

AN ACT

relating to acknowledgements required of a purchaser of residential real property in connection with the receipt of a seller's disclosure notice regarding the 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         |                                       |

- 1  Security System
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10  TV Antenna
- 11
- 12  Ceiling Fan(s)
- 13
- 14  Central A/C
- 15
- 16
- 17  Plumbing System
- 18
- 19  Patio/Decking
- 20  Pool
- 21
- 22  Pool Equipment
- 23
- 24
- 25  Fireplace(s) & Chimney (Woodburning)
- 26
- 27  Gas Lines (Nat./LP)
- 28
- 29
- 30 Garage:  Attached  Not Attached
- 31 Garage Door Opener(s):  Electronic  Control(s)
- 32 Water Heater:  Gas  Electric
- 33 Water Supply:  City  Well  MUD  Co-op
- 34 Roof Type: \_\_\_\_\_ Age: \_\_\_\_\_(approx)

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

38 If yes, then describe. (Attach additional sheets if necessary):  
 39 \_\_\_\_\_  
 40 \_\_\_\_\_

41 2. Does the property have working smoke detectors installed in  
 42 accordance with the smoke detector requirements of Chapter 766,  
 43 Health and Safety Code?\*  Yes  No  Unknown.

44 If the answer to the question above is no or unknown, explain.

1 (Attach additional sheets if necessary): \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

4 \*Chapter 766 of the Health and Safety Code requires  
5 one-family or two-family dwellings to have working smoke detectors  
6 installed in accordance with the requirements of the building code  
7 in effect in the area in which the dwelling is located, including  
8 performance, location, and power source requirements. If you do  
9 not know the building code requirements in effect in your area, you  
10 may check unknown above or contact your local building official for  
11 more information. A buyer may require a seller to install smoke  
12 detectors for the hearing impaired if: (1) the buyer or a member of  
13 the buyer's family who will reside in the dwelling is hearing  
14 impaired; (2) the buyer gives the seller written evidence of the  
15 hearing impairment from a licensed physician; and (3) within 10  
16 days after the effective date, the buyer makes a written request for  
17 the seller to install smoke detectors for the hearing impaired and  
18 specifies the locations for installation. The parties may agree who  
19 will bear the cost of installing the smoke detectors and which brand  
20 of smoke detectors to install.

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

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

- |    |  |   |   |
|----|--|---|---|
| 24 | <input type="checkbox"/> Interior Walls              | <input type="checkbox"/> Ceilings               | <input type="checkbox"/> Floors               |
| 25 | <input type="checkbox"/> Exterior Walls              | <input type="checkbox"/> Doors                  | <input type="checkbox"/> Windows              |
| 26 | <input type="checkbox"/> Roof                        | <input type="checkbox"/> Foundation/<br>Slab(s) | <input type="checkbox"/> Basement             |
| 27 |  |   |   |
| 28 | <input type="checkbox"/> Walls/Fences                | <input type="checkbox"/> Driveways              | <input type="checkbox"/> Sidewalks            |
| 29 | <input type="checkbox"/> Plumbing/Sewers/<br>Septics | <input type="checkbox"/> Electrical<br>Systems  | <input type="checkbox"/> Lighting<br>Fixtures |
| 30 |  |   |   |

1  Other Structural Components (Describe): \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

4 If the answer to any of the above is yes, explain. (Attach  
5 additional sheets if necessary): \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_

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

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

- |  |   |
|--|---|
| 10 <input type="checkbox"/> Active Termites            | <input type="checkbox"/> Previous Structural      |
| 11 (includes   | or Roof Repair                                    |
| 12 wood-destroying insects)                            |   |
| 13 <input type="checkbox"/> Termite or Wood Rot Damage | <input type="checkbox"/> Hazardous or Toxic Waste |
| 14 Needing Repair                                      |   |
| 15 <input type="checkbox"/> Previous Termite Damage    | <input type="checkbox"/> Asbestos Components      |
| 16 <input type="checkbox"/> Previous Termite           | <input type="checkbox"/> Urea formaldehyde        |
| 17 Treatment   | Insulation  |
| 18 <input type="checkbox"/> Previous Flooding          | <input type="checkbox"/> Radon Gas                |
| 19 <input type="checkbox"/> Improper Drainage          | <input type="checkbox"/> Lead Based Paint         |
| 20 <input type="checkbox"/> Water Penetration          | <input type="checkbox"/> Aluminum Wiring          |
| 21 <input type="checkbox"/> Located in 100-Year        | <input type="checkbox"/> Previous Fires           |
| 22 Floodplain  |   |
| 23 <input type="checkbox"/> Present Flood Insurance    | <input type="checkbox"/> Unplatted Easements      |
| 24 Coverage  |   |
| 25 <input type="checkbox"/> Landfill, Settling, Soil   | <input type="checkbox"/> Subsurface               |
| 26 Movement, Fault Lines                               | Structure or Pits                                 |
| 27   | <input type="checkbox"/> Previous Use of          |
| 28   | Premises for                                      |
| 29   | Manufacture of                                    |
| 30   | Methamphetamine                                   |

31 If the answer to any of the above is yes, explain. (Attach  
32 additional sheets if necessary): \_\_\_\_\_  
33 \_\_\_\_\_  
34 \_\_\_\_\_

35 5. Are you (Seller) aware of any item, equipment, or system in or  
36 on the property that is in need of repair?  Yes (if you are  
37 aware)  No (if you are not aware). If yes, explain (attach

1 additional sheets as necessary). \_\_\_\_\_

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

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

4 \_\_\_ Room additions, structural modifications, or other  
5 alterations or repairs made without necessary permits or not  
6 in compliance with building codes in effect at that time.

7 \_\_\_ Homeowners' Association or maintenance fees or assessments.

8 \_\_\_ Any "common area" (facilities such as pools, tennis courts,  
9 walkways, or other areas) co-owned in undivided interest with  
10 others.

11 \_\_\_ Any notices of violations of deed restrictions or  
12 governmental ordinances affecting the condition or use of the  
13 Property.

14 \_\_\_ Any lawsuits directly or indirectly affecting the Property.

15 \_\_\_ Any condition on the Property which materially affects the  
16 physical health or safety of an individual.

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

19 \_\_\_\_\_

20 \_\_\_\_\_

21 7 [6]. If the property is located in a coastal area that is seaward  
22 of the Gulf Intracoastal Waterway or within 1,000 feet of the mean  
23 high tide bordering the Gulf of Mexico, the property may be subject  
24 to the Open Beaches Act or the Dune Protection Act (Chapter 61 or  
25 63, Natural Resources Code, respectively) and a beachfront  
26 construction certificate or dune protection permit may be required  
27 for repairs or improvements. Contact the local government with  
28 ordinance authority over construction adjacent to public beaches  
29 for more information.

30 \_\_\_\_\_

31 Date

\_\_\_\_\_

Signature of Seller

32 The undersigned purchaser hereby acknowledges receipt of the  
33 foregoing notice [~~and acknowledges the property complies with the~~  
34 ~~smoke detector requirements of Chapter 766, Health and Safety Code,~~

1 ~~or, if the property does not comply with the smoke detector~~  
2 ~~requirements of Chapter 766, the buyer waives the buyer's rights to~~  
3 ~~have smoke detectors installed in compliance with Chapter 766].~~

4 \_\_\_\_\_  
5 Date Signature of Purchaser

6 SECTION 2. The change in law made by this Act to Section  
7 5.008, Property Code, applies only to a notice executed on or after  
8 the effective date of this Act. A notice executed before the  
9 effective date of this Act is governed by the law in effect  
10 immediately before that date, and that law is continued in effect  
11 for that purpose.

12 SECTION 3. This Act takes effect January 1, 2010.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3502 was passed by the House on May 6, 2009, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3502 on May 29, 2009, by the following vote: Yeas 143, Nays 2, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3502 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor