

1-1 By: Hilderbran (Senate Sponsor - Fraser) H.B. No. 3834
1-2 (In the Senate - Received from the House May 18, 2009;
1-3 May 19, 2009, read first time and referred to Committee on Natural
1-4 Resources; May 23, 2009, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 23, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to requiring the seller of certain real property to
1-9 provide notice regarding the purchaser's duty to register water
1-10 wells located or drilled on the property.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter A, Chapter 5, Property Code, is
1-13 amended by adding Section 5.0141 to read as follows:

1-14 Sec. 5.0141. NOTICE OF OBLIGATION TO REGISTER WATER WELLS.

1-15 (a) In this section, "district" means a groundwater conservation
1-16 district to which Chapter 36, Water Code, is applicable, a
1-17 subsidence district governed by Chapter 8801, Special District
1-18 Local Laws Code, or a subsidence district established under Chapter
1-19 1045, Acts of the 71st Legislature, Regular Session, 1989.

1-20 (b) A seller of real property larger than one acre any part
1-21 of which is located in a district shall give to the purchaser of the
1-22 property a written notice that reads substantially similar to the
1-23 following:

1-24 NOTICE OF OBLIGATION TO REGISTER WATER WELLS WITH THE (name of
1-25 district)

1-26 As a purchaser of this parcel of real property you are
1-27 obligated to register all existing water wells located on the
1-28 property and all water wells drilled on the property after the
1-29 purchase of this parcel with the (name of district) as provided by
1-30 (Chapter 36, Water Code, Chapter 8801, Special District Local Laws
1-31 Code, or Chapter 1045, Acts of the 71st Legislature, Regular
1-32 Session, 1989, as applicable).

1-33 Your failure to register water wells located or drilled on
1-34 the property with the (name of district) may be a violation of the
1-35 district's rules or illegal drainage and may result in an action for
1-36 damages.

1-37 Date: _____

1-38 Signature of Purchaser

1-39 (c) The seller shall deliver the notice required by
1-40 Subsection (b) to the purchaser before the effective date of an
1-41 executory contract binding the purchaser to purchase the property.
1-42 The notice may be given separately, as part of the contract during
1-43 negotiations, or as part of any other notice the seller delivers to
1-44 the purchaser. If the notice is included as part of the executory
1-45 contract or another notice, the title of the notice prescribed by
1-46 Subsection (b) and the purchaser's signature on the notice may be
1-47 omitted.

1-48 (d) This section does not apply to a transfer:

1-49 (1) to a mortgagee by a mortgagor or successor in
1-50 interest or to a beneficiary of a deed of trust by a trustor or
1-51 successor in interest;

1-52 (2) by a mortgagee or a beneficiary under a deed of
1-53 trust who has acquired the land at a sale conducted under a power of
1-54 sale under a deed of trust or a sale under a court-ordered
1-55 foreclosure or has acquired the land by a deed in lieu of
1-56 foreclosure;

1-57 (3) by a fiduciary in the course of the administration
1-58 of a decedent's estate, guardianship, conservatorship, or trust;

1-59 (4) from one co-owner to another co-owner of an
1-60 undivided interest in the real property;

1-61 (5) to a spouse or a person in the lineal line of
1-62 consanguinity of the seller; or

1-63 (6) of only a mineral interest, leasehold interest, or
1-64 security interest.

2-1 SECTION 2. (a) The change in law made by this Act applies
2-2 only to a transfer of property that occurs on or after the effective
2-3 date of this Act. For purposes of this section, a transfer of
2-4 property occurs before the effective date of this Act if the
2-5 executory contract binding the purchaser to purchase the property
2-6 is executed before that date.

2-7 (b) A transfer of property before the effective date of this
2-8 Act is governed by the law in effect immediately before the
2-9 effective date of this Act, and that law is continued in effect for
2-10 that purpose.

2-11 SECTION 3. This Act takes effect September 1, 2009.

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