

By: Leibowitz

H.B. No. 28

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to requiring notice by a seller of real property of  
3 potential annexation of the property by a municipality.

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

5 SECTION 1. Section 5.011(d), Property Code, is amended to  
6 read as follows:

7 (d) In addition to the [~~If the~~] notice required by [~~is~~  
8 ~~delivered as provided by~~] this section, the seller is required to  
9 provide the notice required by Section 5.0111 [~~has no duty to~~  
10 ~~provide additional information regarding the possible annexation~~  
11 ~~of the property by a municipality~~].

12 SECTION 2. Subchapter A, Chapter 5, Property Code, is  
13 amended by adding Section 5.0111 to read as follows:

14 Sec. 5.0111. SELLER'S DISCLOSURE REGARDING ANNEXATION  
15 PLAN. (a) In addition to the notice required by Section 5.011, a  
16 seller of property shall give written notice to a purchaser  
17 indicating whether the seller has received notice from a  
18 municipality under Section 43.052, Local Government Code, that the  
19 property is included in the municipality's annexation plan and may  
20 be subject to annexation by the municipality. The seller must  
21 include a copy of any notice received from the municipality by the  
22 seller under Section 43.052, Local Government Code. The written  
23 notice shall read substantially similar to the following:

NOTICE REGARDING POSSIBLE ANNEXATION

A seller of property is required by Section 5.0111, Property Code, to give a purchaser a written notice indicating whether the seller has received notice from a municipality under Section 43.052, Local Government Code, that the property is included in the municipality's annexation plan and may be subject to annexation by the municipality. In addition, the seller must include a copy of any notice received.

The seller must check which option applies:

\_\_\_\_\_ The seller of the property that is the subject of this contract has received notice under Section 43.052, Local Government Code, from a municipality that the property is included in the municipality's annexation plan and may be subject to annexation by the municipality. A copy of the notice is attached.

\_\_\_\_\_ The seller of the property that is the subject of this contract has not received notice under Section 43.052, Local Government Code, from a municipality that the property is included in the municipality's annexation plan.

\_\_\_\_\_ The seller of the property that is the subject of this contract is not aware whether notice has been received under Section 43.052, Local Government Code, from a municipality that the property is included in the municipality's annexation plan.

(b) The seller shall deliver the notice to the purchaser before the date the executory contract binds 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.

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

2               (1) under a court order or foreclosure sale;

3               (2) by a trustee in bankruptcy;

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

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

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

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

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

18               (8) to or from a governmental entity;

19               (9) of only a mineral interest, leasehold interest, or  
20 security interest; or

21               (10) of real property that is located wholly within a  
22 municipality's corporate boundaries.

23       (d) If an executory contract is entered into without the  
24 seller providing the notice required by this section, the purchaser  
25 may terminate the contract for any reason before the earlier of:

26               (1) the seventh day after the date the purchaser  
27 receives the notice; or

1           (2) the date the transfer occurs.

2           (e) Subsection (d) does not apply if the seller has not  
3 received written notice from a municipality under Section 43.052,  
4 Local Government Code, that the property is included in the  
5 municipality's annexation plan.

6           SECTION 3. This Act applies only to a transfer of property  
7 that occurs on or after the effective date of this Act. A transfer  
8 of property that occurs before the effective date of this Act is  
9 governed by the law applicable to the transfer immediately before  
10 that date, and the former law is continued in effect for that  
11 purpose. For the purposes of this section, a transfer of property  
12 occurs before the effective date of this Act if the contract binding  
13 the purchaser to purchase the property is executed before that  
14 date.

15           SECTION 4. This Act takes effect September 1, 2009.