

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

565L0565

## HOUSE BILL NO. 1147

Introduced by: Representatives Lange, Bradford, Dennert, and Elliott

1 FOR AN ACT ENTITLED, An Act to provide for certain inspections by licensed home  
2 inspectors, to limit certain recoveries with regard to the sale of residential property, to limit  
3 the application of the statute of limitations, and to provide for the recoveries of certain costs  
4 and attorney fees.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. No person may transfer any residential building for any valuable consideration  
7 unless the buyer has retained the services of a licensed home inspector. The licensed home  
8 inspector shall conduct an inspection and make a written evaluation pursuant to chapter 36-21C  
9 and provide copies to the buyer, the seller, and the real estate broker prior to closing.

10 Section 2. In the transfer of any residential building to which the provisions of section 1 of  
11 this Act apply, the buyer shall initiate any civil action against the seller based on discovery of  
12 defect or warrantability within one year of entry. Thereafter any cause of action based on  
13 discovery of defect or warrantability is barred.

14 Section 3. The provisions of section 2 of this Act do not apply to any cause of action that  
15 the buyer may have against the licensed home inspector.

16 Section 4. If any buyer, as plaintiff, initiates a civil action against a seller pursuant to this



1 Act and does not recover any damages, the seller, as defendant, is entitled to be awarded costs  
2 and attorney fees.

3 Section 5. The provisions of this Act do not apply:

4 (1) If the buyer and the seller mutually agree, in writing, to waive the inspection and  
5 written evaluation provided for in section 1 of this Act; or

6 (2) The terms of the contract for sale provide for the supersession of any or all of the  
7 provisions of this Act.