

BILL ANALYSIS

Senate Research Center
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S.B. 339
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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.

As proposed, S.B. 339 amends current law relating to a seller's disclosure notice for residential property regarding floodplains, flood pools, 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, by deleting existing text in question number four of the form required to be given by sellers of residential real property to the purchaser regarding whether the seller is aware that the property is located in a 100-year floodplain.

SECTION 2. Amends Subchapter A, Chapter 5, Property Code, by adding Section 5.020, as follows:

Sec. 5.020. SELLER'S DISCLOSURE OF FLOODPLAIN, FLOOD POOL, OR RESERVOIR. (a) Defines "100-year floodplain," "500-year floodplain," "flood pool," "flood insurance rate map," and "reservoir."

(b) Provides that this section applies only to the sale of residential real property.

(c) Requires the seller, on or before the date a seller of residential real property and a purchaser enter into a contract binding the purchaser to purchase the property, to give to the purchaser a signed, written notice in substantially a specified form.

(d) Authorizes the purchaser, if a contract is entered into without the seller providing the notice required by this section, to terminate the contract for any reason within seven days after the date the purchaser receives the notice from the seller or information described by the notice under Subsection (c) from any other person.

(e) Authorizes the purchaser, after the date of conveyance, to 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 property was located:

(A) in a 100-year floodplain, 500-year floodplain, flood pool, or reservoir; or

(B) within five miles downstream of a reservoir and the property has flooded in a flood event.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2019.