

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of a hazardous drain in a swimming pool or spa by a seller of residential real property.

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

SECTION 1. Section 5.008, Property Code, is amended by amending Subsection (b) and adding Subsection (g) 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 |
| ___ Washer/Dryer | ___ Window | ___ Rain Gutters |
| ___ Hookups | ___ Screens | |
| ___ Security System | ___ Fire Detection Equipment | ___ Intercom System |
| | ___ Smoke Detector | |
| | ___ Smoke Detector - | |

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

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

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

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

40 If the answer to the question above is no or unknown,
41 explain. (Attach additional 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 | <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 |
| 28 | | | |
| 29 | <input type="checkbox"/> 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"/> <u>Single Blockable Main</u> | <input type="checkbox"/> Previous Use of Premises |
| 27 | <u>Drain in Pool/Hot</u> | for Manufacture of |
| 28 | <u>Tub/Spa*</u> | Methamphetamine |

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

31 _____

32 _____

33 *A single blockable main drain may cause a suction entrapment
34 hazard for an individual.

35 5. Are you (Seller) aware of any item, equipment, or system in or
36 on the property that is in need 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 ___ Room additions, structural modifications, or other
5 alterations or repairs made without necessary permits or not
6 in compliance with building codes in effect at that time.

7 ___ Homeowners' Association or maintenance fees or assessments.

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

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

14 ___ Any lawsuits directly or indirectly affecting the Property.

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

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.

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