

By: Huffman

S.B. No. 765

A BILL TO BE ENTITLED

AN ACT

relating to seller's disclosures regarding the proximity of certain residential real property to certain landfills and related facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5.008(b), Property Code, is amended to read as follows:

(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE

CONCERNING THE PROPERTY AT _____

(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller ___ is ___ is not occupying the Property.

If unoccupied, how long since Seller has occupied the Property?

1. The Property has the items checked below:

Write Yes (Y), No (N), or Unknown (U).

- | | | |
|--|---|--|
| <input type="checkbox"/> Range | <input type="checkbox"/> Oven | <input type="checkbox"/> Microwave |
| <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Trash Compactor | <input type="checkbox"/> Disposal |
| <input type="checkbox"/> Washer/Dryer | <input type="checkbox"/> Window | <input type="checkbox"/> Rain Gutters |
| <input type="checkbox"/> Hookups | <input type="checkbox"/> Screens | |
| <input type="checkbox"/> Security System | <input type="checkbox"/> Fire Detection Equipment | <input type="checkbox"/> Intercom System |

- 1 ___ Smoke Detector
- 2 ___ Smoke Detector -
- 3 Hearing Impaired
- 4 ___ Carbon Monoxide
- 5 Alarm
- 6 ___ Emergency Escape
- 7 Ladder(s)
- 8 ___ TV Antenna ___ Cable TV ___ Satellite
- 9 Wiring Dish
- 10 ___ Ceiling Fan(s) ___ Attic Fan(s) ___ Exhaust
- 11 Fan(s)
- 12 ___ Central A/C ___ Central Heating ___ Wall/Window
- 13 Air
- 14 Conditioning
- 15 ___ Plumbing System ___ Septic System ___ Public Sewer
- 16 System
- 17 ___ Patio/Decking ___ Outdoor Grill ___ Fences
- 18 ___ Pool ___ Sauna ___ Spa
- 19 Hot Tub
- 20 ___ Pool Equipment ___ Pool Heater ___ Automatic
- 21 Lawn
- 22 Sprinkler
- 23 System
- 24 ___ Fireplace(s) & ___ Fireplace(s)
- 25 Chimney & Chimney
- 26 (Woodburning) (Mock)
- 27 ___ Natural Gas Lines ___ Gas Fixtures
- 28 ___ Liquid Propane Gas: ___ LP Community ___ LP on Property
- 29 (Captive)
- 30 Garage: ___ Attached ___ Not Attached ___ Carport
- 31 Garage Door Opener(s): ___ Electronic ___ Control(s)
- 32 Water Heater: ___ Gas ___ Electric
- 33 Water Supply: ___ City ___ Well ___ MUD ___ Co-op

34 Roof Type: _____ Age: _____(approx)

35 Are you (Seller) aware of any of the above items that are not in
 36 working condition, that have known defects, or that are in need of
 37 repair? ___ Yes ___ No ___ Unknown.

38 If yes, then describe. (Attach additional sheets if necessary):

39 _____
 40 _____

41 2. Does the property have working smoke detectors installed in
 42 accordance with the smoke detector requirements of Chapter 766,
 43 Health and Safety Code?* ___ Yes ___ No ___ Unknown.

1 If the answer to the question above is no or unknown, explain.
2 (Attach additional sheets if necessary):

3
4

5 *Chapter 766 of the Health and Safety Code requires
6 one-family or two-family dwellings to have working smoke detectors
7 installed in accordance with the requirements of the building code
8 in effect in the area in which the dwelling is located, including
9 performance, location, and power source requirements. If you do
10 not know the building code requirements in effect in your area, you
11 may check unknown above or contact your local building official for
12 more information. A buyer may require a seller to install smoke
13 detectors for the hearing impaired if: (1) the buyer or a member of
14 the buyer's family who will reside in the dwelling is hearing
15 impaired; (2) the buyer gives the seller written evidence of the
16 hearing impairment from a licensed physician; and (3) within 10
17 days after the effective date, the buyer makes a written request for
18 the seller to install smoke detectors for the hearing impaired and
19 specifies the locations for installation. The parties may agree
20 who will bear the cost of installing the smoke detectors and which
21 brand of smoke detectors to install.

22 3. Are you (Seller) aware of any known defects/malfunctions in any
23 of the following?

24 Write Yes (Y) if you are aware, write No (N) if you are not aware.

25
26 Interior Walls Ceilings Floors
27 Exterior Walls Doors Windows
28 Roof Foundation/
29 Slab(s) Basement
30 Walls/Fences Driveways Sidewalks

1 Plumbing/Sewers/ Electrical Lighting
2 Septics Systems Fixtures

3 Other Structural Components (Describe): _____

4 _____

5 _____

6 If the answer to any of the above is yes, explain. (Attach
7 additional sheets if necessary): _____

8 _____

9 _____

10 4. Are you (Seller) aware of any of the following conditions?

11 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- 12 Active Termites Previous Structural
- 13 (includes or Roof Repair
- 14 wood-destroying insects)
- 15 Termite or Wood Rot Damage Hazardous or Toxic Waste
- 16 Needing Repair
- 17 Previous Termite Damage Asbestos Components
- 18 Previous Termite Urea formaldehyde
- 19 Treatment Insulation
- 20 Radon Gas
- 21 Improper Drainage Lead Based Paint
- 22 Water Damage Not Due to a Aluminum Wiring
- 23 Flood Event
- 24 Previous Fires
- 25 Landfill, Settling, Soil Unplatted Easements
- 26 Movement, Fault Lines Subsurface
- 27 Single Blockable Main Structure or Pits
- 28 Drain in Pool/Hot Previous Use of Premises
- 29 Tub/Spa* for Manufacture of
- 30 Methamphetamine
- 31 Methamphetamine

32 If the answer to any of the above is yes, explain. (Attach
33 additional sheets if necessary): _____

34 _____

35 _____

36 *A single blockable main drain may cause a suction entrapment
37 hazard for an individual.

38 5. Are you (Seller) aware of any item, equipment, or system in or

1 on the property that is in need of repair? Yes (if you are
2 aware) No (if you are not aware). If yes, explain (attach
3 additional sheets as necessary).

4 _____

5 6. Are you (Seller) aware of any of the following conditions?*

6 Write Yes (Y) if you are aware, write No (N) if you are not aware.

7 Present flood insurance coverage

8 Previous flooding due to a failure or breach of a reservoir or a
9 controlled or emergency release of water from a reservoir

10 Previous water penetration into a structure on the property due
11 to a natural flood event

12 Write Yes (Y) if you are aware and check wholly or partly as
13 applicable, write No (N) if you are not aware.

14 Located () wholly () partly in a 100-year floodplain (Special
15 Flood Hazard Area-Zone A, V, A99, AE, AO, AH, VE, or AR)

16 Located () wholly () partly in a 500-year floodplain
17 (Moderate Flood Hazard Area-Zone X (shaded))

18 Located () wholly () partly in a floodway

19 Located () wholly () partly in a flood pool

20 Located () wholly () partly in a reservoir

21 If the answer to any of the above is yes, explain (attach additional
22 sheets as necessary):

23 * For purposes of this notice:

24 "100-year floodplain" means any area of land that:

25 (A) is identified on the flood insurance rate map
26 as a special flood hazard area, which is designated as Zone A, V,
27 A99, AE, AO, AH, VE, or AR on the map;

28 (B) has a one percent annual chance of flooding,
29 which is considered to be a high risk of flooding; and

30 (C) may include a regulatory floodway, flood
31 pool, or reservoir.

32 "500-year floodplain" means any area of land that:

33 (A) is identified on the flood insurance rate map

1 as a moderate flood hazard area, which is designated on the map as
2 Zone X (shaded); and

3 (B) has a two-tenths of one percent annual chance
4 of flooding, which is considered to be a moderate risk of flooding.

5 "Flood pool" means the area adjacent to a reservoir that lies
6 above the normal maximum operating level of the reservoir and that
7 is subject to controlled inundation under the management of the
8 United States Army Corps of Engineers.

9 "Flood insurance rate map" means the most recent flood hazard
10 map published by the Federal Emergency Management Agency under the
11 National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et
12 seq.).

13 "Floodway" means an area that is identified on the flood
14 insurance rate map as a regulatory floodway, which includes the
15 channel of a river or other watercourse and the adjacent land areas
16 that must be reserved for the discharge of a base flood, also
17 referred to as a 100-year flood, without cumulatively increasing
18 the water surface elevation more than a designated height.

19 "Reservoir" means a water impoundment project operated by the
20 United States Army Corps of Engineers that is intended to retain
21 water or delay the runoff of water in a designated surface area of
22 land.

23 7. Have you (Seller) ever filed a claim for flood damage to the
24 property with any insurance provider, including the National Flood
25 Insurance Program (NFIP)?* Yes No. If yes, explain (attach
26 additional sheets as necessary):

27 *Homes in high risk flood zones with mortgages from federally

1 regulated or insured lenders are required to have flood insurance.
2 Even when not required, the Federal Emergency Management Agency
3 (FEMA) encourages homeowners in high risk, moderate risk, and low
4 risk flood zones to purchase flood insurance that covers the
5 structure(s) and the personal property within the structure(s).

6 8. Have you (Seller) ever received assistance from FEMA or the
7 U.S. Small Business Administration (SBA) for flood damage to the
8 property? Yes No. If yes, explain (attach additional sheets
9 as necessary):

10 9. Are you (Seller) aware of any of the following?

11 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- 12 Room additions, structural modifications, or other
- 13 alterations or repairs made without necessary permits or not
- 14 in compliance with building codes in effect at that time.
- 15 Homeowners' Association or maintenance fees or assessments.
- 16 Any "common area" (facilities such as pools, tennis courts,
- 17 walkways, or other areas) co-owned in undivided interest with
- 18 others.
- 19 Any notices of violations of deed restrictions or
- 20 governmental ordinances affecting the condition or use of the
- 21 Property.
- 22 Any lawsuits directly or indirectly affecting the Property.
- 23 Any condition on the Property which materially affects the
- 24 physical health or safety of an individual.
- 25 Any rainwater harvesting system located on the property that
- 26 is larger than 500 gallons and that uses a public water supply
- 27 as an auxiliary water source.
- 28 Any portion of the property that is located in a groundwater
- 29 conservation district or a subsidence district.
- 30 Any portion of the property that is located within one mile of
- 31 the boundary of a municipal solid waste facility that requires
- 32 a permit or registration issued by the Texas Commission on
- 33 Environmental Quality.

34 If the answer to any of the above is yes, explain. (Attach
35 additional sheets if necessary): _____

36 _____

37 _____

1 10. If the property is located in a coastal area that is seaward of
2 the Gulf Intracoastal Waterway or within 1,000 feet of the mean high
3 tide bordering the Gulf of Mexico, the property may be subject to
4 the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63,
5 Natural Resources Code, respectively) and a beachfront
6 construction certificate or dune protection permit may be required
7 for repairs or improvements. Contact the local government with
8 ordinance authority over construction adjacent to public beaches
9 for more information.

10 11. This property may be located near a military installation and
11 may be affected by high noise or air installation compatible use
12 zones or other operations. Information relating to high noise and
13 compatible use zones is available in the most recent Air
14 Installation Compatible Use Zone Study or Joint Land Use Study
15 prepared for a military installation and may be accessed on the
16 Internet website of the military installation and of the county and
17 any municipality in which the military installation is located.

18 _____
19 Date Signature of Seller

20 The undersigned purchaser hereby acknowledges receipt of the
21 foregoing notice.

22 _____
23 Date Signature of Purchaser

24 SECTION 2. Section 5.008(b), Property Code, as amended by
25 this Act, applies only to a transfer of property that occurs on or
26 after the effective date of this Act. A transfer of property that
27 occurs before the effective date of this Act is governed by the law

1 applicable to the transfer immediately before that date, and the
2 former law is continued in effect for that purpose. For the
3 purposes of this section, a transfer of property occurs before the
4 effective date of this Act if the contract binding the purchaser to
5 purchase the property is executed before that date.

6 SECTION 3. This Act takes effect September 1, 2021.