

BILL ANALYSIS

C.S.H.B. 3502
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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.

C.S.H.B. 3502 removes the portion of the seller's disclosure notice to a purchaser of residential real property stating that the purchaser acknowledges that the property complies with smoke detector requirements or that the buyer waives the right to have smoke detectors installed.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3502 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 those provisions to remove a portion of the seller's disclosure notice to a purchaser of residential real property stating that the purchaser acknowledges that the property complies with smoke detector requirements, or, if the property does not comply with smoke detector requirements, the buyer waives the buyer's rights to have smoke detectors installed in compliance with statutes relating to fire safety in residential dwellings.

EFFECTIVE DATE

January 1, 2010.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3502 differs from the original by reenacting 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, which effectively restores to the list of seller's disclosures whether a premises was previously used for the manufacture of methamphetamine, and restores the notice that if a property is located in a coastal area that is seaward of the Gulf Intracoastal

Waterway or within 1,000 feet of the mean high tide bordering the Gulf of Mexico, the property may be subject to the Open Beaches Act or the Dune Protection Act.

C.S.H.B. 3502 adds a standard saving provision and prospective clause not in the original.