

By: Harris

S.B. No. 1162

A BILL TO BE ENTITLED

AN ACT

relating to notice in certain real property transactions concerning public improvement districts.

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

SECTION 1. Subchapter A, Chapter 5, Property Code, is amended by adding Section 5.014 to read as follows:

Sec. 5.014. NOTICE OF OBLIGATIONS RELATED TO PUBLIC IMPROVEMENT DISTRICT. (a) A seller of residential real property that is located in a public improvement district established under Chapter 372, Local Government Code, and that consists of not more than one dwelling unit located in this state shall give to the purchaser of the property a written notice that reads substantially similar to the following:

NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT TO (municipality or county levying assessment) CONCERNING THE PROPERTY AT (street address)

As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment.

The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

Date: _____

Signature of Purchaser

(b) The seller shall deliver the notice required under Subsection (a) to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. The notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser. If the notice is included as part of the executory contract or another notice, the title of the notice prescribed by this section, the references to the street address and date in the notice, and the purchaser's signature on the notice may be omitted.

(c) This section does not apply to a transfer:

(1) under a court order or foreclosure sale;

(2) by a trustee in bankruptcy;

(3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;

(4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;

(5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;

1 (6) from one co-owner to another co-owner of an
2 undivided interest in the real property;

3 (7) to a spouse or a person in the lineal line of
4 consanguinity of the seller;

5 (8) to or from a governmental entity;

6 (9) of only a mineral interest, leasehold interest, or
7 security interest; or

8 (10) of a real property interest in a condominium.

9 (d) If an executory contract is entered into without the
10 seller providing the notice required by this section, the purchaser
11 may terminate the contract for any reason not later than the earlier
12 of:

13 (1) the seventh day after the date the purchaser
14 receives the notice; or

15 (2) the date the transfer occurs as provided by the
16 executory contract.

17 (e) The purchaser's right to terminate the executory
18 contract under Subsection (d) is the purchaser's exclusive remedy
19 for the seller's failure to provide the notice required by this
20 section.

21 SECTION 2. Section 5.014, Property Code, as added by this
22 Act, applies only to an executory contract that is binding on a
23 seller and purchaser on or after January 1, 2006.

24 SECTION 3. This Act takes effect September 1, 2005.