

By: Villarreal

H.B. No. 3820

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the disclosure and use of sales price of real property
3 sales; providing a civil penalty.

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

5 SECTION 1. Title 3, Property Code, is amended by adding
6 Chapter 12A to read as follows:

7 CHAPTER 12A. MANDATORY SALES PRICE DISCLOSURE

8 Sec. 12A.01. MANDATORY SALES PRICE DISCLOSURE. (a) The
9 commissioners court of a county may call an election in the county
10 to permit the voters of the county to determine whether a person
11 must disclose the sales price of the property in the manner provided
12 by this subsection. The election shall be held on the date of the
13 next general election for state and county officers. If a majority
14 of the votes cast at the election favor the establishment of
15 mandatory sales price disclosure, the requirement applies
16 beginning with the tax year following the year in which the election
17 is held.

18 (b) A person shall not file for record or have recorded in
19 the county clerk's office an instrument conveying real property
20 under a contract for sale unless the instrument is attached to a
21 sales price disclosure report as defined by this chapter.

22 SEC. 12A.02 SALES PRICE DISCLOSURE REPORT. (a) A sales
23 price disclosure report filed under this chapter must disclose the
24 sales price of the property of the attached instrument conveying

1 real property under a contract for sale or the exemption under
2 Section 12A.05 that qualifies the purchaser for nondisclosure of
3 sales information.

4 (b) To further explain sales price, a filer may also
5 disclose within the sales price disclosure report:

6 (1) the method used to finance the sales price, such
7 as: cash sale, cash and third-party financing, cash and seller
8 financing, or other;

9 (2) whether the sale involved property other than real
10 property and the type of property, whether tangible or intangible,
11 involved in the sale and, if so, the portion of the sales price
12 allocated between real property, business personal property and
13 intangibles;

14 (3) whether the sale involved property located in more
15 than one county and, if so, the portion of the sales price or other
16 consideration allocated to the portion of the property located in
17 each county;

18 (4) whether the sale was part of a combined sale of
19 real property investments and, if so, the portion of the combined
20 sales price allocated to the property subject to Section 12A.01;

21 (5) whether the sale involved a 1031 tax exchange,
22 under the United States Internal Revenue Code;

23 (6) whether the sale is the sale of an entire business
24 or business unit; and

25 (7) a description of any unusual or extraordinary
26 terms of the sale or transfer that affected the amount of the sales
27 price;

1 (c) A sales price disclosure report must be signed by the
2 purchaser of the real property described in the report.

3 (d) The comptroller shall adopt and make available
4 electronically a form that shall be used to file the information
5 required in the sales price disclosure report.

6 (e) A sales price disclosure report must be prepared by the
7 purchaser of the property described in the report or by another
8 person on behalf of the purchaser.

9 (f) A person who prepares a sales price disclosure report on
10 behalf of a purchaser of the property described in the report is not
11 liable to any person for preparing the report or for any
12 unintentional error or omission in the report.

13 Sec. 12A.03. COUNTY CLERK RESPONSIBILITY. (a) The county
14 clerk shall not under any circumstance reject an instrument
15 presented for recording solely because the instrument fails to
16 comply with this Chapter.

17 (b) The county clerk shall not be held criminally or civilly
18 liable for recording or disclosing a sales price disclosure report
19 or information in a sales price disclosure report.

20 Sec. 12A.04. ACTION TO COMPEL COMPLIANCE. (a) The chief
21 appraiser upon discovery of a recorded instrument conveying real
22 property under a contract for sale lacking an attached sales price
23 disclosure report or a sales price disclosure report containing
24 errors or omissions and recorded after September 1, 2007 and within
25 his jurisdiction shall give written notice to the purchaser: (1)
26 identifying errors or omissions, (2) instructing the purchaser how
27 to file a sales price disclosure report, (3) informing the

1 purchaser of penalties for failure to properly file a sales price
2 disclosure report within 30 days of the mailed notice, and (4)
3 include a sales price disclosure report.

4 (b) Thirty days after the date the chief appraiser gives
5 written notice to the purchaser, the purchaser of any property for
6 which an instrument is recorded in violation of this Chapter shall
7 be liable to the state for a civil penalty for each violation in an
8 amount equal to five percent of the sales price of the property.

9 (c) The attorney general or the county or district attorney
10 for the county in which the property is located may bring suit to
11 recover a penalty under this Chapter.

12 Sec. 12A.05. EXEMPTIONS. (a) A filer may use the sales price
13 disclosure report to claim an exemption from listing the sales
14 price of real property on the sales price disclosure form, and omit
15 the sales price from the sales price disclosure form, if:

16 (1) the sale is made pursuant to a court order;

17 (2) the sale is made to or from a trustee in
18 bankruptcy;

19 (3) the sale is made pursuant to a power of sale under
20 a deed of trust or other encumbrance secured by the property;

21 (4) the sale is made by a deed in lieu of foreclosure;

22 (5) the sale is made by one co-owner to one or more
23 other co-owners;

24 (6) the sale is made to a spouse or to a person or
25 persons in the first degree of lineal consanguinity of one or more
26 of the sellers or grantors;

27 (7) the sale is made to or from a governmental entity;

1 (8) the sale is made pursuant to the power of eminent
2 domain;

3 (9) the sale is made to a utility company and the real
4 property is an easement, license, or right-of-way;

5 (10) it represents a transfer of title pursuant to a
6 merger or combination of corporation, partnerships, limited
7 liability companies or other entities under common control;

8 (11) it represents a transfer among entities under
9 common control (i) as a contribution to, or a dividend or
10 distribution of, capital for no consideration or nominal
11 consideration, or (ii) in sole consideration for canceling or
12 surrendering an interest in a corporation, partnership, limited
13 liability company or other entity;

14 (12) the real property is a severed mineral interest;
15 or

16 (13) the real property is a timeshare interest in real
17 property.

18 Sec. 12A.06. USE OF SALES DATA. (a) The sales data disclosed
19 under this Chapter shall not be used as the sole basis by the chief
20 appraiser to increase the market value of the real property
21 described in the sales price disclosure report.

22 Sec. 12A.07. AUTHORITY TO BRING SUIT. (a) A person may sue
23 an appraisal district or appraisal review board to compel the
24 appraisal district or appraisal review board to comply with the
25 provisions of Section 12A.06 if the failure to comply causes or will
26 cause substantial economic harm to or denial of a statutory or
27 constitutional right of that person. A person bringing an action

1 under this subsection must pay \$500 into the registry of the court.
2 The court shall distribute that amount to the prevailing party on
3 entry of final judgment in the action.

4 (b) If the party bringing an action under this section
5 prevails on the merits, the court shall enter an order compelling
6 the appraisal district or appraisal review board to comply with the
7 applicable law and ordering that the prevailing party recover its
8 costs.

9 (c) This section applies only to Section 12A.06.

10 (d) As a prerequisite to filing a suit under this section, a
11 person shall give certified written notice to the defendant at
12 least 60 days before filing the suit advising in reasonable detail
13 of the person's specific complaint.

14 SECTION 2. This Act takes effect January 1, 2008.