By: Menendez

H.B. No. 3489

	A BILL TO BE ENTITLED		
1	AN ACT		
2	relating to the disclosure of a hazardous drain in a swimming pool		
3	or spa by a seller of residential real property.		
4	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:		
5	SECTION 1. Section 5.008, Property Code, is amended by		
6	amending Subsection (b) and adding Subsection (g) to read as		
7	follows:		
8	(b) The notice must be executed and must, at a minimum, read		
9	substantially similar to the following:		
10	SELLER'S DISCLOSURE NOTICE		
11 12	CONCERNING THE PROPERTY AT (Street Address and City)		
13 14 15 16 17	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		
18	Seller is is not occupying the Property.		
19	If unoccupied, how long since Seller has occupied the Property?		
20			
21	1. The Property has the items checked below:		
22 23 24 25 26 27 28 29 30 31	<pre>Write Yes (Y), No (N), or Unknown (U). RangeDishwasherDishwasherTrash CompactorDisposalDisposalRain Gutters ScreensSecurity SystemSmoke DetectorSmoke DetectorSmoke Detector - </pre>		

			H.B. No. 3489
1 2		Hearing Impaired Carbon Monoxide	
3		Alarm	
4 5		<u>Emergency</u> Escape Ladder(s)	
6	TV Antenna	Cable TV	Satellite
7 8 9	Ceiling Fan(s)	Wiring Attic Fan(s)	Dish Exhaust Fan(s)
10 11	Central A/C	Central Heating	Wall/Window Air
12 13 14	Plumbing System	Septic System	Conditioning Public Sewer System
15 16	Patio/Decking Pool	Outdoor Grill Sauna	Fences Spa
17 18 19	Pool Equipment	Pool Heater	Hot Tub Automatic Lawn Sprinkler
20 21 22	Fireplace(s) & Chimney		System Fireplace(s) & Chimney
23	(Woodburning)		(Mock)
24 25	Gas Lines (Nat./LP)		Gas Fixtures
26 27	Garage: Attached Garage Door Opener(s):	Not Attached Electronic	Carport Control(s)
28	Water Heater:	Gas	Electric
29 30	Water Supply: City Roof Type:	WellMUDAge:	Co-op (approx)
31	Are you (Seller) aware o	of any of the above iter	ms that are not in
32	working condition, that h	nave known defects, or t	that are in need of
33	repair?YesNo _	Unknown.	
34	If yes, then describe. (	Attach additional sheet	s if necessary):
35			
36			
37	2. Does the property ha	ave working smoke deteo	ctors installed in
38	accordance with the smol	ke detector requirement	s of Chapter 766,
39	Health and Safety Code?*	YesNoUnkno	own.
40	If the answer to the	e question above is	no or unknown,
41	explain. (Attach additio	onal sheets if necessary	·):
42			

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 23 24 25	Interior WallsCeilingsFloorsFloorsWindowsRoofFoundation/Basement Slab(s)
26 27 28 29	Walls/FencesDrivewaysSidewalksPlumbing/Sewers/ElectricalLightingSepticsSystemsFixturesOther Structural Components (Describe):
30	

1		
2	If the answer to any of the above	e is yes, explain. (Attach
3	additional sheets if necessary)	:
4		
5		
6	4. Are you (Seller) aware of an	y of the following conditions?
7	Write Yes (Y) if you are aware, w	vrite No (N) if you are not aware.
8 9 10 11 12 13	<pre> Active Termites (includes wood-destroying insects)  Termite or Wood Rot Damage Needing Repair</pre>	— Previous Structural or Roof Repair — Hazardous or Toxic Waste
14 15 16 17 18 19 20 21	<pre> Previous Termite Damage  Previous Termite Treatment  Previous Flooding  Improper Drainage  Water Penetration  Located in 100-Year Floodplain</pre>	<pre> Asbestos Components  Urea formaldehyde Insulation  Radon Gas  Lead Based Paint  Aluminum Wiring  Previous Fires</pre>
22 23 24 25 26 27 28	Present Flood Insurance Coverage Landfill, Settling, Soil Movement, Fault Lines Single Blockable Main Drain in Pool/Hot Tub/Spa*	<ul> <li>Unplatted Easements</li> <li>Subsurface Structure or Pits</li> <li>Previous Use of Premises for Manufacture of Methamphetamine</li> </ul>
29	If the answer to any of the above	e is yes, explain. (Attach
30	additional sheets if necessary)	:
31		
32		
33	*A single blockable main d	lrain may cause a suction entrapment
34	hazard for an individual.	
35	5. Are you (Seller) aware of a	ny item, equipment, or system in or
36	on the property that is in ne	ed of repair? Yes (if you are
37	aware) No (if you are not	aware). If yes, explain (attach

1	additional sheets as necessary)
2	6. Are you (Seller) aware of any of the following?
3	Write Yes (Y) if you aware, write No (N) if you are not aware.
4 5 7 8 9 10 11	<ul> <li>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.</li> <li>Homeowners' Association or maintenance fees or assessments.</li> <li>Any "common area" (facilities such as pools, tennis courts, walkways, or other areas) co-owned in undivided interest with others.</li> <li>Any notices of violations of deed restrictions or</li> </ul>
12 13 14 15 16	<pre>governmental ordinances affecting the condition or use of the Property.  Any lawsuits directly or indirectly affecting the Property.  Any condition on the Property which materially affects the physical health or safety of an individual.</pre>
17	If the answer to any of the above is yes, explain. (Attach
18	additional sheets if necessary):
19	
20	
21	7. If the property is located in a coastal area that is seaward of
22	the Gulf Intracoastal Waterway or within 1,000 feet of the mean high
23	tide bordering the Gulf of Mexico, the property may be subject to
24	the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63,
25	Natural Resources Code, respectively) and a beachfront
26	construction certificate or dune protection permit may be required
27	for repairs or improvements. Contact the local government with
28	ordinance authority over construction adjacent to public beaches
29	for more information.
30 31	Date Signature of Seller
32	The undersigned purchaser hereby acknowledges receipt of the
33	foregoing notice.

1	
2	Date Signature of Purchaser
3	(g) In this section:
4	(1) "Blockable main drain" means a main drain of any
5	size and shape that a human body can sufficiently block to create a
6	suction entrapment hazard.
7	(2) "Main drain" means a submerged suction outlet
8	typically located at the bottom of a swimming pool or spa to conduct
9	water to a recirculating pump.
10	SECTION 2. This Act applies only to a transfer of property
11	that occurs on or after the effective date of this Act. A transfer
12	of property that occurs before the effective date of this Act is
13	governed by the law applicable to the transfer immediately before
14	that date, and the former law is continued in effect for that
15	purpose. For the purposes of this section, a transfer of property
16	occurs before the effective date of this Act if the contract binding
17	the purchaser to purchase the property is executed before that
18	date.
10	ODORTON 2 Milita Data talena affarat Gartamban 1 2011

19 SECTION 3. This Act takes effect September 1, 2011.