

By: Huffman

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, 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 Plumbing System Central Heating Wall/Window
- 9 Septic System Air
- 10 Outdoor Grill Conditioning
- 11 Sauna Public Sewer
- 12 Pool Heater System
- 13 Fireplace(s) & Fences
- 14 Chimney Spa
- 15 (Woodburning) Hot Tub
- 16 Natural Gas Lines Automatic Lawn
- 17 Liquid Propane Gas: LP Community Sprinkler
- 18 (Captive) System
- 19 Not Attached Fireplace(s) &
- 20 Electronic Chimney
- 21 Gas (Mock)
- 22 Well Gas Fixtures
- 23 MUD LP on Property
- 24 Garage: Attached Not Attached Carport
- 25 Garage Door Opener(s): Electronic Control(s)
- 26 Water Heater: Gas Electric
- 27 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 Interior Walls Ceilings Floors
27 Exterior Walls Doors Windows
28 Roof Foundation/
29 Slab(s)
30 Walls/Fences Driveways 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 Penetration Aluminum Wiring
- 23 ~~Located in 100-Year~~ Previous Fires
- 24 ~~Floodplain]~~
- 25 Present Flood Insurance Unplatted Easements
- 26 Coverage
- 27 Landfill, Settling, Soil Subsurface
- 28 Movement, Fault Lines Structure or Pits
- 29 Single Blockable Main Previous Use of Premises
- 30 Drain in Pool/Hot for Manufacture of
- 31 Tub/Spa* Methamphetamine
- 32

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

35 _____

36 _____

37 *A single blockable main drain may cause a suction entrapment
38 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?

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

- 8
9 Room additions, structural modifications, or other
10 alterations or repairs made without necessary permits or not
11 in compliance with building codes in effect at that time.
12 Homeowners' Association or maintenance fees or assessments.
13 Any "common area" (facilities such as pools, tennis courts,
14 walkways, or other areas) co-owned in undivided interest with
15 others.
16 Any notices of violations of deed restrictions or
17 governmental ordinances affecting the condition or use of the
18 Property.
19 Any lawsuits directly or indirectly affecting the Property.
20 Any condition on the Property which materially affects the
21 physical health or safety of an individual.
22 Any rainwater harvesting system located on the property that
23 is larger than 500 gallons and that uses a public water supply
24 as an auxiliary water source.
25 Any portion of the property that is located in a groundwater
26 conservation district or a subsidence district.

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

29 _____
30 _____

31 7. If the property is located in a coastal area that is seaward of
32 the Gulf Intracoastal Waterway or within 1,000 feet of the mean high
33 tide bordering the Gulf of Mexico, the property may be subject to
34 the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63,
35 Natural Resources Code, respectively) and a beachfront
36 construction certificate or dune protection permit may be required

1 for repairs or improvements. Contact the local government with
2 ordinance authority over construction adjacent to public beaches
3 for more information.

4 8. This property may be located near a military installation and
5 may be affected by high noise or air installation compatible use
6 zones or other operations. Information relating to high noise and
7 compatible use zones is available in the most recent Air
8 Installation Compatible Use Zone Study or Joint Land Use Study
9 prepared for a military installation and may be accessed on the
10 Internet website of the military installation and of the county and
11 any municipality in which the military installation is located.

12 _____
13 Date Signature of Seller

14 The undersigned purchaser hereby acknowledges receipt of the
15 foregoing notice.

16 _____
17 Date Signature of Purchaser

18 SECTION 2. Subchapter A, Chapter 5, Property Code, is
19 amended by adding Section 5.020 to read as follows:

20 Sec. 5.020. SELLER'S DISCLOSURE NOTICE OF FLOODPLAIN, FLOOD
21 POOL, OR RESERVOIR. (a) In this section:

22 (1) "100-year floodplain" means any area of land that
23 is identified on a flood insurance rate map as an area that has a one
24 percent chance of being inundated by a flood event each year.

25 (2) "500-year floodplain" means any area of land that
26 is identified on a flood insurance rate map as an area that has a
27 two-tenths of one percent chance of being inundated by a flood event
28 each year.

1 (3) "Flood pool" means the area adjacent to a
2 reservoir that lies above the normal maximum operating level of the
3 reservoir and that is subject to controlled inundation under the
4 management of the United States Army Corps of Engineers.

5 (4) "Flood insurance rate map" means the most recent
6 flood hazard map published by the Federal Emergency Management
7 Agency under the National Flood Insurance Act of 1968 (42 U.S.C.
8 Section 4001 et seq.).

9 (5) "Reservoir" means a water impoundment project
10 operated by the United States Army Corps of Engineers that is
11 intended to retain water or delay the runoff of water in a
12 designated surface area of land.

13 (b) This section applies only to the sale of residential
14 real property.

15 (c) On or before the date a seller of residential real
16 property and a purchaser enter into a contract binding the
17 purchaser to purchase the property, the seller shall give to the
18 purchaser a signed, written notice in substantially the following
19 form:

20 SELLER'S DISCLOSURE NOTICE OF

21 FLOODPLAIN, FLOOD POOL, OR RESERVOIR

22 Concerning the property at _____ (street address
23 and city) or described as _____ (legal description):

24 Are you (Seller) aware of any of the following conditions?
25 Write Yes (Y), No (N), or Unknown (U). The property is located
26 (check wholly or partly as applicable):

27 ___ () wholly () partly in a 100-year floodplain

1 () wholly () partly in a 500-year floodplain
2 () wholly () partly in a flood pool
3 () wholly () partly in a reservoir
4 within five miles downstream of a reservoir and the
5 property:

6 may flood under catastrophic circumstances
7 has flooded in a flood event.

8 For purposes of this notice:

9 1. "100-year floodplain" means any area of land that is
10 identified on a flood insurance rate map as an area that has a one
11 percent chance of being inundated by a flood event each year.

12 2. "500-year floodplain" means any area of land that is
13 identified on a flood insurance rate map as an area that has a
14 two-tenths of one percent chance of being inundated by a flood event
15 each year.

16 3. "Flood pool" means the area adjacent to a reservoir that
17 lies above the normal maximum operating level of the reservoir and
18 that is subject to controlled inundation under the management of
19 the United States Army Corps of Engineers.

20 4. "Flood insurance rate map" means the most recent flood
21 hazard map published by the Federal Emergency Management Agency
22 under the National Flood Insurance Act of 1968 (42 U.S.C. Section
23 4001 et seq.).

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

1 _____

2 (Purchaser's signature)

3 _____

4 (Date)

5 _____

6 (Seller's signature)

7 _____

8 (Date)

9 (d) If a contract is entered into without the seller
10 providing the notice required by this section, the purchaser may
11 terminate the contract for any reason within seven days after the
12 date the purchaser receives:

13 (1) the notice from the seller; or

14 (2) information described by the notice under
15 Subsection (c) from any other person.

16 (e) After the date of the conveyance, the purchaser may
17 bring an action for misrepresentation against the seller if the
18 seller:

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

21 (2) had actual knowledge that the property was
22 located:

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

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

27 SECTION 3. The changes in law made by this Act in amending

1 Section 5.008, Property Code, and adding Section 5.020, Property
2 Code, apply only to a contract for the sale of real property entered
3 into on or after the effective date of this Act. A contract entered
4 into before the effective date of this Act is governed by the law in
5 effect on the date the contract was entered into, and that law is
6 continued in effect for that purpose.

7 SECTION 4. This Act takes effect September 1, 2019.