

A BILL TO BE ENTITLED

AN ACT

relating to carbon monoxide alarms and smoke detectors in certain residential dwellings.

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

SECTION 1. This Act shall be known as the Senator Frank Madla Act.

SECTION 2. Subtitle A, Title 9, Health and Safety Code, is amended by adding Chapter 766 to read as follows:

CHAPTER 766. FIRE SAFETY IN RESIDENTIAL DWELLINGS

Sec. 766.001. DEFINITIONS. In this chapter:

(1) "Carbon monoxide alarm" means a device that detects and sounds an alarm to indicate the presence of a harmful level of carbon monoxide gas.

(2) "Department" means the Texas Department of Insurance.

(3) "Fossil fuel" includes coal, kerosene, oil, wood, fuel gases, and other petroleum or hydrocarbon products.

(4) "One-family or two-family dwelling" means a structure that has one or two residential units that are occupied as, or designed or intended for occupancy as, a residence by individuals.

(5) "Smoke detector" means a device or a listed component of a system that detects and sounds an alarm to indicate the presence of visible or invisible products of combustion in the

1 air.

2 (6) "Smoke detector for hearing-impaired persons" has
3 the meaning assigned by Section 792.001.

4 Sec. 766.002. SMOKE DETECTOR REQUIREMENT. (a) Each
5 one-family or two-family dwelling constructed in this state must
6 have working smoke detectors installed in the dwelling in
7 accordance with the smoke detector requirements of the building
8 code in effect in the political subdivision in which the dwelling is
9 located, including performance, location, and power source
10 requirements.

11 (b) If a one-family or two-family dwelling does not comply
12 with the smoke detector requirements of the building code in effect
13 in the political subdivision in which the dwelling is located, any
14 home improvement to the dwelling that requires the issuance of a
15 building permit must include the installation of smoke detectors in
16 accordance with the building code in effect in the political
17 subdivision in which the dwelling is located, including
18 performance, location, and power source requirements.

19 (c) Title to an existing one-family or two-family dwelling
20 may not be transferred unless there are working smoke detectors
21 installed in the dwelling in accordance with the smoke detector
22 requirements of the building code in effect in the political
23 subdivision in which the dwelling is located, including
24 performance, location, and power source requirements. If title to
25 an existing one-family or two-family dwelling is transferred to a
26 hearing-impaired person, any smoke detector required under the
27 building code in effect in the political subdivision must be a smoke

1 detector for a hearing-impaired person.

2 Sec. 766.0025. FRATERNITY AND SORORITY HOUSES. (a) In
3 this section, "fraternity or sorority house" means a dwelling that:

4 (1) is a separate structure and that is not a multiunit
5 residential property composed of multiple independent residential
6 units; and

7 (2) serves as living quarters for members of a
8 fraternity or sorority.

9 (b) The owner of a fraternity or sorority house must have
10 working smoke detectors installed in the fraternity house or
11 sorority house in accordance with the smoke detector requirements
12 of the building code in effect in the political subdivision in which
13 the fraternity or sorority house is located, including performance,
14 location, and power source requirements.

15 Sec. 766.003. INFORMATION RELATING TO FIRE SAFETY AND
16 CARBON MONOXIDE DANGERS. (a) The department shall prepare
17 information of public interest relating to:

18 (1) fire safety in the home; and

19 (2) the dangers of carbon monoxide.

20 (b) The information must inform the public about:

21 (1) ways to prevent fires in the home, and actions to
22 take if a fire occurs in the home;

23 (2) the need to test smoke detectors every month to
24 ensure the smoke detector is working;

25 (3) replacing the battery in a battery-operated smoke
26 detector every six months;

27 (4) the need to have fire safety equipment in the home,

- 1 including fire extinguishers and emergency escape ladders;
- 2 (5) the need to develop and practice a fire escape
- 3 plan;
- 4 (6) the availability of carbon monoxide detectors;
- 5 (7) using carbon monoxide alarms as a backup to
- 6 prevent carbon monoxide poisoning; and
- 7 (8) the need to properly use and maintain fossil
- 8 fuel-burning appliances.

9 (c) The department shall distribute the information
 10 described by this section to the public in any manner the department
 11 determines is cost-effective, including providing the information
 12 on the department's Internet website and publishing informational
 13 pamphlets.

14 SECTION 3. Subsection (b), Section 5.008, Property Code, is
 15 amended to read as follows:

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

18 SELLER'S DISCLOSURE NOTICE

19 CONCERNING THE PROPERTY AT _____
 20 (Street Address and City)

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

26 Seller ___ is ___ is not occupying the Property.

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

28 _____

29 1. The Property has the items checked below:

- 1 Write Yes (Y), No (N), or Unknown (U).
 2 Range Oven Microwave
 3 Dishwasher Trash Compactor Disposal
 4 Washer/Dryer Window Rain Gutters
 5 Hookups Screens
 6 Security Fire Detection Intercom
 7 System Equipment System
 8 Smoke Detector
 9 Smoke Detector -
 10 Hearing Impaired
 11 Carbon Monoxide
 12 Alarm
 13 Emergency Escape
 14 Ladder(s)
 15 TV Antenna Cable TV Satellite
 16 Ceiling Fan(s) Wiring Dish
 17 Central A/C Attic Fan(s) Exhaust
 18 Central Heating Fan(s)
 19 Plumbing System Central Heating Wall/Window Air
 20 Septic System Conditioning
 21 Outdoor Grill Public Sewer
 22 Pool Sauna System
 23 Pool Decking Fences
 24 Pool Spa
 25 Pool Equipment Pool Heater Hot Tub
 26 Automatic Lawn
 27 Sprinkler
 28 System
 29 Fireplace(s) & Fireplace(s) &
 30 Chimney Chimney
 31 (Woodburning) (Mock)
 32 Gas Lines Gas Fixtures
 33 (Nat./LP)
 34 Garage: Attached Not Attached Carport
 35 Garage Door Opener(s): Electronic Control(s)
 36 Water Heater: Gas Electric
 37 Water Supply: City Well MUD Co-op
 38 Roof Type: _____ Age: _____(approx)

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

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

43 _____
 44 _____

45 2. Are you (Seller) aware of any known defects/malfunctions in any

1 of the following?

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

- 3 Interior Walls Ceilings Floors
- 4 Exterior Walls Doors Windows
- 5 Roof Foundation/ Basement
- 6 Slab(s)
- 7 Walls/Fences Driveways Sidewalks
- 8 Plumbing/Sewers/ Electrical Lighting
- 9 Septics Systems Fixtures

10 Other Structural Components (Describe): _____

11 _____

12 _____

13 If the answer to any of the above is yes, explain. (Attach

14 additional sheets if necessary): _____

15 _____

16 _____

17 3. Are you (Seller) aware of any of the following conditions?

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

- 19 Active Termites Previous Structural
- 20 (includes or Roof Repair
- 21 wood-destroying insects)
- 22 Termite or Wood Rot Damage Hazardous or Toxic Waste
- 23 Needing Repair
- 24 Previous Termite Damage Asbestos Components
- 25 Previous Termite Urea formaldehyde
- 26 Treatment Insulation
- 27 Previous Flooding Radon Gas
- 28 Improper Drainage Lead Based Paint
- 29 Water Penetration Aluminum Wiring
- 30 Located in 100-Year Previous Fires
- 31 Floodplain
- 32 Present Flood Insurance Unplatted Easements
- 33 Coverage
- 34 Landfill, Settling, Soil Subsurface
- 35 Movement, Fault Lines Structure or Pits

36 If the answer to any of the above is yes, explain. (Attach

37 additional sheets if necessary): _____

38 _____

39 _____

1 4. Are you (Seller) aware of any item, equipment, or system in or
2 on the property that is in need of repair? ___ Yes (if you are
3 aware) ___ No (if you are not aware). If yes, explain (attach
4 additional sheets as necessary). _____

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

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

7 ___ Room additions, structural modifications, or other
8 alterations or repairs made without necessary permits or not
9 in compliance with building codes in effect at that time.

10 ___ Homeowners' Association or maintenance fees or assessments.

11 ___ Any "common area" (facilities such as pools, tennis courts,
12 walkways, or other areas) co-owned in undivided interest with
13 others.

14 ___ Any notices of violations of deed restrictions or
15 governmental ordinances affecting the condition or use of the
16 Property.

17 ___ Any lawsuits directly or indirectly affecting the Property.

18 ___ Any condition on the Property which materially affects the
19 physical health or safety of an individual.

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

22 _____

23 _____

24 _____

25 Date

Signature of Seller

26 The undersigned purchaser hereby acknowledges receipt of the
27 foregoing notice.

28 _____

29 Date

Signature of Purchaser

30 SECTION 4. Subchapter F, Chapter 92, Property Code, is
31 amended by adding Section 92.2571 to read as follows:

32 Sec. 92.2571. ALTERNATIVE COMPLIANCE. A landlord complies
33 with the requirements of this subchapter relating to the provision
34 of smoke detectors in the dwelling unit if the landlord:

1 (1) has a fire detection device, as defined by Article
2 5.43-2, Insurance Code, that includes a smoke detection device
3 installed in a dwelling unit; or

4 (2) for a dwelling unit that is a one-family or
5 two-family dwelling unit, installs smoke detectors in compliance
6 with Chapter 766, Health and Safety Code.

7 SECTION 5. The change in law made by this Act to Section
8 5.008, Property Code, applies only to a notice executed on or after
9 the effective date of this Act. A notice executed before the
10 effective date of this Act is governed by the law in effect
11 immediately before that date, and that law is continued in effect
12 for that purpose.

13 SECTION 6. This Act takes effect September 1, 2007.

1 COMMITTEE AMENDMENT NO. 1

2 Amend S.B. No. 338 (senate engrossment) in added Chapter 766,
3 Health and Safety Code, by inserting the following new section to
4 the chapter, appropriately numbered, and renumbering sections and
5 cross-references in the chapter accordingly:

6 Sec. 766.____. RESPONSIBILITY OF TITLE INSURANCE OR CLOSING
7 AGENT. A title insurance agent or other closing agent involved in
8 the transfer of title to a one-family or two-family dwelling is not,
9 on sale or transfer of the dwelling, responsible for:

10 (1) verifying that the seller has complied with the
11 requirements of this chapter; or

12 (2) ensuring that the dwelling complies with the
13 requirements of this chapter.

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15 COMMITTEE AMENDMENT NO. 2

16 Amend S.B. No. 338 (Senate engrossment) in SECTION 2 of the
17 bill by striking added Subsection (c), Section 766.002, Health and
18 Safety Code (page 2, line 19, through page 3, line 1).

19 80R20033 MCK-F

Solomons