

BILL ANALYSIS

C.S.H.B. 1639
By: Farias
Defense & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Although it has been shown that jet fighter training operations generally are very safe, interested observers nevertheless express concerns that, in the unlikely event of a crash, statistical studies conducted by the U.S. Air Force indicate that the areas where an aircraft will most likely crash are in the military airport's clear zone and accident potential zones. Furthermore, these aircraft create sustained noise on a daily basis throughout the year, potentially emitting levels of noise incompatible with certain land uses. Interested observers note that there is no mechanism currently available to compel a property owner to alert a potential buyer that the property is significantly impacted by high-volume, sustained military aircraft operations near military airports. C.S.H.B. 1639 seeks to address the need for public information regarding such issues to assist potential buyers near military installations in making informed decisions in light of these circumstances.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1639 amends the Local Government Code to require a county and any municipality in which is located a military installation to work closely with the military installation as necessary to ensure that the most recent Air Installation Compatible Use Zone Study or Joint Land Use Study applicable to each military installation or a link to that information is publicly available on the local governmental entity's website.

C.S.H.B. 1639 amends the Property Code to require a notice disclosing property conditions given by a seller to the purchaser of certain residential real property to include notice that the property may be located near a military installation and may be affected by high noise or air installation compatible use zones or other operations. The bill also requires such notice to inform the purchaser that information relating to high noise and compatible use zones is available in the most recent Air Installation Compatible Use Zone Study or Joint Land Use Study prepared for a military installation and may be accessed on the website of the military installation and of the county and any municipality in which the military installation is located.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1639 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 397, Local Government Code, is amended by adding Section 397.007 to read as follows:

Sec. 397.007. PUBLIC INFORMATION REGARDING IMPACT OF CERTAIN MILITARY AIRPORT OPERATIONS.

(a) This section applies only to an area located:

(1) within three miles of the boundaries of a federally owned and operated military installation that includes an airport and for which an Air Installation Compatible Use Zone Study or Joint Land Use Study is prepared; and

(2) in a county:

(A) with a population of more than 1.5 million that contains a municipality in which at least 75 percent of the county's population resides; or

(B) with a population of 130,000 or more that is adjacent to a county described by Paragraph (A).

(b) A county containing an area to which this section applies shall work closely with the military installation adjoining the area as necessary to obtain or create a map that is visually useful in determining whether the area is located inside or outside an accident potential zone, clear zone, or noise zone as designated in the most recent Air Installation Compatible Use Zone Study or Joint Land Use Study applicable to the military installation.

(c) The county shall work closely with the military installation as necessary to update a map obtained or created under this section.

(d) The county shall ensure that the following information or a link to the information is publically available on the county's Internet website:

(1) each map obtained or created and updated under this section; and

(2) the most recent Air Installation

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Chapter 397, Local Government Code, is amended by adding Section 397.007 to read as follows:

Sec. 397.007. PUBLIC INFORMATION REGARDING IMPACT OF MILITARY INSTALLATIONS. A county and any municipality in which is located a military installation shall work closely with the military installation as necessary to ensure that the most recent Air Installation Compatible Use Zone Study or Joint Land

Use Study applicable to each military installation or a link to that information is publicly available on the local governmental entity's Internet website.

SECTION 2. 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

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?

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
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System

___ Smoke Detector

Smoke Detector -

Hearing Impaired

___ Carbon Monoxide

Alarm

Emergency Escape

Ladder(s)

☐ TV Antenna ☐ Cable TV
 ☐ Satellite
 Wiring Dish
☐ Ceiling Fan(s) ☐ Attic Fan(s)
 ☐ Exhaust Fan(s)
☐ Central A/C ☐ Central
 Heating ☐ Wall/Window
 Air
 Conditioning

☐ Plumbing System ☐ Septic
 System ☐ Public Sewer System
☐ Patio/Decking ☐ Outdoor
 Grill ☐ Fences
☐ Pool ☐ Sauna
 ☐ Spa

☐ Pool Equipment ☐ Hot Tub
 ☐ Pool Heater
 ☐ Automatic Lawn Sprinkler
 System
☐ Fireplace(s) &
 ☐ Fireplace(s) &
 Chimney
 Chimney
 (Woodburning)
 (Mock)
☐ Natural Gas Lines
 ☐ Gas Fixtures
☐ Liquid Propane Gas: ☐ LP
 Community ☐ LP on Property
 (Captive)
 Garage: ☐ Attached ☐ Not
 Attached ☐ Carport
 Garage Door Opener(s): ☐
 Electronic ☐ Control(s)
 Water Heater: ☐ Gas ☐
 Electric
 Water Supply: ☐ City ☐ Well
☐ MUD ☐ Co-op
 Roof Type:
 Age:
 _____(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 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 defects/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	
<input type="checkbox"/> 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	<input type="checkbox"/> Systems
<input type="checkbox"/> Fixtures	
<input type="checkbox"/> Other	<input type="checkbox"/> Structural Components

(Describe):_____

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

If the answer to any of the above is yes, explain. (Attach additional sheets if 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 located on the property that is larger than 500 gallons and that uses a public water supply as an auxiliary water source.

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.

8. This property may be located near a military installation and may be affected by

This property is located within three miles of a military installation that includes an

airport. The seller has reviewed publically available information provided as required by Section 397.007, Local Government Code, and identified the designation status of the property based on that information as follows:
Write Yes (Y) or No (N) to each:
Accident potential zone
Clear zone
High-noise zone

SECTION 3. Section 5.008(b-1), Property Code, as added 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 executed before that date.

SECTION 4. This Act takes effect September 1, 2015.

high noise or air installation compatible use zones or other operations. Information relating to high noise and compatible use zones is available in the most recent Air Installation Compatible Use Zone Study or Joint Land Use Study prepared for a military installation and may be accessed on the Internet website of the military installation and of the county and any municipality in which the military installation is located.

Date Signature of Seller
The undersigned purchaser hereby acknowledges receipt of the foregoing notice.

Date Signature of Purchaser

SECTION 3. 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 executed before that date.

SECTION 4. Same as introduced version.