordinance may  
11 further provide that if an inspection has been completed, the  
12 owner notified that certain repairs are required, and the  
13 amount estimated to be needed to complete the repairs, then the  
14 seller (or owner in the case of a lease of rental residential  
15 property) shall remain liable for the cost of the repairs after  
16 conveyance of the real estate unless the required escrow has  
17 been established prior to conveyance of the real estate.  
18 Escrowed funds may be placed with any person or entity acting  
19 as an independent escrowee, as provided for in the Title  
20 Insurance Act, or any person or entity exempt from the  
21 independent escrowee provisions of that Act. Escrowed moneys  
22 shall be available to pay contractors, subcontractors,  
23 vendors, material persons, and suppliers during the progress of  
24 and upon the completion of needed repairs.

25 Section 25. Exceptions. This Act shall not apply to  
26 inspections of residential property that is (i) under  
27 construction or that has been constructed but not yet occupied,  
28 or (ii) open and vacant.

29 Section 30. Home rule. A home rule unit may not regulate  
30 the inspection of residential real property in a manner more  
31 restrictive than the regulation by the State. This Section is a  
32 limitation under subsection (i) of Section 6 of Article VII of  
33 the Illinois Constitution on the concurrent exercise by home

1 rule powers and functions exercised by the State.