

A BILL TO BE ENTITLED

AN ACT

relating to waiver of certain statutory rights in connection with a purchase of or loan secured by real property.

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

SECTION 1. 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, is reenacted and amended to read as follows:

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

SELLER'S DISCLOSURE NOTICE

CONCERNING THE PROPERTY AT _____ (Street Address and City)

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

Seller ___ is ___ is not occupying the Property.

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

1. The Property has the items checked below:

Write Yes (Y), No (N), or Unknown (U).

- | | | |
|--|---|--|
| <input type="checkbox"/> Range | <input type="checkbox"/> Oven | <input type="checkbox"/> Microwave |
| <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Trash Compactor | <input type="checkbox"/> Disposal |
| <input type="checkbox"/> Washer/Dryer | <input type="checkbox"/> Window | <input type="checkbox"/> Rain Gutters |
| <input type="checkbox"/> Hookups | <input type="checkbox"/> Screens | |
| <input type="checkbox"/> Security System | <input type="checkbox"/> Fire Detection Equipment | <input type="checkbox"/> Intercom System |

- 1 ___ Smoke Detector
- 2 ___ Smoke Detector -
- 3 Hearing Impaired
- 4 ___ Carbon Monoxide
- 5 Alarm
- 6 ___ Emergency Escape
- 7 Ladder(s)
- 8 ___ TV Antenna ___ Cable TV ___ Satellite
- 9 Wiring Dish
- 10 ___ Ceiling Fan(s) ___ Attic Fan(s) ___ Exhaust
- 11 Fan(s)
- 12 ___ Central A/C ___ Central Heating ___ Wall/Window
- 13 Air
- 14 Conditioning
- 15 ___ Plumbing System ___ Septic System ___ Public Sewer
- 16 System
- 17 ___ Patio/Decking ___ Outdoor Grill ___ Fences
- 18 ___ Pool ___ Sauna ___ Spa
- 19 Hot Tub
- 20 ___ Pool Equipment ___ Pool Heater ___ Automatic Lawn
- 21 Sprinkler
- 22 System
- 23 ___ Fireplace(s) & ___ Fireplace(s) &
- 24 Chimney Chimney
- 25 (Woodburning) (Mock)
- 26 ___ Gas Lines ___ Gas Fixtures
- 27 (Nat./LP)
- 28 Garage: ___ Attached ___ Not Attached ___ Carport
- 29 Garage Door Opener(s): ___ Electronic ___ Control(s)
- 30 Water Heater: ___ Gas ___ Electric
- 31 Water Supply: ___ City ___ Well ___ MUD ___ Co-op
- 32 Roof Type: _____ Age: _____(approx)

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

36 If yes, then describe. (Attach additional sheets if necessary):
 37 _____
 38 _____

39 2. Does the property have working smoke detectors installed in
 40 accordance with the smoke detector requirements of Chapter 766,
 41 Health and Safety Code? ___Yes ___No ___Unknown.

42 If the answer to the question above is no or unknown, explain.
 43 (Attach additional sheets if necessary): _____

1 _____
2 _____

3 3. Are you (Seller) aware of any known defects/malfunctions in any
4 of the following?

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

- | | | | |
|----|--|---|---|
| 6 | <input type="checkbox"/> Interior Walls | <input type="checkbox"/> Ceilings | <input type="checkbox"/> Floors |
| 7 | <input type="checkbox"/> Exterior Walls | <input type="checkbox"/> Doors | <input type="checkbox"/> Windows |
| 8 | <input type="checkbox"/> Roof | <input type="checkbox"/> Foundation/
Slab(s) | <input type="checkbox"/> Basement |
| 9 | | | |
| 10 | <input type="checkbox"/> Walls/Fences | <input type="checkbox"/> Driveways | <input type="checkbox"/> Sidewalks |
| 11 | <input type="checkbox"/> Plumbing/Sewers/
Septics | <input type="checkbox"/> Electrical
Systems | <input type="checkbox"/> Lighting
Fixtures |

13 Other Structural Components (Describe): _____
14 _____
15 _____

16 If the answer to any of the above is yes, explain. (Attach
17 additional sheets if necessary): _____
18 _____
19 _____

20 4. Are you (Seller) aware of any of the following conditions?

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

- | | | |
|----|--|--|
| 22 | <input type="checkbox"/> Active Termites | <input type="checkbox"/> Previous Structural
or Roof Repair |
| 23 | (includes | |
| 24 | wood-destroying insects) | |
| 25 | <input type="checkbox"/> Termite or Wood Rot Damage
Needing Repair | <input type="checkbox"/> Hazardous or Toxic Waste |
| 26 | | |
| 27 | <input type="checkbox"/> Previous Termite Damage | <input type="checkbox"/> Asbestos Components |
| 28 | <input type="checkbox"/> Previous Termite
Treatment | <input type="checkbox"/> Urea formaldehyde
Insulation |
| 29 | | |
| 30 | <input type="checkbox"/> Previous Flooding | <input type="checkbox"/> Radon Gas |
| 31 | <input type="checkbox"/> Improper Drainage | <input type="checkbox"/> Lead Based Paint |
| 32 | <input type="checkbox"/> Water Penetration | <input type="checkbox"/> Aluminum Wiring |
| 33 | <input type="checkbox"/> Located in 100-Year
Floodplain | <input type="checkbox"/> Previous Fires |
| 34 | | |
| 35 | <input type="checkbox"/> Present Flood Insurance
Coverage | <input type="checkbox"/> Unplatted Easements |
| 36 | | |
| 37 | <input type="checkbox"/> Landfill, Settling, Soil
Movement, Fault Lines | <input type="checkbox"/> Subsurface
Structure or Pits |
| 38 | | |
| 39 | | <input type="checkbox"/> Previous Use of
Premises for |
| 40 | | |

Manufacture of
Methamphetamine

1
2
3 If the answer to any of the above is yes, explain. (Attach
4 additional sheets if necessary): _____
5 _____
6 _____

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

11 6. Are you (Seller) aware of any of the following?
12 Write Yes (Y) if you aware, write No (N) if you are not aware.
13 ___ Room additions, structural modifications, or other
14 alterations or repairs made without necessary permits or not
15 in compliance with building codes in effect at that time.
16 ___ Homeowners' Association or maintenance fees or assessments.
17 ___ Any "common area" (facilities such as pools, tennis courts,
18 walkways, or other areas) co-owned in undivided interest with
19 others.
20 ___ Any notices of violations of deed restrictions or
21 governmental ordinances affecting the condition or use of the
22 Property.
23 ___ Any lawsuits directly or indirectly affecting the Property.
24 ___ Any condition on the Property which materially affects the
25 physical health or safety of an individual.

26 If the answer to any of the above is yes, explain. (Attach
27 additional sheets if necessary): _____
28 _____
29 _____

30 7 [~~6~~]. If the property is located in a coastal area that is seaward
31 of the Gulf Intracoastal Waterway or within 1,000 feet of the mean
32 high tide bordering the Gulf of Mexico, the property may be subject
33 to the Open Beaches Act or the Dune Protection Act (Chapter 61 or
34 63, Natural Resources Code, respectively) and a beachfront

1 construction certificate or dune protection permit may be required
2 for repairs or improvements. Contact the local government with
3 ordinance authority over construction adjacent to public beaches
4 for more information.

5 _____
6 Date Signature of Seller

7 The undersigned purchaser hereby acknowledges receipt of the
8 foregoing notice [~~and acknowledges the property complies with the
9 smoke detector requirements of Chapter 766, Health and Safety Code,
10 or, if the property does not comply with the smoke detector
11 requirements of Chapter 766, the buyer waives the buyer's rights to
12 have smoke detectors installed in compliance with Chapter 766]~~].

13 _____
14 Date Signature of Purchaser

15 SECTION 2. Chapter 51, Property Code, is amended by adding
16 Section 51.0051 to read as follows:

17 Sec. 51.0051. CERTAIN WAIVERS PROHIBITED. A person's right
18 to bring an action for a determination of a property's fair market
19 value under Section 51.003, 51.004, or 51.005 may not be waived by
20 contract. A contract provision that violates this section is void.

21 SECTION 3. The change in law made by this Act to Section
22 5.008, Property Code, applies only to a notice executed on or after
23 the effective date of this Act. A notice executed before the
24 effective date of this Act is governed by the law in effect
25 immediately before that date, and that law is continued in effect
26 for that purpose.

27 SECTION 4. Section 51.0051, Property Code, as added by this
28 Act, applies only to a contract entered into on or after the

1 effective date of this Act. A contract entered into before the
2 effective date of this Act is governed by the law in effect
3 immediately before the effective date of this Act, and that law is
4 continued in effect for that purpose.

5 SECTION 5. This Act takes effect January 1, 2010.