

House Bill 3391
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

(c-3) The procedural standards required by Subsection (c-1)(2) apply to a building described by that subdivision unless Subsection (c-2) applies or the state agency or institution of higher education constructing the building provides the state energy conservation office evidence that the amount of

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rainwater that will be harvested from one or more existing buildings at the same location is equivalent to the amount of rainwater that could have been harvested from the new building had rainwater harvesting system technology been incorporated into its design and construction.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b-2) A person who intends to connect a rainwater harvesting system to a public water supply system for use for potable purposes must **receive the consent of** the municipality in which the rainwater harvesting system is located or the owner or operator of the public water supply system before connecting the rainwater harvesting system to the public water

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the public water supply system.

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

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

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

(b) The Texas Water Development Board shall ensure that training on rainwater harvesting is available for the members of the permitting staffs of municipalities and counties at least quarterly. Each member of the permitting staff of each county and municipality located wholly or partly in an area designated by the Texas Commission on Environmental Quality as a priority groundwater management area under Section 35.008, Water Code, whose work relates directly to permits involving rainwater harvesting and each member of the permitting staff of each county and municipality with a population of more than 100,000 whose work relates directly to permits involving rainwater harvesting must receive appropriate training regarding rainwater harvesting standards and their relation to permitting at least once every five years.

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supply system.

(b-3) A municipality or the owner or operator of a public water supply system may not be held liable for any adverse health effects allegedly caused by the consumption of water collected by a rainwater harvesting system that is connected to a public water supply system and is used for potable purposes if the municipality or the public water supply system is in compliance with the sanitary standards for drinking water adopted by the commission and applicable to the municipality or public water supply system. [FA1(1)]

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Members of the permitting staffs of counties and municipalities not located wholly or partly in an area designated by the Texas Commission on Environmental Quality as a priority groundwater management area under Section 35.008, Water Code, whose work relates directly to permits involving rainwater harvesting and members of the permitting staffs of counties and municipalities with a population of 100,000 or less whose work relates directly to permits involving rainwater harvesting are encouraged to receive the training. The Texas Water Development Board may provide appropriate training by seminars or by videotape or functionally similar and widely available media without cost.

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

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

SECTION 5. Section 5.008(b), Property Code, is amended 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

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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	___ Fire Detection	___
Intercom		
System	Equipment	System
	___ Smoke Detector	
	___ Smoke Detector -	
	Hearing Impaired	
	___ Carbon Monoxide	
	Alarm	
	___ Emergency Escape	
	Ladder(s)	
___ TV Antenna	___ Cable TV	___ Satellite
	Wiring	Dish

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<input type="checkbox"/> Ceiling Fan(s) Exhaust	<input type="checkbox"/> Attic Fan(s)	<input type="checkbox"/>			
	Fan(s)				
<input type="checkbox"/> Central A/C Wall/Window	<input type="checkbox"/> Central Heating	<input type="checkbox"/>			
	Air Conditioning				
<input type="checkbox"/> Plumbing System	<input type="checkbox"/> Septic System				
<input type="checkbox"/> Public Sewer	System				
<input type="checkbox"/> Patio/Decking	<input type="checkbox"/> Outdoor Grill				
<input type="checkbox"/> Fences					
<input type="checkbox"/> Pool	<input type="checkbox"/> Spa				
<input type="checkbox"/> Sauna	<input type="checkbox"/> Hot Tub				
<input type="checkbox"/> Pool Equipment	<input type="checkbox"/> Pool Heater	<input type="checkbox"/>			
Automatic Lawn	Sprinkler System				
<input type="checkbox"/> Fireplace(s) & Chimney (Woodburning)		<input type="checkbox"/>			
	Chimney	(Mock)			
<input type="checkbox"/> Gas Lines (Nat./LP)	<input type="checkbox"/> Gas Fixtures				
Garage: <input type="checkbox"/> Attached	<input type="checkbox"/> Not Attached				
<input type="checkbox"/> Carport					
Garage Door Opener(s):	<input type="checkbox"/> Electronic	<input type="checkbox"/>			
Control(s)					
Water Heater:	<input type="checkbox"/> Gas	<input type="checkbox"/> Electric			
Water Supply: <input type="checkbox"/> City	<input type="checkbox"/> Well	<input type="checkbox"/> MUD			
<input type="checkbox"/> Co-op					
Roof Type: _____	Age: _____				

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_____(approx)

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

If yes, then describe. (Attach additional sheets if necessary):

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

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

*Chapter 766 of the Health and Safety Code requires one-family or two-family dwellings to have working smoke detectors installed in accordance with the requirements of the building code in effect in the area in which the dwelling is located, including performance, location, and power source requirements. If you do not know the building code requirements in effect in your area, you may check unknown above or contact your local building official for more information. A buyer may require a seller to install smoke detectors for the hearing impaired if: (1) the buyer or a member of the buyer's family who will reside in the dwelling is hearing impaired; (2) the buyer gives the seller written evidence of the hearing impairment from a licensed physician; and (3) within 10 days after the effective date, the buyer

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makes a written request for the seller to install smoke detectors for the hearing impaired and specifies the locations for installation. The parties may agree who will bear the cost of installing the smoke detectors and which brand of smoke detectors to install.

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

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

- | | | |
|---|--------------------------------------|-----------------------------------|
| <input type="checkbox"/> Interior Walls | <input type="checkbox"/> Ceilings | |
| <input type="checkbox"/> Floors | | |
| <input type="checkbox"/> Exterior Walls | <input type="checkbox"/> Doors | |
| <input type="checkbox"/> Windows | | |
| <input type="checkbox"/> Roof | <input type="checkbox"/> Foundation/ | <input type="checkbox"/> Basement |

Slab(s)

- | | |
|---|-------------------------------------|
| <input type="checkbox"/> Walls/Fences | <input type="checkbox"/> Driveways |
| <input type="checkbox"/> Sidewalks | |
| <input type="checkbox"/> Plumbing/Sewers/ | <input type="checkbox"/> Electrical |
| <input type="checkbox"/> Lighting | |
| <input type="checkbox"/> Septics | Systems |

Fixtures
 Other Structural Components

(Describe): _____

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

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

- | | |
|--|--|
| <input type="checkbox"/> Active Termites
(includes wood-destroying insects) | <input type="checkbox"/> Previous Structural
or Roof Repair |
| <input type="checkbox"/> Termite or Wood Rot Damage | <input type="checkbox"/> |
| <input type="checkbox"/> Hazardous or Toxic Waste
Needing Repair | <input type="checkbox"/> |
| <input type="checkbox"/> Previous Termite Damage | <input type="checkbox"/> Asbestos
Components |
| <input type="checkbox"/> Previous Termite
Treatment | <input type="checkbox"/> Urea formaldehyde
Insulation |
| <input type="checkbox"/> Previous Flooding | <input type="checkbox"/> Radon Gas |
| <input type="checkbox"/> Improper Drainage | <input type="checkbox"/> Lead Based Paint |
| <input type="checkbox"/> Water Penetration | <input type="checkbox"/> Aluminum Wiring |
| <input type="checkbox"/> Located in 100-Year
Floodplain | <input type="checkbox"/> Previous Fires |
| <input type="checkbox"/> Present Flood Insurance | <input type="checkbox"/> Unplatted
Easements |
| <input type="checkbox"/> Coverage | |
| <input type="checkbox"/> Landfill, Settling, Soil
Movement, Fault Lines | <input type="checkbox"/> Subsurface
Structure or Pits |

Previous Use of Premises for
Manufacture of Methamphetamine

If the answer to any of the above is yes, explain. (Attach
additional sheets if

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necessary): _____

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

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

___ 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.

___ Homeowners' Association or maintenance fees or assessments.

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

___ Any notices of violations of deed restrictions or 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.

Any rainwater harvesting system connected to the

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property's public water supply that is able to be used for indoor potable purposes.

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

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

Date Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice.

Date Signature of Purchaser

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

(d) This section does not:

(1) restrict a property owners' association from regulating the

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requirements, including size, type, shielding, and materials, for or the location of a composting device ~~[, rain barrel, rain harvesting device, or any other appurtenance]~~ if the restriction does not prohibit the economic installation of the device ~~[or appurtenance]~~ on the property owner's property where there is reasonably sufficient area to install the device ~~[or appurtenance]~~;

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

(A) owned by the property owners' association;

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

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

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

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

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

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

(A) the property is:

(i) owned by the property owners' association;

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

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

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(B) the barrel or system:

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

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

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

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

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

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

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

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

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

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

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

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- (5) the navigation of the state's inland and coastal waters;
- (6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources; ~~and~~
- (7) the voluntary stewardship of public and private lands to benefit waters of the state; and
- (8) the promotion of rainwater harvesting for potable and nonpotable purposes at public and private facilities in this state, including residential, commercial, and industrial buildings.

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

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

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

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SECTION 9. Same as House version.

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executed before that date.

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

SECTION 10. Same as House version.