

## **BILL ANALYSIS**

Senate Research Center  
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H.B. 1665  
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Agriculture, Water & Rural Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Prospective homeowners looking to purchase waterfront property may be unaware that the body of water adjoining their property may be subject to fluctuation. An uninformed buyer may not know that certain reservoirs in Texas are not at a constant level. Reservoir levels are subject to entities with rights to the water. Additionally, the current drought is exacerbating the degree of water level fluctuations, often resulting in reservoirs with dramatically low levels. Before a purchaser makes the decision to spend a large amount of money on waterfront property, they should be aware of the possibility that the water level is subject to change, possibly affecting the value of property.

H.B. 1665 requires the seller of waterfront residential or commercial property to provide notice to the purchaser that the body of water is subject to fluctuation via drought or others' exercise of their lawful right to use the water in question. H.B. 1665 sets out sample language for such notice and allows a purchaser to terminate the sales contract if the notice is not provided.

H.B. 1665 provides that the notice requirement applies to residential and commercial property that adjoins a body of water, and includes the specific language for the notice, requiring the seller to notify the purchaser the water level of the body of water fluctuates for various reasons, such as drought or flooding conditions or another entity's lawful exercise of its right to use the water in question. H.B. 1665 further provides that if the seller does not provide the required notice, the purchaser may terminate the executory contract within seven days after receiving notice, from any source.

H.B. 1665 amends current law relating to notice of water level fluctuations to purchasers of real property adjoining an impoundment of water.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 5, Property Code, by adding Section 5.019, as follows:

Sec. 5.019. NOTICE OF WATER LEVEL FLUCTUATIONS. (a) Provides that this section applies only to the sale of residential or commercial real property adjoining an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11 (Water Rights), Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level.

(b) Requires a seller of real property to give to the purchaser of the property a written notice in a certain form and sets for the language for the form and the form.

(c) Requires that the notice described by Subsection (b) be delivered by the seller to the purchaser on or before the effective date of an executory contract binding the purchaser to purchase the property.

(d) Authorizes the purchaser, if a contract is entered into without the seller providing the notice required by this Subsection (c), to terminate the contract for any reason within seven days after the date the purchaser receives:

(1) the notice described by Subsection (b) from the seller; or

(2) information described by the notice under Subsection (b) from any other person.

(e) Provides that, after the date of the conveyance, the purchaser may bring an action for misrepresentation against the seller if the seller:

(1) failed to provide the notice before the date of the conveyance; and

(2) had actual knowledge that the water level described by Subsection (b) fluctuates for various reasons, including the reasons stated in Subsection (b).

SECTION 2. Provides that Section 5.019, Property Code, as added by this Act, applies only to an executory contract entered into on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.