

**House Bill 3502**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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).

\_\_\_ Range                    \_\_\_ Oven                    \_\_\_  
Microwave  
\_\_\_ Dishwasher            \_\_\_ Trash Compactor            \_\_\_  
Disposal

SENATE VERSION

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:

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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).

\_\_\_ Range                    \_\_\_ Oven                    \_\_\_  
Microwave  
\_\_\_ Dishwasher            \_\_\_ Trash Compactor            \_\_\_  
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<input type="checkbox"/> Washer/Dryer <input type="checkbox"/> Rain Gutters <input type="checkbox"/> Hookups <input type="checkbox"/> Security <input type="checkbox"/> Intercom <input type="checkbox"/> System	<input type="checkbox"/> Window  <input type="checkbox"/> Screens <input type="checkbox"/> Fire Detection  <input type="checkbox"/> Equipment  <input type="checkbox"/> Smoke Detector <input type="checkbox"/> Smoke Detector - Hearing Impaired <input type="checkbox"/> Carbon Monoxide Alarm <input type="checkbox"/> Emergency Escape Ladder(s)	<input type="checkbox"/>	<input type="checkbox"/> Washer/Dryer <input type="checkbox"/> Rain Gutters <input type="checkbox"/> Hookups <input type="checkbox"/> Security <input type="checkbox"/> Intercom <input type="checkbox"/> System	<input type="checkbox"/> Window  <input type="checkbox"/> Screens <input type="checkbox"/> Fire Detection  <input type="checkbox"/> Equipment  <input type="checkbox"/> Smoke Detector <input type="checkbox"/> Smoke Detector - Hearing Impaired <input type="checkbox"/> Carbon Monoxide Alarm <input type="checkbox"/> Emergency Escape Ladder(s)	<input type="checkbox"/>	
<input type="checkbox"/> TV Antenna <input type="checkbox"/> Satellite  <input type="checkbox"/> Ceiling Fan(s) Exhaust  <input type="checkbox"/> Central A/C Wall/Window  <input type="checkbox"/> Plumbing System Public Sewer  <input type="checkbox"/> Patio/Decking Fences <input type="checkbox"/> Pool	<input type="checkbox"/> Cable TV  <input type="checkbox"/> Wiring  <input type="checkbox"/> Attic Fan(s) Fan(s) <input type="checkbox"/> Central Heating  <input type="checkbox"/> Air Conditioning <input type="checkbox"/> Septic System  <input type="checkbox"/> Outdoor Grill  <input type="checkbox"/> Sauna  <input type="checkbox"/> Spa	<input type="checkbox"/>	<input type="checkbox"/> TV Antenna <input type="checkbox"/> Satellite  <input type="checkbox"/> Ceiling Fan(s) Exhaust  <input type="checkbox"/> Central A/C Wall/Window  <input type="checkbox"/> Plumbing System Public Sewer  <input type="checkbox"/> Patio/Decking Fences <input type="checkbox"/> Pool	<input type="checkbox"/> Cable TV  <input type="checkbox"/> Wiring  <input type="checkbox"/> Attic Fan(s) Fan(s) <input type="checkbox"/> Central Heating  <input type="checkbox"/> Air Conditioning <input type="checkbox"/> Septic System  <input type="checkbox"/> Outdoor Grill  <input type="checkbox"/> Sauna  <input type="checkbox"/> Spa	<input type="checkbox"/>	

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<p><input type="checkbox"/> Pool Equipment Automatic Lawn</p> <p><input type="checkbox"/> Fireplace(s) &amp; Fireplace(s) &amp; Chimney (Woodburning)</p> <p><input type="checkbox"/> Gas Lines  (Nat./LP) Garage: <input type="checkbox"/> Attached           <input type="checkbox"/> Carport Garage Door Opener(s):           <input type="checkbox"/> Control(s) Water Heater: <input type="checkbox"/> Gas Water Supply: <input type="checkbox"/> City                   <input type="checkbox"/> Co-op</p> <p>Roof Type: _____ Age: _____           (approx) Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown. If yes, then describe. (Attach additional sheets if necessary):</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> Hot Tub <input type="checkbox"/> Pool Heater</p> <p>  Sprinkler System</p> <p>  Chimney (Mock)</p> <p><input type="checkbox"/> Gas Fixtures</p> <p><input type="checkbox"/> Not Attached</p> <p><input type="checkbox"/> Electronic</p> <p><input type="checkbox"/> Electric</p> <p><input type="checkbox"/> Well <input type="checkbox"/> MUD</p>	<p><input type="checkbox"/> Pool Equipment Automatic Lawn</p> <p><input type="checkbox"/> Fireplace(s) &amp; Fireplace(s) &amp; Chimney (Woodburning)</p> <p><input type="checkbox"/> Gas Lines  (Nat./LP) Garage: <input type="checkbox"/> Attached           <input type="checkbox"/> Carport Garage Door Opener(s):           <input type="checkbox"/> Control(s) Water Heater: <input type="checkbox"/> Gas Water Supply: <input type="checkbox"/> City                   <input type="checkbox"/> Co-op</p> <p>Roof Type: _____ Age: _____           (approx) Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown. If yes, then describe. (Attach additional sheets if necessary):</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> Hot Tub <input type="checkbox"/> Pool Heater</p> <p>  Sprinkler System</p> <p>  Chimney (Mock)</p> <p><input type="checkbox"/> Gas Fixtures</p> <p><input type="checkbox"/> Not Attached</p> <p><input type="checkbox"/> Electronic</p> <p><input type="checkbox"/> Electric</p> <p><input type="checkbox"/> Well <input type="checkbox"/> MUD</p>		

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2. Does the property have working smoke detectors installed in accordance with the smoke detector requirements of Chapter 766, Health and Safety Code?  
\_\_Yes \_\_No \_\_Unknown.

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

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SENATE VERSION

2. Does the property have working smoke detectors installed in accordance with the smoke detector requirements of Chapter 766, Health and Safety Code?\*

\_\_Yes \_\_No \_\_Unknown.  
If the answer to the question above is no or unknown, explain. (Attach additional sheets if necessary):

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

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

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

- Interior Walls                       Ceilings
- Floors
- Exterior Walls                       Doors
- Windows
- Roof                       Foundation/
- Basement

- Walls/Fences                       Driveways
- Sidewalks
- Plumbing/Sewers/                       Electrical
- Lighting
- Septics                      Systems

Fixtures  
 Other                      Structural                      Components  
(Describe): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SENATE VERSION

**brand of smoke detectors to install.**

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

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

- Interior Walls                       Ceilings
- Floors
- Exterior Walls                       Doors
- Windows
- Roof                       Foundation/
- Basement

- Walls/Fences                       Driveways
- Sidewalks
- Plumbing/Sewers/                       Electrical
- Lighting
- Septics                      Systems

Fixtures  
 Other                      Structural                      Components  
(Describe): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

- Active Termites                       Previous Structural  
(includes                      or Roof Repair  
wood-destroying insects)  
 Termite or Wood Rot Damage
- Hazardous or Toxic Waste  
Needing Repair  
 Previous Termite Damage                       Asbestos  
Components  
 Previous Termite                       Urea formaldehyde  
Treatment                      Insulation  
 Previous Flooding                       Radon Gas  
 Improper Drainage                       Lead Based Paint  
 Water Penetration                       Aluminum Wiring  
 Located in 100-Year                       Previous Fires
- Floodplain  
 Present Flood Insurance                       Unplatted  
Easements  
Coverage  
 Landfill, Settling, Soil                       Subsurface  
Movement, Fault Lines                      Structure or Pits
- Previous Use of  
Premises for  
Manufacture of

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

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

- Active Termites                       Previous Structural  
(includes                      or Roof Repair  
wood-destroying insects)  
 Termite or Wood Rot Damage
- Hazardous or Toxic Waste  
Needing Repair  
 Previous Termite Damage                       Asbestos  
Components  
 Previous Termite                       Urea formaldehyde  
Treatment                      Insulation  
 Previous Flooding                       Radon Gas  
 Improper Drainage                       Lead Based Paint  
 Water Penetration                       Aluminum Wiring  
 Located in 100-Year                       Previous Fires
- Floodplain  
 Present Flood Insurance                       Unplatted  
Easements  
Coverage  
 Landfill, Settling, Soil                       Subsurface  
Movement, Fault Lines                      Structure or Pits
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HOUSE VERSION

Methamphetamine

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

\_\_\_\_\_

\_\_\_\_\_

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

6. Are you (Seller) aware of any of the following?  
Write Yes (Y) if you aware, write No (N) if you are not aware.

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

Homeowners' Association or maintenance fees or assessments.

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

Any notices of violations of deed restrictions or governmental ordinances affecting the condition or use of the Property.

Any lawsuits directly or indirectly affecting the Property.

SENATE VERSION

Methamphetamine

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

\_\_\_\_\_

\_\_\_\_\_

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

6. Are you (Seller) aware of any of the following?  
Write Yes (Y) if you aware, write No (N) if you are not aware.

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

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Any notices of violations of deed restrictions or governmental ordinances affecting the condition or use of the Property.

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\_\_\_ Any condition on the Property which materially affects the physical health or safety of an individual. If the answer to any of the above is yes, explain. (Attach additional \_\_\_\_\_ sheets if necessary): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Date Signature of Seller  
The undersigned purchaser hereby acknowledges receipt of the foregoing notice [~~and acknowledges the property complies with the smoke detector requirements of Chapter 766, Health and Safety Code, or, if the property does not comply with the smoke detector requirements of Chapter 766, the buyer waives the buyer's rights to have smoke detectors installed in compliance with Chapter~~

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\_\_\_ Any condition on the Property which materially affects the physical health or safety of an individual. If the answer to any of the above is yes, explain. (Attach additional \_\_\_\_\_ sheets if necessary): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
Date Signature of Seller  
The undersigned purchaser hereby acknowledges receipt of the foregoing notice [~~and acknowledges the property complies with the smoke detector requirements of Chapter 766, Health and Safety Code, or, if the property does not comply with the smoke detector requirements of Chapter 766, the buyer waives the buyer's rights to have smoke detectors installed in compliance with Chapter~~

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766].

766].

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Date                      Signature of Purchaser

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Date                      Signature of Purchaser

SECTION 2. Chapter 51, Property Code, is amended by adding Section 51.0051 to read as follows:  
Sec. 51.0051. CERTAIN WAIVERS PROHIBITED. A person's right to bring an action for a determination of a property's fair market value under Section 51.003, 51.004, or 51.005 may not be waived by contract. A contract provision that violates this section is void.

**No equivalent provision.**

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

SECTION 2. Same as House version.

SECTION 4. Section 51.0051, Property Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that

**No equivalent provision.**

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purpose.

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

SECTION 3. Same as House version.