

1-1 By: Miller of Comal (Senate Sponsor - Seliger) H.B. No. 3391  
1-2 (In the Senate - Received from the House May 6, 2011;  
1-3 May 9, 2011, read first time and referred to Committee on Natural  
1-4 Resources; May 18, 2011, reported favorably by the following vote:  
1-5 Yeas 8, Nays 0; May 18, 2011, sent to printer.)

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

1-8 relating to rainwater harvesting and other water conservation  
1-9 initiatives.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter A, Chapter 59, Finance Code, is  
1-12 amended by adding Section 59.012 to read as follows:

1-13 Sec. 59.012. LOANS FOR DEVELOPMENTS THAT USE HARVESTED  
1-14 RAINWATER. Financial institutions may consider making loans for  
1-15 developments that will use harvested rainwater as the sole source  
1-16 of water supply.

1-17 SECTION 2. Section 447.004, Government Code, is amended by  
1-18 amending Subsection (c-1) and adding Subsection (c-3) to read as  
1-19 follows:

1-20 (c-1) The procedural standards adopted under this section  
1-21 must require that:

1-22 (1) on-site reclaimed system technologies, including  
1-23 rainwater harvesting, condensate collection, or cooling tower blow  
1-24 down, or a combination of those system technologies, for potable  
1-25 and nonpotable indoor use and landscape watering be incorporated  
1-26 into the design and construction of:

1-27 (A) ~~[(1)]~~ each new state building with a roof  
1-28 measuring at least 10,000 square feet; and

1-29 (B) ~~[(2)]~~ any other new state building for which  
1-30 the incorporation of such systems is feasible; and

1-31 (2) rainwater harvesting system technology for  
1-32 potable and nonpotable indoor use and landscape watering be  
1-33 incorporated into the design and construction of each new state  
1-34 building with a roof measuring at least 50,000 square feet that is  
1-35 located in an area of this state in which the average annual  
1-36 rainfall is at least 20 inches.

1-37 (c-3) The procedural standards required by Subsection  
1-38 (c-1)(2) apply to a building described by that subdivision unless  
1-39 Subsection (c-2) applies or the state agency or institution of  
1-40 higher education constructing the building provides the state  
1-41 energy conservation office evidence that the amount of rainwater  
1-42 that will be harvested from one or more existing buildings at the  
1-43 same location is equivalent to the amount of rainwater that could  
1-44 have been harvested from the new building had rainwater harvesting  
1-45 system technology been incorporated into its design and  
1-46 construction.

1-47 SECTION 3. Section 341.042, Health and Safety Code, is  
1-48 amended by amending Subsection (b) and adding Subsections (b-1),  
1-49 (b-2), and (b-3) to read as follows:

1-50 (b) The commission by rule shall provide that if a structure  
1-51 is connected to a public water supply system and has a rainwater  
1-52 harvesting system, ~~[for indoor use:~~

1-53 ~~[(1)]~~ the structure must have appropriate  
1-54 cross-connection safeguards ~~[, and~~

1-55 ~~[(2)] the rainwater harvesting system may be used only~~  
1-56 ~~for nonpotable indoor purposes].~~

1-57 (b-1) The commission shall develop rules regarding the  
1-58 installation and maintenance of rainwater harvesting systems that  
1-59 are used for indoor potable purposes and connected to a public water  
1-60 supply system. The rules must contain criteria that are sufficient  
1-61 to ensure that:

1-62 (1) safe sanitary drinking water standards are met;

1-63 and

1-64 (2) harvested rainwater does not come into

2-1 communication with a public water supply system's drinking water at  
2-2 a location off of the property on which the rainwater harvesting  
2-3 system is located.

2-4 (b-2) A person who intends to connect a rainwater harvesting  
2-5 system to a public water supply system for use for potable purposes  
2-6 must give written notice of that intention to the municipality in  
2-7 which the rainwater harvesting system is located or the owner or  
2-8 operator of the public water supply system before connecting the  
2-9 rainwater harvesting system to the public water supply system.

2-10 (b-3) A municipality or the owner or operator of a public  
2-11 water supply system may not be held liable for any adverse health  
2-12 effects allegedly caused by the consumption of water collected by a  
2-13 rainwater harvesting system that is connected to a public water  
2-14 supply system and is used for potable purposes if the municipality  
2-15 or the public water supply system is in compliance with the sanitary  
2-16 standards for drinking water adopted by the commission and  
2-17 applicable to the municipality or public water supply system.

2-18 SECTION 4. Chapter 580, Local Government Code, is amended  
2-19 by adding Section 580.004 to read as follows:

2-20 Sec. 580.004. RAINWATER HARVESTING. (a) Each municipality  
2-21 and county is encouraged to promote rainwater harvesting at  
2-22 residential, commercial, and industrial facilities through  
2-23 incentives such as the provision of a discount of rain barrels or  
2-24 rebates for water storage facilities.

2-25 (b) The Texas Water Development Board shall ensure that  
2-26 training on rainwater harvesting is available for the members of  
2-27 the permitting staffs of municipalities and counties at least  
2-28 quarterly. Each member of the permitting staff of each county and  
2-29 municipality located wholly or partly in an area designated by the  
2-30 Texas Commission on Environmental Quality as a priority groundwater  
2-31 management area under Section 35.008, Water Code, whose work  
2-32 relates directly to permits involving rainwater harvesting and each  
2-33 member of the permitting staff of each county and municipality with  
2-34 a population of more than 100,000 whose work relates directly to  
2-35 permits involving rainwater harvesting must receive appropriate  
2-36 training regarding rainwater harvesting standards and their  
2-37 relation to permitting at least once every five years. Members of  
2-38 the permitting staffs of counties and municipalities not located  
2-39 wholly or partly in an area designated by the Texas Commission on  
2-40 Environmental Quality as a priority groundwater management area  
2-41 under Section 35.008, Water Code, whose work relates directly to  
2-42 permits involving rainwater harvesting and members of the  
2-43 permitting staffs of counties and municipalities with a population  
2-44 of 100,000 or less whose work relates directly to permits involving  
2-45 rainwater harvesting are encouraged to receive the training. The  
2-46 Texas Water Development Board may provide appropriate training by  
2-47 seminars or by videotape or functionally similar and widely  
2-48 available media without cost.

2-49 (c) A municipality or county may not deny a building permit  
2-50 solely because the facility will implement rainwater harvesting.  
2-51 However, a municipality or county may require that a rainwater  
2-52 harvesting system comply with the minimum state standards  
2-53 established for such a system.

2-54 (d) Each school district is encouraged to implement  
2-55 rainwater harvesting at facilities of the district.

2-56 SECTION 5. Section 5.008(b), Property Code, is amended to  
2-57 read as follows:

2-58 (b) The notice must be executed and must, at a minimum, read  
2-59 substantially similar to the following:

2-60 SELLER'S DISCLOSURE NOTICE  
2-61 CONCERNING THE PROPERTY AT \_\_\_\_\_  
2-62 (Street Address and City)

2-63 THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF  
2-64 THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY  
2-65 SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR  
2-66 WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT  
2-67 A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.  
2-68 Seller \_\_\_ is \_\_\_ is not occupying the Property.

3-1 If unoccupied, how long since Seller has occupied the Property?  
 3-2 \_\_\_\_\_  
 3-3 1. The Property has the items checked below:  
 3-4 Write Yes (Y), No (N), or Unknown (U).  
 3-5  Range  Oven  Microwave  
 3-6  Dishwasher  Trash Compactor  Disposal  
 3-7  Washer/Dryer  Window  Rain Gutters  
 3-8 Hookups  Screens  
 3-9  Security  Fire Detection  Intercom  
 3-10 System  Equipment  System  
 3-11  Smoke Detector  
 3-12  Smoke Detector -  
 3-13 Hearing Impaired  
 3-14  Carbon Monoxide  
 3-15 Alarm  
 3-16  Emergency Escape  
 3-17 Ladder(s)  
 3-18  TV Antenna  Cable TV  Satellite  
 3-19 Wiring  Dish  
 3-20  Ceiling Fan(s)  Attic Fan(s)  Exhaust  
 3-21 Fan(s)  
 3-22  Central A/C  Central Heating  Wall/Window  
 3-23 Air  
 3-24 Conditioning  
 3-25  Plumbing System  Septic System  Public Sewer  
 3-26 System  
 3-27  Patio/Decking  Outdoor Grill  Fences  
 3-28  Pool  Sauna  Spa  
 3-29  Hot Tub  
 3-30  Pool Equipment  Pool Heater  Automatic Lawn  
 3-31 Sprinkler  
 3-32 System  
 3-33  Fireplace(s) &  Fireplace(s) &  
 3-34 Chimney  Chimney  
 3-35 (Woodburning)  (Mock)  
 3-36  Gas Lines  Gas Fixtures  
 3-37 (Nat./LP)  
 3-38 Garage:  Attached  Not Attached  Carport  
 3-39 Garage Door Opener(s):  Electronic  Control(s)  
 3-40 Water Heater:  Gas  Electric  
 3-41 Water Supply:  City  Well  MUD  Co-op  
 3-42 Roof Type: \_\_\_\_\_ Age: \_\_\_\_\_ (approx)  
 3-43 Are you (Seller) aware of any of the above items that are not in  
 3-44 working condition, that have known defects, or that are in need of  
 3-45 repair?  Yes  No  Unknown.  
 3-46 If yes, then describe. (Attach additional sheets if necessary):  
 3-47 \_\_\_\_\_  
 3-48 \_\_\_\_\_  
 3-49 2. Does the property have working smoke detectors installed in  
 3-50 accordance with the smoke detector requirements of Chapter 766,  
 3-51 Health and Safety Code?\*  Yes  No  Unknown.  
 3-52 If the answer to the question above is no or unknown,  
 3-53 explain. (Attach additional sheets if necessary):  
 3-54 \_\_\_\_\_  
 3-55 \_\_\_\_\_  
 3-56 \*Chapter 766 of the Health and Safety Code requires  
 3-57 one-family or two-family dwellings to have working smoke detectors  
 3-58 installed in accordance with the requirements of the building code  
 3-59 in effect in the area in which the dwelling is located, including  
 3-60 performance, location, and power source requirements. If you do  
 3-61 not know the building code requirements in effect in your area, you  
 3-62 may check unknown above or contact your local building official for  
 3-63 more information. A buyer may require a seller to install smoke  
 3-64 detectors for the hearing impaired if: (1) the buyer or a member of  
 3-65 the buyer's family who will reside in the dwelling is hearing  
 3-66 impaired; (2) the buyer gives the seller written evidence of the  
 3-67 hearing impairment from a licensed physician; and (3) within 10  
 3-68 days after the effective date, the buyer makes a written request for  
 3-69 the seller to install smoke detectors for the hearing impaired and

4-1 specifies the locations for installation. The parties may agree who  
4-2 will bear the cost of installing the smoke detectors and which brand  
4-3 of smoke detectors to install.

4-4 3. Are you (Seller) aware of any known defect/malfunctions in any  
4-5 of the following?

4-6 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- 4-7  Interior Walls  Ceilings  Floors
- 4-8  Exterior Walls  Doors  Windows
- 4-9  Roof  Foundation/  
4-10  Slab(s)  Basement
- 4-11  Walls/Fences  Driveways  Sidewalks
- 4-12  Plumbing/Sewers/  
4-13  Septics  Electrical  Lighting
- 4-14  Other Structural Components (Describe): \_\_\_\_\_  
4-15 \_\_\_\_\_  
4-16 \_\_\_\_\_

4-17 If the answer to any of the above is yes, explain. (Attach  
4-18 additional sheets if necessary): \_\_\_\_\_  
4-19 \_\_\_\_\_  
4-20 \_\_\_\_\_

4-21 4. Are you (Seller) aware of any of the following conditions?  
4-22 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- 4-23  Active Termites  Previous Structural  
4-24 (includes or Roof Repair  
4-25 wood-destroying insects)
- 4-26  Termite or Wood Rot  Hazardous or Toxic Waste  
4-27 Damage
- 4-28  Needing Repair
- 4-29  Previous Termite Damage  Asbestos Components
- 4-30  Previous Termite  Urea formaldehyde  
4-31  Treatment  Insulation
- 4-32  Previous Flooding  Radon Gas
- 4-33  Improper Drainage  Lead Based Paint
- 4-34  Water Penetration  Aluminum Wiring
- 4-35  Located in 100-Year  Previous Fires  
4-36 Floodplain
- 4-37  Present Flood Insurance  Unplatted Easements  
4-38 Coverage
- 4-39  Landfill, Settling, Soil  Subsurface  
4-40 Movement, Fault Lines  Structure or Pits
- 4-41  \_\_\_\_\_ Previous Use of  
4-42  \_\_\_\_\_ Premises for  
4-43 \_\_\_\_\_  
4-44  \_\_\_\_\_ Manufacture of Methamphetamine

4-45 If the answer to any of the above is yes, explain. (Attach  
4-46 additional sheets if necessary): \_\_\_\_\_  
4-47 \_\_\_\_\_  
4-48 \_\_\_\_\_

4-49 5. Are you (Seller) aware of any item, equipment, or system in or  
4-50 on the property that is in need of repair?  Yes (if you are  
4-51 aware)  No (if you are not aware). If yes, explain (attach  
4-52 additional sheets as necessary). \_\_\_\_\_

4-53 6. Are you (Seller) aware of any of the following?  
4-54 Write Yes (Y) if you aware, write No (N) if you are not aware.

- 4-55  Room additions, structural modifications, or other  
4-56 alterations or repairs made without necessary permits or not  
4-57 in compliance with building codes in effect at that time.
- 4-58  Homeowners' Association or maintenance fees or assessments.
- 4-59  Any "common area" (facilities such as pools, tennis courts,  
4-60 walkways, or other areas) co-owned in undivided interest with  
4-61 others.
- 4-62  Any notices of violations of deed restrictions or  
4-63 governmental ordinances affecting the condition or use of the  
4-64 Property.
- 4-65  Any lawsuits directly or indirectly affecting the Property.

4-

5-1 \_\_\_ Any condition on the Property which materially affects the  
5-2 physical health or safety of an individual.

5-3 Any rainwater harvesting system connected to the property's  
5-4 public water supply that is able to be used for indoor potable  
5-5 purposes.

5-6 If the answer to any of the above is yes, explain. (Attach  
5-7 additional sheets if necessary): \_\_\_\_\_

5-8 \_\_\_\_\_  
5-9 \_\_\_\_\_

5-10 7. If the property is located in a coastal area that is seaward of  
5-11 the Gulf Intracoastal Waterway or within 1,000 feet of the mean high  
5-12 tide bordering the Gulf of Mexico, the property may be subject to  
5-13 the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63,  
5-14 Natural Resources Code, respectively) and a beachfront  
5-15 construction certificate or dune protection permit may be required  
5-16 for repairs or improvements. Contact the local government with  
5-17 ordinance authority over construction adjacent to public beaches  
5-18 for more information.

5-19 \_\_\_\_\_  
5-20 Date Signature of Seller

5-21 The undersigned purchaser hereby acknowledges receipt of the  
5-22 foregoing notice.

5-23 \_\_\_\_\_  
5-24 Date Signature of Purchaser

5-25 SECTION 6. Section 202.007(d), Property Code, is amended to  
5-26 read as follows:

5-27 (d) This section does not:

5-28 (1) restrict a property owners' association from  
5-29 regulating the requirements, including size, type, shielding, and  
5-30 materials, for or the location of a composting device [~~rain~~  
5-31 ~~barrel, rain harvesting device, or any other appurtenance~~] if the  
5-32 restriction does not prohibit the economic installation of the  
5-33 device [~~or appurtenance~~] on the property owner's property where  
5-34 there is reasonably sufficient area to install the device [~~or~~  
5-35 ~~appurtenance~~];

5-36 (2) require a property owners' association to permit a  
5-37 device [~~or appurtenance~~] described by Subdivision (1) to be  
5-38 installed in or on property:

5-39 (A) owned by the property owners' association;

5-40 (B) owned in common by the members of the  
5-41 property owners' association; or

5-42 (C) in an area other than the fenced yard or patio  
5-43 of a property owner;

5-44 (3) prohibit a property owners' association from  
5-45 regulating the installation of efficient irrigation systems,  
5-46 including establishing visibility limitations for aesthetic  
5-47 purposes;

5-48 (4) prohibit a property owners' association from  
5-49 regulating the installation or use of gravel, rocks, or cacti; [~~or~~]

5-50 (5) restrict a property owners' association from  
5-51 regulating yard and landscape maintenance if the restrictions or  
5-52 requirements do not restrict or prohibit turf or landscaping design  
5-53 that promotes water conservation;

5-54 (6) require a property owners' association to permit a  
5-55 rain barrel or rainwater harvesting system to be installed in or on  
5-56 property if:

5-57 (A) the property is:  
5-58 (i) owned by the property owners'  
5-59 association;

5-60 (ii) owned in common by the members of the  
5-61 property owners' association; or

5-62 (iii) located between the front of the  
5-63 property owner's home and an adjoining or adjacent street; or

5-64 (B) the barrel or system:

5-65 (i) is of a color other than a color  
5-66 consistent with the color scheme of the property owner's home; or

5-67 (ii) displays any language or other content  
5-68 that is not typically displayed by such a barrel or system as it is  
5-69 manufactured; or

6-1 (7) restrict a property owners' association from  
6-2 regulating the size, type, and shielding of, and the materials used  
6-3 in the construction of, a rain barrel, rainwater harvesting device,  
6-4 or other appurtenance that is located on the side of a house or at  
6-5 any other location that is visible from a street, another lot, or a  
6-6 common area if:

6-7 (A) the restriction does not prohibit the  
6-8 economic installation of the device or appurtenance on the property  
6-9 owner's property; and

6-10 (B) there is a reasonably sufficient area on the  
6-11 property owner's property in which to install the device or  
6-12 appurtenance.

6-13 SECTION 7. Section 1.003, Water Code, is amended to read as  
6-14 follows:

6-15 Sec. 1.003. PUBLIC POLICY. It is the public policy of the  
6-16 state to provide for the conservation and development of the  
6-17 state's natural resources, including:

6-18 (1) the control, storage, preservation, and  
6-19 distribution of the state's storm and floodwaters and the waters of  
6-20 its rivers and streams for irrigation, power, and other useful  
6-21 purposes;

6-22 (2) the reclamation and irrigation of the state's  
6-23 arid, semiarid, and other land needing irrigation;

6-24 (3) the reclamation and drainage of the state's  
6-25 overflowed land and other land needing drainage;

6-26 (4) the conservation and development of its forest,  
6-27 water, and hydroelectric power;

6-28 (5) the navigation of the state's inland and coastal  
6-29 waters;

6-30 (6) the maintenance of a proper ecological environment  
6-31 of the bays and estuaries of Texas and the health of related living  
6-32 marine resources; ~~and~~

6-33 (7) the voluntary stewardship of public and private  
6-34 lands to benefit waters of the state; and

6-35 (8) the promotion of rainwater harvesting for potable  
6-36 and nonpotable purposes at public and private facilities in this  
6-37 state, including residential, commercial, and industrial  
6-38 buildings.

6-39 SECTION 8. If the 82nd Legislature makes an appropriation  
6-40 to the Texas Water Development Board to provide matching grants to  
6-41 political subdivisions of this state for rainwater harvesting  
6-42 demonstration projects, the board shall, not later than December 1,  
6-43 2012, provide a report to the lieutenant governor and the speaker of  
6-44 the house of representatives regarding the projects for which the  
6-45 board has provided grants, including:

6-46 (1) a description of each project; and

6-47 (2) the amount of the grant provided for each project.

6-48 SECTION 9. Section 5.008(b), Property Code, as amended by  
6-49 this Act, applies only to a transfer of property that occurs on or  
6-50 after the effective date of this Act. A transfer of property that  
6-51 occurs before the effective date of this Act is governed by the law  
6-52 applicable to the transfer immediately before that date, and the  
6-53 former law is continued in effect for that purpose. For the  
6-54 purposes of this section, a transfer of property occurs before the  
6-55 effective date of this Act if the contract binding the purchaser to  
6-56 purchase the property is executed before that date.

6-57 SECTION 10. This Act takes effect September 1, 2011.

6-58 \* \* \* \* \*