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Inspections tied to new insurance policy will give buyers and sellers peace of mind

THE CONSUMER Protection Act (CPA) affords home buyers specific protection and rights.

Likewise, home sellers and agents have specific responsibilities and liabilities, says John Graham chief executive of HouseCheck, a home inspection company.

Graham says that in terms of the act, buyers have a right to expect that the properties being bought are of good qual-

ity, comply with all relevant legal standards and are without undisclosed defects.

"The CPA defines defects as 'any imperfection that renders the property less acceptable than persons would reasonably be entitled to expect in the circumstances'," he says.

"The traditional 'voetstoets' (as is) no longer provides blanket protection for sellers and their agents. Section 55 (5) of

the act says: 'It is irrelevant whether a product failure or defect was latent or patent, or whether it could have been detected by a consumer before taking delivery of the goods.'

"However, the buyers' right to receive good quality properties free of defects does not apply if the buyers have been specifically informed that the properties were offered to them in a specific condition and they

have expressly agreed to accept the property in that condition - Section 55 (6)."

Graham says the only real protection from liability under the CPA is for sellers and agents to commission home inspection reports upfront and to make the reports available to potential buyers. He also recommends that deeds of sale should include declarations by the buyers that they are aware

of the defects disclosed in the reports.

"Even if a home inspection report is made available to the buyer, during a six-month period after the buyer has taken delivery of the property, the buyer can demand redress if previously undisclosed defects are discovered.

"In terms of the act this redress places an obligation on the seller to 'repair, replace or

refund' - Section 56 (2). The CPA provides for a further three month implied warrant after these defects have been repaired - Section 56 (3)."

He says that if the seller and estate agent have taken the precaution of commissioning a home inspection report then the only potential liability remaining after the buyer has taken delivery of the property is for latent defects which could

not be seen by the home inspector. These could include faulty plumbing in walls, roof leaks or equipment failure (for instance a burst geyser); and observable defects which were missed by the inspector.

Graham says HouseCheck is working with associates to develop an insurance product that will protect sellers and estate agents from liability under the CPA. He says this

product will also provide peace of mind for buyers.

"Buyers will know that for the period of the insurance they will have no unexpected maintenance costs for their new property. The insurance periods to be offered will probably be for 12 and 24 months and will involve a once-off single premium," says Graham.

Call Graham on 083 310 9766 or e-mail john@housecheck.co.za.