

By: McClendon

H.B. No. 2829

A BILL TO BE ENTITLED

AN ACT

relating to requiring the disclosure of certain information to purchasers and renters of residential property in certain counties.

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

SECTION 1. Subchapter A, Chapter 5, Property Code, is amended by adding Section 5.019 to read as follows:

Sec. 5.019. SELLER'S DISCLOSURE OF TAXING AUTHORITIES AND TERRITORIAL BOUNDARIES IN CERTAIN AREAS. (a) In this section:

(1) "Local government" means a county, municipality, school district, special district, or other political subdivision of this state.

(2) "Unincorporated enclave" means an unincorporated area of a county bounded entirely by:

(A) the incorporated territory and the extraterritorial jurisdiction of one or more municipalities;

(B) the incorporated territory of one or more municipalities; or

(C) the extraterritorial jurisdiction of one or more municipalities.

(b) This section applies only to a county that has a population of more than 1.5 million and in which more than 75 percent of the population lives in a single municipality.

(c) A seller of residential real property wholly or partly located in an unincorporated enclave shall provide to the purchaser

of the property a written notice:

(1) listing:

(A) each taxing authority to which the property is subject; and

(B) each local government in whose territory the property is located; and

(2) describing the boundaries of the unincorporated enclave.

(d) The seller shall deliver the notice required under Subsection (c) to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. The notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser.

(e) This section does not apply to a transfer:

(1) under a court order or foreclosure sale;

(2) by a trustee in bankruptcy;

(3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;

(4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure;

(5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;

1 (6) from one co-owner to another co-owner of an
2 undivided interest in the real property;

3 (7) to a spouse or a person in the lineal line of
4 consanguinity of the seller;

5 (8) to or from a governmental entity; or

6 (9) of only a mineral interest, leasehold interest, or
7 security interest.

8 (f) If an executory contract is entered into without the
9 seller providing the notice required by this section, the purchaser
10 may terminate the contract for any reason not later than the earlier
11 of:

12 (1) the seventh day after the date the purchaser
13 receives the notice; or

14 (2) the date the transfer occurs as provided by the
15 executory contract.

16 (g) The purchaser's right to terminate the executory
17 contract under Subsection (f) is the purchaser's exclusive remedy
18 for the seller's failure to provide the notice required by this
19 section.

20 SECTION 2. Subchapter A, Chapter 92, Property Code, is
21 amended by adding Section 92.022 to read as follows:

22 Sec. 92.022. LANDLORD'S DISCLOSURE OF AVAILABILITY OF
23 MUNICIPAL SERVICES IN CERTAIN AREAS. (a) In this section,
24 "unincorporated enclave" means an unincorporated area of a county
25 bounded entirely by:

26 (1) the incorporated territory and the
27 extraterritorial jurisdiction of one or more municipalities;

1 (2) the incorporated territory of one or more
2 municipalities; or

3 (3) the extraterritorial jurisdiction of one or more
4 municipalities.

5 (b) This section applies only to a county that has a
6 population of more than 1.5 million and in which more than 75
7 percent of the population lives in a single municipality.

8 (c) A landlord who leases property located partly in an
9 unincorporated enclave shall provide to a proposed tenant of the
10 property a written notice indicating that:

11 (1) regardless of whether the property has an address
12 including the name and zip code of a municipality, the leased
13 property is not wholly located within the incorporated territory of
14 a municipality; and

15 (2) municipal services may not be available.

16 (d) A landlord who leases property located wholly in an
17 unincorporated enclave shall provide to a proposed tenant of the
18 property a written notice indicating that:

19 (1) regardless of whether the property has an address
20 including the name and zip code of a municipality, the leased
21 property is wholly located outside the incorporated territory of a
22 municipality; and

23 (2) municipal services may not be available.

24 (e) The landlord shall deliver the notice required under
25 Subsection (c) or (d) to the proposed tenant before the effective
26 date of a lease binding the proposed tenant to lease the property.
27 The notice may be given separately, as part of the lease, or as part

1 of any other notice the landlord delivers to the proposed tenant.

2 (f) If a lease is entered into without the landlord
3 providing the notice required under Subsection (c) or (d), the
4 tenant may terminate the lease for any reason not later than the
5 earlier of:

6 (1) the seventh day after the date the tenant receives
7 the notice; or

8 (2) the effective date of the lease.

9 (g) The tenant's right to terminate the lease under
10 Subsection (f) is the tenant's exclusive remedy for the failure of
11 the landlord to provide the notice required under Subsection (c) or
12 (d).

13 SECTION 3. (a) Section 5.019, Property Code, as added by
14 this Act, applies only to an executory contract entered into on or
15 after the effective date of this Act.

16 (b) Section 92.022, Property Code, as added by this Act,
17 applies only to a lease entered into on or after the effective date
18 of this Act.

19 SECTION 4. This Act takes effect September 1, 2011.