

## **BILL ANALYSIS**

Senate Research Center

H.B. 3502  
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Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

A seller's disclosure notice to a purchaser of residential real property contains a place for the purchaser's signature and is merely an acknowledgement of receipt by the buyer. The signature provision is useful for sellers in providing evidence that they have complied with the statutory requirement to give such notice. However, with the language added to the notice during the 80th Legislature, Regular Session, 2007, a buyer who signs the notice is also acknowledging that the property complies with smoke detector requirements or that the buyer waives the right to have smoke detectors installed in compliance with statutes relating to fire safety in residential dwellings. As a consequence, many buyers refuse to sign the seller's disclosure notice for fear of giving up this right, which leaves the seller without evidence that the seller has provided the notice required by law. This bill seeks to better protect buyers by not compelling them to waive any right granted under statutes relating to fire safety in residential dwellings and assist sellers in securing evidence that the notice required by law was provided to the purchaser.

H.B. 3502 amends current law relating to the waiver of certain statutory rights in connection with a purchase of or loan secured by real property.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Reenacts Section 5.008(b), Property Code, as amended by Chapters 448 (H.B. 271), 1051 (H.B. 2118), and 1256 (H.B. 2819), Acts of the 80th Legislature, Regular Session, 2007, and amends it as follows:

(b) Requires that the notice be executed and, at a minimum, read substantially similar to a certain form.

SECTION 2. Amends Chapter 51, Property Code, by adding Section 51.0051 as follows:

Sec. 51.0051. CERTAIN WAIVERS PROHIBITED. Prohibits a person's right to bring an action for a determination of a property's fair market value under Section 51.003 (Deficiency Judgment), 51.004 (Judicial Foreclosure--Deficiency), or 51.005 (Judicial or Nonjudicial Foreclosure After Judgment Against Guarantor--Deficiency) from being waived by contract. Provides that a contract provision that violates this section is void.

SECTION 3. Makes application of the changes to Section 5.008, Property Code, made by this Act, prospective.

SECTION 4. Makes application of Section 51.0051, Property Code, as added by this Act, prospective.

SECTION 5. Effective date: January 1, 2010.