

BILL ANALYSIS

Senate Research Center

S.B. 339
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 339 requires sellers of residential real property to give enhanced notice about the flood-prone status of their home. Previously, sellers only had to disclose, if they knew, whether their home was in a 100-year floodplain.

Under S.B. 339, sellers would have to disclose the following:

- whether their home is located wholly or partly in a 100-year flood plain;
- whether their home is located wholly or partly in a 500-year flood plain;
- whether their home is located wholly or partly in a flood pool;
- whether their home is located wholly or partly in a reservoir;
- whether the home is located five miles downstream of a reservoir;
- whether their home may flood under catastrophic circumstances; and
- whether their home has flooded in a flood event.

S.B. 339 would require the seller to provide the definitions for 100-year floodplain, 500-year floodplain, flood pool, flood insurance rate map, and reservoir on the disclosure form for the potential buyer, as defined by the bill.

If the seller does not immediately disclose this information before a contract is signed, the buyer can terminate the contract after the seller discloses this information or after the potential buyer receives the information in the disclosure from any other person within seven days. If the seller fails to disclose this information before a sale and had actual knowledge of these facts, the buyer can initiate a civil action against the seller for misrepresentation. (Original Author's/Sponsor's Statement of Intent)

S.B. 339 amends current law relating to a seller's disclosure notice for residential property regarding floodplains, flood pools, floodways, or reservoirs.

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 Section 5.008(b), Property Code, as follows:

- (b) Requires the notice the seller of residential real property comprising not more than one dwelling unit located in this state is required give to the purchaser of the property to be substantially similar to the following:

(1)–(3) makes no changes to these subdivisions;

(4) asks if the seller is aware of certain conditions, including "Water Damage Not Due to a Flood Event." Deletes the conditions of "Previous Flooding," "Water Penetration," "Located in 100-Year Floodplain," and "Present Flood Insurance Coverage" from the list of conditions;

(5) makes no changes to this subdivision;

(6) asks the seller if the seller is aware of certain conditions and defines "100-year floodplain," "500-year floodplain," "flood pool," "flood insurance rate map," "floodway," and "reservoir" for purposes of this section;

(7) asks the seller if the seller has ever filed a claim for flood damage to the property with any insurance provider, including the National Flood Insurance Program, and to explain, if applicable;

(8) asks the seller if the seller has ever received assistance from the Federal Emergency Management Agency or the United States Small Business Administration for flood damage to the property, and to explain, if applicable;

(9) asks the seller if the seller is aware of certain conditions;

(10) redesignates existing Subdivision (7) as Subdivision (10) stating that properties within a certain distance of certain water features may be subject to the Open Beaches Act or the Dune Protection Act, and certain certificates and permits may be required; and

(11) redesignates existing Subdivision (8) as Subdivision (11) relating to property near a military installation.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2019.