

By: Huffman, et al.

S.B. No. 339

A BILL TO BE ENTITLED

AN ACT

relating to a seller's disclosure notice for residential property regarding floodplains, flood pools, floodways, or reservoirs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. 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 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).

- | | | |
|--|---|--|
| <input type="checkbox"/> Range | <input type="checkbox"/> Oven | <input type="checkbox"/> Microwave |
| <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Trash Compactor | <input type="checkbox"/> Disposal |
| <input type="checkbox"/> Washer/Dryer | <input type="checkbox"/> Window | <input type="checkbox"/> Rain Gutters |
| <input type="checkbox"/> Hookups | <input type="checkbox"/> Screens | |
| <input type="checkbox"/> Security System | <input type="checkbox"/> Fire Detection Equipment | <input type="checkbox"/> Intercom System |
| | <input type="checkbox"/> Smoke Detector | |
| | <input type="checkbox"/> Smoke Detector - | |
| | <input type="checkbox"/> Hearing Impaired | |
| | <input type="checkbox"/> Carbon Monoxide | |

- 1 Alarm
- 2 Emergency Escape
- 3 Ladder(s)
- 4 TV Antenna Cable TV Satellite
- 5 Ceiling Fan(s) Wiring Dish
- 6 Central A/C Attic Fan(s) Exhaust
- 7 Central Heating Fan(s)
- 8 Wall/Window
- 9 Air
- 10 Conditioning
- 11 Plumbing System Septic System Public Sewer
- 12 System
- 13 Patio/Decking Outdoor Grill Fences
- 14 Pool Sauna Spa
- 15 Hot Tub
- 16 Pool Equipment Pool Heater Automatic Lawn
- 17 Sprinkler
- 18 System
- 19 Fireplace(s) & Fireplace(s) &
- 20 Chimney Chimney
- 21 (Woodburning) (Mock)
- 22 Natural Gas Lines Gas Fixtures
- 23 Liquid Propane Gas: LP Community LP on Property
- 24 (Captive)
- 25 Garage: Attached Not Attached Carport
- 26 Garage Door Opener(s): Electronic Control(s)
- 27 Water Heater: Gas Electric
- 28 Water Supply: City Well MUD Co-op

29 Roof Type: _____ Age: _____(approx)

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

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

34 _____
 35 _____

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

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

5 *Chapter 766 of the Health and Safety Code requires
6 one-family or two-family dwellings to have working smoke detectors
7 installed in accordance with the requirements of the building code
8 in effect in the area in which the dwelling is located, including
9 performance, location, and power source requirements. If you do
10 not know the building code requirements in effect in your area, you
11 may check unknown above or contact your local building official for
12 more information. A buyer may require a seller to install smoke
13 detectors for the hearing impaired if: (1) the buyer or a member of
14 the buyer's family who will reside in the dwelling is hearing
15 impaired; (2) the buyer gives the seller written evidence of the
16 hearing impairment from a licensed physician; and (3) within 10
17 days after the effective date, the buyer makes a written request for
18 the seller to install smoke detectors for the hearing impaired and
19 specifies the locations for installation. The parties may agree
20 who will bear the cost of installing the smoke detectors and which
21 brand of smoke detectors to install.

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

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

- | | | | |
|----|---|---|------------------------------------|
| 25 | | | |
| 26 | <input type="checkbox"/> Interior Walls | <input type="checkbox"/> Ceilings | <input type="checkbox"/> Floors |
| 27 | <input type="checkbox"/> Exterior Walls | <input type="checkbox"/> Doors | <input type="checkbox"/> Windows |
| 28 | <input type="checkbox"/> Roof | <input type="checkbox"/> Foundation/
Slab(s) | <input type="checkbox"/> Basement |
| 29 | | | |
| 30 | <input type="checkbox"/> Walls/Fences | <input type="checkbox"/> Driveways | <input type="checkbox"/> Sidewalks |

1 Plumbing/Sewers/ Electrical Lighting
2 Septics Systems Fixtures

3 Other Structural Components (Describe): _____

4 _____

5 _____

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

8 _____

9 _____

10 4. Are you (Seller) aware of any of the following conditions?

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

- 12 Active Termites Previous Structural
- 13 (includes or Roof Repair
- 14 wood-destroying insects)
- 15 Termite or Wood Rot Damage Hazardous or Toxic Waste
- 16 Needing Repair
- 17 Previous Termite Damage Asbestos Components
- 18 Previous Termite Urea formaldehyde
- 19 Treatment Insulation
- 20 ~~Previous Flooding~~ Radon Gas
- 21 Improper Drainage Lead Based Paint
- 22 Water Damage Not Due to a Aluminum Wiring
- 23 Flood Event [~~Penetration~~]
- 24 ~~Located in 100-Year~~ Previous Fires
- 25 ~~Floodplain~~
- 26 ~~Present Flood Insurance~~ Unplatted Easements
- 27 ~~Coverage~~
- 28 Landfill, Settling, Soil Subsurface
- 29 Movement, Fault Lines Structure or Pits
- 30 Single Blockable Main Previous Use of Premises
- 31 Drain in Pool/Hot for Manufacture of
- 32 Tub/Spa* Methamphetamine

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

36 _____

37 _____

38 *A single blockable main drain may cause a suction entrapment
39 hazard for an individual.

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

5 _____

6 6. Are you (Seller) aware of any of the following conditions?*

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

8 Present flood insurance coverage

9 Previous flooding due to a failure or breach of a reservoir or a
10 controlled or emergency release of water from a reservoir

11 Previous water penetration into a structure on the property due
12 to a natural flood event

13 Write Yes (Y) if you are aware and check wholly or partly as
14 applicable, write No (N) if you are not aware.

15 Located () wholly () partly in a 100-year floodplain
16 (Special Flood Hazard Area-Zone A, V, A99, AE, AO, AH, VE, or AR)

17 Located () wholly () partly in a 500-year floodplain
18 (Moderate Flood Hazard Area-Zone X (shaded))

19 Located () wholly () partly in a floodway

20 Located () wholly () partly in a flood pool

21 Located () wholly () partly in a reservoir

22 If the answer to any of the above is yes, explain (attach additional
23 sheets as necessary): _____

24 _____

25 *For purposes of this notice:

26 "100-year floodplain" means any area of land that:

27 (A) is identified on the flood insurance rate map as a
28 special flood hazard area, which is designated as Zone A, V, A99,
29 AE, AO, AH, VE, or AR on the map;

30 (B) has a one percent annual chance of flooding, which
31 is considered to be a high risk of flooding; and

32 (C) may include a regulatory floodway, flood pool, or

1 reservoir.

2 "500-year floodplain" means any area of land that:

3 (A) is identified on the flood insurance rate map as a
4 moderate flood hazard area, which is designated on the map as Zone X
5 (shaded); and

6 (B) has a two-tenths of one percent annual chance of
7 flooding, which is considered to be a moderate risk of flooding.

8 "Flood pool" means the area adjacent to a reservoir that lies
9 above the normal maximum operating level of the reservoir and that
10 is subject to controlled inundation under the management of the
11 United States Army Corps of Engineers.

12 "Flood insurance rate map" means the most recent flood hazard
13 map published by the Federal Emergency Management Agency under the
14 National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et
15 seq.).

16 "Floodway" means an area that is identified on the flood
17 insurance rate map as a regulatory floodway, which includes the
18 channel of a river or other watercourse and the adjacent land areas
19 that must be reserved for the discharge of a base flood, also
20 referred to as a 100-year flood, without cumulatively increasing
21 the water surface elevation more than a designated height.

22 "Reservoir" means a water impoundment project operated by the
23 United States Army Corps of Engineers that is intended to retain
24 water or delay the runoff of water in a designated surface area of
25 land.

26 7. Have you (Seller) ever filed a claim for flood damage to the
27 property with any insurance provider, including the National Flood

1 Insurance Program (NFIP)?* __ Yes __ No. If yes, explain (attach
2 additional sheets as necessary): _____

3 _____

4 *Homes in high risk flood zones with mortgages from federally
5 regulated or insured lenders are required to have flood insurance.
6 Even when not required, the Federal Emergency Management Agency
7 (FEMA) encourages homeowners in high risk, moderate risk, and low
8 risk flood zones to purchase flood insurance that covers the
9 structure(s) and the personal property within the structure(s).

10 8. Have you (Seller) ever received assistance from FEMA or the
11 U.S. Small Business Administration (SBA) for flood damage to the
12 property? __ Yes __ No. If yes, explain (attach additional sheets
13 as necessary): _____

14 _____

15 9. Are you (Seller) aware of any of the following?

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

- 17
- 18 __ Room additions, structural modifications, or other
- 19 alterations or repairs made without necessary permits or not
- 20 in compliance with building codes in effect at that time.
- 21 __ Homeowners' Association or maintenance fees or assessments.
- 22 __ Any "common area" (facilities such as pools, tennis courts,
- 23 walkways, or other areas) co-owned in undivided interest with
- 24 others.
- 25 __ Any notices of violations of deed restrictions or
- 26 governmental ordinances affecting the condition or use of the
- 27 Property.
- 28 __ Any lawsuits directly or indirectly affecting the Property.
- 29 __ Any condition on the Property which materially affects the
- 30 physical health or safety of an individual.
- 31 __ Any rainwater harvesting system located on the property that
- 32 is larger than 500 gallons and that uses a public water supply
- 33 as an auxiliary water source.
- 34 __ Any portion of the property that is located in a groundwater
- 35 conservation district or a subsidence district.

36 If the answer to any of the above is yes, explain. (Attach

1 additional sheets if necessary): _____
2 _____
3 _____

4 10 [7]. If the property is located in a coastal area that is
5 seaward of the Gulf Intracoastal Waterway or within 1,000 feet of
6 the mean high tide bordering the Gulf of Mexico, the property may be
7 subject to the Open Beaches Act or the Dune Protection Act (Chapter
8 61 or 63, Natural Resources Code, respectively) and a beachfront
9 construction certificate or dune protection permit may be required
10 for repairs or improvements. Contact the local government with
11 ordinance authority over construction adjacent to public beaches
12 for more information.

13 11 [8]. This property may be located near a military installation
14 and may be affected by high noise or air installation compatible use
15 zones or other operations. Information relating to high noise and
16 compatible use zones is available in the most recent Air
17 Installation Compatible Use Zone Study or Joint Land Use Study
18 prepared for a military installation and may be accessed on the
19 Internet website of the military installation and of the county and
20 any municipality in which the military installation is located.

21 _____
22 Date Signature of Seller

23 The undersigned purchaser hereby acknowledges receipt of the
24 foregoing notice.

25 _____
26 Date Signature of Purchaser

27 SECTION 2. Section 5.008, Property Code, as amended by this
28 Act, applies only to a contract for the sale of real property

1 entered into on or after the effective date of this Act. A contract
2 entered into before the effective date of this Act is governed by
3 the law in effect on the date the contract was entered into, and
4 that law is continued in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2019.