

1-1 By: Pickett, et al. (Senate Sponsor - Fraser) H.B. No. 3502
1-2 (In the Senate - Received from the House May 7, 2009;
1-3 May 8, 2009, read first time and referred to Committee on Business
1-4 and Commerce; May 19, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 19, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3502 By: Fraser

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to acknowledgements required of a purchaser of residential
1-11 real property in connection with the receipt of a seller's
1-12 disclosure notice regarding the property.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 5.008(b), Property Code, as amended by
1-15 Chapters 448 (H.B. 271), 1051 (H.B. 2118), and 1256 (H.B. 2819),
1-16 Acts of the 80th Legislature, Regular Session, 2007, is reenacted
1-17 and amended to read as follows:

1-18 (b) The notice must be executed and must, at a minimum, read
1-19 substantially similar to the following:

1-20 SELLER'S DISCLOSURE NOTICE
1-21 CONCERNING THE PROPERTY AT _____

1-22 _____ (Street Address and City)

1-23 THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE
1-24 OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED
1-25 BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS
1-26 OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS
1-27 NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S
1-28 AGENTS.

1-29 Seller ___ is ___ is not occupying the Property.

1-30 If unoccupied, how long since Seller has occupied the Property?

1-31 _____

1-32 1. The Property has the items checked below:

1-33 Write Yes (Y), No (N), or Unknown (U).

1-34	___ Range	___ Oven	___ Microwave
1-35	___ Dishwasher	___ Trash Compactor	___ Disposal
1-36	___ Washer/Dryer	___ Window	___ Rain Gutters
1-37	Hookups	Screens	
1-38	___ Security	___ Fire Detection	___ Intercom
1-39	System	Equipment	System
1-40		___ Smoke Detector	
1-41		___ Smoke Detector -	
1-42		Hearing Impaired	
1-43		___ Carbon Monoxide	
1-44		Alarm	
1-45		___ Emergency Escape	
1-46		Ladder(s)	
1-47	___ TV Antenna	___ Cable TV	___ Satellite
1-48		Wiring	Dish
1-49	___ Ceiling Fan(s)	___ Attic Fan(s)	___ Exhaust
1-50			Fan(s)
1-51	___ Central A/C	___ Central Heating	___ Wall/Window
1-52			Air
1-53			Conditioning
1-54	___ Plumbing System	___ Septic System	___ Public Sewer
1-55			System
1-56	___ Patio/Decking	___ Outdoor Grill	___ Fences
1-57	___ Pool	___ Sauna	___ Spa
1-58			___ Hot Tub
1-59	___ Pool Equipment	___ Pool Heater	___ Automatic Lawn
1-60			Sprinkler
1-61			System
1-62	___ Fireplace(s) &		___ Fireplace(s) &

- 2-1 Chimney
- 2-2 (Woodburning)
- 2-3 Gas Lines
- 2-4 (Nat./LP)
- 2-5 Garage: Attached Not Attached Carport
- 2-6 Garage Door Opener(s): Electronic Control(s)
- 2-7 Water Heater: Gas Electric
- 2-8 Water Supply: City Well MUD Co-op
- 2-9 Roof Type: _____ Age: _____(approx)
- 2-10 Are you (Seller) aware of any of the above items that are not in
- 2-11 working condition, that have known defects, or that are in need of
- 2-12 repair? Yes No Unknown.
- 2-13 If yes, then describe. (Attach additional sheets if necessary):
- 2-14 _____
- 2-15 _____
- 2-16 2. Does the property have working smoke detectors installed in
- 2-17 accordance with the smoke detector requirements of Chapter 766,
- 2-18 Health and Safety Code?* Yes No Unknown.
- 2-19 If the answer to the question above is no or unknown, explain.
- 2-20 (Attach additional sheets if necessary): _____
- 2-21 _____
- 2-22 _____
- 2-23 *Chapter 766 of the Health and Safety Code requires
- 2-24 one-family or two-family dwellings to have working smoke detectors
- 2-25 installed in accordance with the requirements of the building code
- 2-26 in effect in the area in which the dwelling is located, including
- 2-27 performance, location, and power source requirements. If you do
- 2-28 not know the building code requirements in effect in your area, you
- 2-29 may check unknown above or contact your local building official for
- 2-30 more information. A buyer may require a seller to install smoke
- 2-31 detectors for the hearing impaired if: (1) the buyer or a member of
- 2-32 the buyer's family who will reside in the dwelling is hearing
- 2-33 impaired; (2) the buyer gives the seller written evidence of the
- 2-34 hearing impairment from a licensed physician; and (3) within 10
- 2-35 days after the effective date, the buyer makes a written request for
- 2-36 the seller to install smoke detectors for the hearing impaired and
- 2-37 specifies the locations for installation. The parties may agree who
- 2-38 will bear the cost of installing the smoke detectors and which brand
- 2-39 of smoke detectors to install.
- 2-40 3. Are you (Seller) aware of any known defects/malfunctions in any
- 2-41 of the following?
- 2-42 Write Yes (Y) if you are aware, write No (N) if you are not aware.
- 2-43 Interior Walls Ceilings Floors
- 2-44 Exterior Walls Doors Windows
- 2-45 Roof Foundation/
Slab(s) Basement
- 2-46 Walls/Fences Driveways Sidewalks
- 2-47 Plumbing/Sewers/
Septics Electrical Lighting
- 2-48 Systems Fixtures
- 2-49 Other Structural Components (Describe): _____
- 2-50 _____
- 2-51 _____
- 2-52 _____
- 2-53 If the answer to any of the above is yes, explain. (Attach
- 2-54 additional sheets if necessary): _____
- 2-55 _____
- 2-56 _____
- 2-57 4. Are you (Seller) aware of any of the following conditions?
- 2-58 Write Yes (Y) if you are aware, write No (N) if you are not aware.
- 2-59 Active Termites Previous Structural
- 2-60 (includes or Roof Repair
- 2-61 wood-destroying insects)
- 2-62 Termite or Wood Rot Damage Hazardous or Toxic Waste
- 2-63 Needing Repair
- 2-64 Previous Termite Damage Asbestos Components
- 2-65 Previous Termite Urea formaldehyde
- 2-66 Treatment Insulation
- 2-67 Previous Flooding Radon Gas
- 2-68 Improper Drainage Lead Based Paint
- 2-69 Water Penetration Aluminum Wiring

- 3-1 Located in 100-Year Previous Fires
- 3-2 Floodplain
- 3-3 Present Flood Insurance Unplatted Easements
- 3-4 Coverage
- 3-5 Landfill, Settling, Soil Subsurface
- 3-6 Movement, Fault Lines Structure or Pits
- 3-7 Previous Use of
- 3-8 Premises for
- 3-9 Manufacture of
- 3-10 Methamphetamine
- 3-11 If the answer to any of the above is yes, explain. (Attach
- 3-12 additional sheets if necessary): _____
- 3-13 _____
- 3-14 _____

3-15 5. Are you (Seller) aware of any item, equipment, or system in or
 3-16 on the property that is in need of repair? Yes (if you are
 3-17 aware) No (if you are not aware). If yes, explain (attach
 3-18 additional sheets as necessary). _____

3-19 6. Are you (Seller) aware of any of the following?
 3-20 Write Yes (Y) if you aware, write No (N) if you are not aware.
 3-21 Room additions, structural modifications, or other
 3-22 alterations or repairs made without necessary permits or not
 3-23 in compliance with building codes in effect at that time.
 3-24 Homeowners' Association or maintenance fees or assessments.
 3-25 Any "common area" (facilities such as pools, tennis courts,
 3-26 walkways, or other areas) co-owned in undivided interest with
 3-27 others.
 3-28 Any notices of violations of deed restrictions or
 3-29 governmental ordinances affecting the condition or use of the
 3-30 Property.
 3-31 Any lawsuits directly or indirectly affecting the Property.
 3-32 Any condition on the Property which materially affects the
 3-33 physical health or safety of an individual.

3-34 If the answer to any of the above is yes, explain. (Attach
 3-35 additional sheets if necessary): _____

3-36 _____

3-37 _____

3-38 7 [6]. If the property is located in a coastal area that is seaward
 3-39 of the Gulf Intracoastal Waterway or within 1,000 feet of the mean
 3-40 high tide bordering the Gulf of Mexico, the property may be subject
 3-41 to the Open Beaches Act or the Dune Protection Act (Chapter 61 or
 3-42 63, Natural Resources Code, respectively) and a beachfront
 3-43 construction certificate or dune protection permit may be required
 3-44 for repairs or improvements. Contact the local government with
 3-45 ordinance authority over construction adjacent to public beaches
 3-46 for more information.

3-47 _____

3-48 Date Signature of Seller

3-49 The undersigned purchaser hereby acknowledges receipt of the
 3-50 foregoing notice ~~[and acknowledges the property complies with the~~
 3-51 ~~smoke detector requirements of Chapter 766, Health and Safety Code,~~
 3-52 ~~or, if the property does not comply with the smoke detector~~
 3-53 ~~requirements of Chapter 766, the buyer waives the buyer's rights to~~
 3-54 ~~have smoke detectors installed in compliance with Chapter 766].~~

3-55 _____

3-56 Date Signature of Purchaser

3-57 SECTION 2. The change in law made by this Act to Section
 3-58 5.008, Property Code, applies only to a notice executed on or after
 3-59 the effective date of this Act. A notice executed before the
 3-60 effective date of this Act is governed by the law in effect
 3-61 immediately before that date, and that law is continued in effect
 3-62 for that purpose.

3-63 SECTION 3. This Act takes effect January 1, 2010.

3-64 * * * * *