

By: Miller of Comal

H.B. No. 3391

A BILL TO BE ENTITLED

AN ACT

relating to rainwater harvesting and other water conservation initiatives.

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

SECTION 1. Subchapter A, Chapter 59, Finance Code, is amended by adding Section 59.012 to read as follows:

Sec. 59.012. LOANS FOR DEVELOPMENTS THAT USE HARVESTED RAINWATER. Financial institutions may consider making loans for developments that will use harvested rainwater as the sole source of water supply.

SECTION 2. Section 447.004, Government Code, is amended by amending Subsection (c-1) and adding Subsection (c-3) to read as follows:

(c-1) The procedural standards adopted under this section must require that:

(1) on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down, or a combination of those system technologies, for potable and nonpotable indoor use and landscape watering be incorporated into the design and construction of:

(A) [~~1~~] each new state building with a roof measuring at least 10,000 square feet; and

(B) [~~2~~] any other new state building for which the incorporation of such systems is feasible; and

1 (2) rainwater harvesting system technology for
2 potable and nonpotable indoor use and landscape watering be
3 incorporated into the design and construction of each new state
4 building with a roof measuring at least 50,000 square feet that is
5 located in an area of this state in which the average annual
6 rainfall is at least 20 inches.

7 (c-3) The procedural standards required by Subsection
8 (c-1)(2) apply to a building described by that subdivision unless
9 Subsection (c-2) applies or the state agency or institution of
10 higher education constructing the building provides the state
11 energy conservation office evidence that the amount of rainwater
12 that will be harvested from one or more existing buildings at the
13 same location is equivalent to the amount of rainwater that could
14 have been harvested from the new building had rainwater harvesting
15 system technology been incorporated into its design and
16 construction.

17 SECTION 3. Section 341.042, Health and Safety Code, is
18 amended by amending Subsection (b) and adding Subsections (b-1),
19 (b-2), and (b-3) to read as follows:

20 (b) The commission by rule shall provide that if a structure
21 is connected to a public water supply system and has a rainwater
22 harvesting system, ~~[for indoor use:~~

23 ~~[(1)]~~ the structure must have appropriate
24 cross-connection safeguards ~~[, and~~

25 ~~[(2) the rainwater harvesting system may be used only~~
26 ~~for nonpotable indoor purposes]~~.

27 (b-1) The commission shall develop rules regarding the

1 installation and maintenance of rainwater harvesting systems that
2 are used for indoor potable purposes and connected to a public water
3 supply system. The rules must contain criteria that are sufficient
4 to ensure that:

5 (1) safe sanitary drinking water standards are met;
6 and

7 (2) harvested rainwater does not come into
8 communication with a public water supply system's drinking water at
9 a location off of the property on which the rainwater harvesting
10 system is located.

11 (b-2) A person who intends to connect a rainwater harvesting
12 system to a public water supply system for use for potable purposes
13 must give written notice of that intention to the municipality in
14 which the rainwater harvesting system is located or the owner or
15 operator of the public water supply system before connecting the
16 rainwater harvesting system to the public water supply system.

17 (b-3) A municipality or the owner or operator of a public
18 water supply system may not be held liable for any adverse health
19 effects allegedly caused by the consumption of water collected by a
20 rainwater harvesting system that is connected to a public water
21 supply system and is used for potable purposes if the municipality
22 or the public water supply system is in compliance with the sanitary
23 standards for drinking water adopted by the commission and
24 applicable to the municipality or public water supply system.

25 SECTION 4. Chapter 580, Local Government Code, is amended
26 by adding Section 580.004 to read as follows:

27 Sec. 580.004. RAINWATER HARVESTING. (a) Each municipality

1 and county is encouraged to promote rainwater harvesting at
2 residential, commercial, and industrial facilities through
3 incentives such as the provision at a discount of rain barrels or
4 rebates for water storage facilities.

5 (b) The Texas Water Development Board shall ensure that
6 training on rainwater harvesting is available for the members of
7 the permitting staffs of municipalities and counties at least
8 quarterly. Each member of the permitting staff of each county and
9 municipality located wholly or partly in an area designated by the
10 Texas Commission on Environmental Quality as a priority groundwater
11 management area under Section 35.008, Water Code, whose work
12 relates directly to permits involving rainwater harvesting and each
13 member of the permitting staff of each county and municipality with
14 a population of more than 100,000 whose work relates directly to
15 permits involving rainwater harvesting must receive appropriate
16 training regarding rainwater harvesting standards and their
17 relation to permitting at least once every five years. Members of
18 the permitting staffs of counties and municipalities not located
19 wholly or partly in an area designated by the Texas Commission on
20 Environmental Quality as a priority groundwater management area
21 under Section 35.008, Water Code, whose work relates directly to
22 permits involving rainwater harvesting and members of the
23 permitting staffs of counties and municipalities with a population
24 of 100,000 or less whose work relates directly to permits involving
25 rainwater harvesting are encouraged to receive the training. The
26 Texas Water Development Board may provide appropriate training by
27 seminars or by videotape or functionally similar and widely

1 available media without cost.

2 (c) A municipality or county may not deny a building permit
3 solely because the facility will implement rainwater harvesting.
4 However, a municipality or county may require that a rainwater
5 harvesting system comply with the minimum state standards
6 established for such a system.

7 (d) Each school district is encouraged to implement
8 rainwater harvesting at facilities of the district.

9 SECTION 5. Section 5.008(b), Property Code, is amended to
10 read as follows:

11 (b) The notice must be executed and must, at a minimum, read
12 substantially similar to the following:

13 SELLER'S DISCLOSURE NOTICE

14 CONCERNING THE PROPERTY AT _____
15 (Street Address and City)

16 THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF
17 THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY
18 SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR
19 WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT
20 A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

21 Seller ___ is ___ is not occupying the Property.

22 If unoccupied, how long since Seller has occupied the Property?

23 _____

24 1. The Property has the items checked below:

25 Write Yes (Y), No (N), or Unknown (U).

- | | | | |
|----|---------------------------------------|---|---------------------------------------|
| 26 | <input type="checkbox"/> Range | <input type="checkbox"/> Oven | <input type="checkbox"/> Microwave |
| 27 | <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Trash Compactor | <input type="checkbox"/> Disposal |
| 28 | <input type="checkbox"/> Washer/Dryer | <input type="checkbox"/> Window | <input type="checkbox"/> Rain Gutters |
| 29 | <input type="checkbox"/> Hookups | <input type="checkbox"/> Screens | |
| 30 | <input type="checkbox"/> Security | <input type="checkbox"/> Fire Detection | <input type="checkbox"/> Intercom |
| 31 | <input type="checkbox"/> System | <input type="checkbox"/> Equipment | <input type="checkbox"/> System |
| 32 | | <input type="checkbox"/> Smoke Detector | |
| 33 | | <input type="checkbox"/> Smoke Detector - | |
| 34 | | <input type="checkbox"/> Hearing Impaired | |

- 1 ___ Carbon Monoxide
- 2 Alarm
- 3 ___ Emergency Escape
- 4 Ladder(s)
- 5 ___ TV Antenna ___ Cable TV ___ Satellite
- 6 Wiring Dish
- 7 ___ Ceiling Fan(s) ___ Attic Fan(s) ___ Exhaust
- 8 Fan(s)
- 9 ___ Central A/C ___ Central Heating ___ Wall/Window
- 10 Air
- 11 Conditioning
- 12 ___ Plumbing System ___ Septic System ___ Public Sewer
- 13 System
- 14 ___ Patio/Decking ___ Outdoor Grill ___ Fences
- 15 ___ Pool ___ Sauna ___ Spa
- 16 Hot Tub
- 17 ___ Pool Equipment ___ Pool Heater ___ Automatic Lawn
- 18 Sprinkler
- 19 System
- 20 ___ Fireplace(s) &
- 21 Chimney ___ Fireplace(s) &
- 22 (Woodburning) Chimney
- 23 ___ Gas Lines ___ Gas Fixtures
- 24 (Nat./LP)
- 25 Garage: ___ Attached ___ Not Attached ___ Carport
- 26 Garage Door Opener(s): ___ Electronic ___ Control(s)
- 27 Water Heater: ___ Gas ___ Electric
- 28 Water Supply: ___ City ___ Well ___ MUD ___ Co-op
- 29 Roof Type: _____ Age: _____(approx)

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

33 If yes, then describe. (Attach additional sheets if necessary):
 34 _____
 35 _____

36 2. Does the property have working smoke detectors installed in
 37 accordance with the smoke detector requirements of Chapter 766,
 38 Health and Safety Code?* ___ Yes ___ No ___ Unknown.

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

1 _____

2 *Chapter 766 of the Health and Safety Code requires

3 one-family or two-family dwellings to have working smoke detectors

4 installed in accordance with the requirements of the building code

5 in effect in the area in which the dwelling is located, including

6 performance, location, and power source requirements. If you do

7 not know the building code requirements in effect in your area, you

8 may check unknown above or contact your local building official for

9 more information. A buyer may require a seller to install smoke

10 detectors for the hearing impaired if: (1) the buyer or a member of

11 the buyer's family who will reside in the dwelling is hearing

12 impaired; (2) the buyer gives the seller written evidence of the

13 hearing impairment from a licensed physician; and (3) within 10

14 days after the effective date, the buyer makes a written request for

15 the seller to install smoke detectors for the hearing impaired and

16 specifies the locations for installation. The parties may agree who

17 will bear the cost of installing the smoke detectors and which brand

18 of smoke detectors to install.

19 3. Are you (Seller) aware of any known defect/malfunctions in any

20 of the following?

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

- | | | | |
|----|--|---|---|
| 22 | <input type="checkbox"/> Interior Walls | <input type="checkbox"/> Ceilings | <input type="checkbox"/> Floors |
| 23 | <input type="checkbox"/> Exterior Walls | <input type="checkbox"/> Doors | <input type="checkbox"/> Windows |
| 24 | <input type="checkbox"/> Roof | <input type="checkbox"/> Foundation/
Slab(s) | <input type="checkbox"/> Basement |
| 25 | | | |
| 26 | <input type="checkbox"/> Walls/Fences | <input type="checkbox"/> Driveways | <input type="checkbox"/> Sidewalks |
| 27 | <input type="checkbox"/> Plumbing/Sewers/
Septics | <input type="checkbox"/> Electrical
Systems | <input type="checkbox"/> Lighting
Fixtures |

29 Other Structural Components (Describe): _____

30 _____

1 _____

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

4 _____

5 _____

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

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

- | | | |
|----|---|---|
| 8 | <input type="checkbox"/> Active Termites | <input type="checkbox"/> Previous Structural |
| 9 | (includes | or Roof Repair |
| 10 | wood-destroying insects) | |
| 11 | <input type="checkbox"/> Termite or Wood Rot | <input type="checkbox"/> Hazardous or Toxic Waste |
| 12 | Damage | |
| 13 | Needing Repair | |
| 14 | <input type="checkbox"/> Previous Termite Damage | <input type="checkbox"/> Asbestos Components |
| 15 | <input type="checkbox"/> Previous Termite | <input type="checkbox"/> Urea formaldehyde |
| 16 | Treatment | Insulation |
| 17 | <input type="checkbox"/> Previous Flooding | <input type="checkbox"/> Radon Gas |
| 18 | <input type="checkbox"/> Improper Drainage | <input type="checkbox"/> Lead Based Paint |
| 19 | <input type="checkbox"/> Water Penetration | <input type="checkbox"/> Aluminum Wiring |
| 20 | <input type="checkbox"/> Located in 100-Year | <input type="checkbox"/> Previous Fires |
| 21 | Floodplain | |
| 22 | <input type="checkbox"/> Present Flood Insurance | <input type="checkbox"/> Unplatted Easements |
| 23 | Coverage | |
| 24 | <input type="checkbox"/> Landfill, Settling, Soil | <input type="checkbox"/> Subsurface |
| 25 | Movement, Fault Lines | Structure or Pits |
| 26 | | <input type="checkbox"/> Previous Use of |
| 27 | | Premises for |
| 28 | | |
| 29 | | Manufacture of Methamphetamine |

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

32 _____

33 _____

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

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

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

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

6 ___ Homeowners' Association or maintenance fees or assessments.

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

10 ___ Any notices of violations of deed restrictions or
11 governmental ordinances affecting the condition or use of the
12 Property.

13 ___ Any lawsuits directly or indirectly affecting the Property.

14 ___ Any condition on the Property which materially affects the
15 physical health or safety of an individual.

16 ___ Any rainwater harvesting system connected to the property's
17 public water supply that is able to be used for indoor potable
18 purposes.

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

21 _____

22 _____

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

32 _____
33 Date Signature of Seller

34 The undersigned purchaser hereby acknowledges receipt of the
35 foregoing notice.

1 _____
2 Date Signature of Purchaser

3 SECTION 6. Section 202.007(d), Property Code, is amended to
4 read as follows:

5 (d) This section does not:

6 (1) restrict a property owners' association from
7 regulating the requirements, including size, type, shielding, and
8 materials, for or the location of a composting device~~[, rain~~
9 ~~barrel, rain harvesting device, or any other appurtenance]~~ if the
10 restriction does not prohibit the economic installation of the
11 device ~~[or appurtenance]~~ on the property owner's property where
12 there is reasonably sufficient area to install the device ~~[or~~
13 ~~appurtenance]~~;

14 (2) require a property owners' association to permit a
15 device ~~[or appurtenance]~~ described by Subdivision (1) to be
16 installed in or on property:

17 (A) owned by the property owners' association;

18 (B) owned in common by the members of the
19 property owners' association; or

20 (C) in an area other than the fenced yard or patio
21 of a property owner;

22 (3) prohibit a property owners' association from
23 regulating the installation of efficient irrigation systems,
24 including establishing visibility limitations for aesthetic
25 purposes;

26 (4) prohibit a property owners' association from
27 regulating the installation or use of gravel, rocks, or cacti; ~~[or]~~

1 (5) restrict a property owners' association from
2 regulating yard and landscape maintenance if the restrictions or
3 requirements do not restrict or prohibit turf or landscaping design
4 that promotes water conservation;

5 (6) require a property owners' association to permit a
6 rain barrel or rainwater harvesting system to be installed in or on
7 property if:

8 (A) the property is:

9 (i) owned by the property owners'
10 association;

11 (ii) owned in common by the members of the
12 property owners' association; or

13 (iii) located between the front of the
14 property owner's home and an adjoining or adjacent street; or

15 (B) the barrel or system:

16 (i) is of a color other than a color
17 consistent with the color scheme of the property owner's home; or

18 (ii) displays any language or other content
19 that is not typically displayed by such a barrel or system as it is
20 manufactured; or

21 (7) restrict a property owners' association from
22 regulating the size, type, and shielding of, and the materials used
23 in the construction of, a rain barrel, rainwater harvesting device,
24 or other appurtenance that is located on the side of a house or at
25 any other location that is visible from a street, another lot, or a
26 common area if:

27 (A) the restriction does not prohibit the

1 economic installation of the device or appurtenance on the property
2 owner's property; and

3 (B) there is a reasonably sufficient area on the
4 property owner's property in which to install the device or
5 appurtenance.

6 SECTION 7. Section 1.003, Water Code, is amended to read as
7 follows:

8 Sec. 1.003. PUBLIC POLICY. It is the public policy of the
9 state to provide for the conservation and development of the
10 state's natural resources, including:

11 (1) the control, storage, preservation, and
12 distribution of the state's storm and floodwaters and the waters of
13 its rivers and streams for irrigation, power, and other useful
14 purposes;

15 (2) the reclamation and irrigation of the state's
16 arid, semiarid, and other land needing irrigation;

17 (3) the reclamation and drainage of the state's
18 overflowed land and other land needing drainage;

19 (4) the conservation and development of its forest,
20 water, and hydroelectric power;

21 (5) the navigation of the state's inland and coastal
22 waters;

23 (6) the maintenance of a proper ecological environment
24 of the bays and estuaries of Texas and the health of related living
25 marine resources; [~~and~~]

26 (7) the voluntary stewardship of public and private
27 lands to benefit waters of the state; and

1 (8) the promotion of rainwater harvesting for potable
2 and nonpotable purposes at public and private facilities in this
3 state, including residential, commercial, and industrial
4 buildings.

5 SECTION 8. If the 82nd Legislature makes an appropriation
6 to the Texas Water Development Board to provide matching grants to
7 political subdivisions of this state for rainwater harvesting
8 demonstration projects, the board shall, not later than December 1,
9 2012, provide a report to the lieutenant governor and the speaker of
10 the house of representatives regarding the projects for which the
11 board has provided grants, including:

- 12 (1) a description of each project; and
13 (2) the amount of the grant provided for each project.

14 SECTION 9. Section 5.008(b), Property Code, as amended by
15 this Act, applies only to a transfer of property that occurs on or
16 after the effective date of this Act. A transfer of property that
17 occurs before the effective date of this Act is governed by the law
18 applicable to the transfer immediately before that date, and the
19 former law is continued in effect for that purpose. For the
20 purposes of this section, a transfer of property occurs before the
21 effective date of this Act if the contract binding the purchaser to
22 purchase the property is executed before that date.

23 SECTION 10. This Act takes effect September 1, 2011.