

1-1 By: Huffman, Alvarado, Kolkhorst S.B. No. 339  
 1-2 (In the Senate - Filed January 11, 2019; February 7, 2019,  
 1-3 read first time and referred to Committee on Business & Commerce;  
 1-4 April 15, 2019, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 15, 2019,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 339 By: Whitmire

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to a seller's disclosure notice for residential property  
 1-22 regarding floodplains, flood pools, floodways, or reservoirs.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 5.008(b), Property Code, is amended to  
 1-25 read as follows:

1-26 (b) The notice must be executed and must, at a minimum, read  
 1-27 substantially similar to the following:

1-28 SELLER'S DISCLOSURE NOTICE

1-29 CONCERNING THE PROPERTY AT \_\_\_\_\_

1-30 (Street Address and City)

1-31 THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF  
 1-32 THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY  
 1-33 SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR  
 1-34 WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT  
 1-35 A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

1-36 Seller \_\_\_ is \_\_\_ is not occupying the Property.

1-37 If unoccupied, how long since Seller has occupied the Property?

1-38 \_\_\_\_\_

1-39 1. The Property has the items checked below:

1-40 Write Yes (Y), No (N), or Unknown (U).

- |      |   |   |                                       |
|------|---|---|---------------------------------------|
| 1-41 |   |   |                                       |
| 1-42 | <input type="checkbox"/> Range          | <input type="checkbox"/> Oven             | <input type="checkbox"/> Microwave    |
| 1-43 | <input type="checkbox"/> Dishwasher     | <input type="checkbox"/> Trash Compactor  | <input type="checkbox"/> Disposal     |
| 1-44 | <input type="checkbox"/> Washer/Dryer   | <input type="checkbox"/> Window           | <input type="checkbox"/> Rain Gutters |
| 1-45 | <input type="checkbox"/> Hookups        | <input type="checkbox"/> Screens          |                                       |
| 1-46 | <input type="checkbox"/> Security       | <input type="checkbox"/> Fire Detection   | <input type="checkbox"/> Intercom     |
| 1-47 | <input type="checkbox"/> System         | <input type="checkbox"/> Equipment        | <input type="checkbox"/> System       |
| 1-48 |   | <input type="checkbox"/> Smoke Detector   |                                       |
| 1-49 |   | <input type="checkbox"/> Smoke Detector - |                                       |
| 1-50 |   | <input type="checkbox"/> Hearing Impaired |                                       |
| 1-51 |   | <input type="checkbox"/> Carbon Monoxide  |                                       |
| 1-52 |   | <input type="checkbox"/> Alarm            |                                       |
| 1-53 |   | <input type="checkbox"/> Emergency Escape |                                       |
| 1-54 |   | <input type="checkbox"/> Ladder(s)        |                                       |
| 1-55 | <input type="checkbox"/> TV Antenna     | <input type="checkbox"/> Cable TV         | <input type="checkbox"/> Satellite    |
| 1-56 |   | <input type="checkbox"/> Wiring           | <input type="checkbox"/> Dish         |
| 1-57 | <input type="checkbox"/> Ceiling Fan(s) | <input type="checkbox"/> Attic Fan(s)     | <input type="checkbox"/> Exhaust      |
| 1-58 |   |   | <input type="checkbox"/> Fan(s)       |
| 1-59 | <input type="checkbox"/> Central A/C    | <input type="checkbox"/> Central Heating  | <input type="checkbox"/> Wall/Window  |

2-1 Air  
 2-2 Conditioning  
 2-3  Plumbing System  Septic System  Public Sewer  
 2-4 System  
 2-5  Patio/Decking  Outdoor Grill  Fences  
 2-6  Pool  Sauna  Spa  
 2-7  Hot Tub  
 2-8  Pool Equipment  Pool Heater  Automatic Lawn  
 2-9 Sprinkler  
 2-10 System  
 2-11  Fireplace(s) &  Fireplace(s) &  
 2-12 Chimney Chimney  
 2-13 (Woodburning) (Mock)  
 2-14  Natural Gas Lines  Gas Fixtures  
 2-15  Liquid Propane Gas:  LP Community  LP on Property  
 2-16 (Captive)  
 2-17 Garage:  Attached  Not Attached  Carport  
 2-18 Garage Door Opener(s):  Electronic  Control(s)  
 2-19 Water Heater:  Gas  Electric  
 2-20 Water Supply:  City  Well  MUD  Co-op  
 2-21 Roof Type: \_\_\_\_\_ Age: \_\_\_\_\_(approx)  
 2-22 Are you (Seller) aware of any of the above items that are not in  
 2-23 working condition, that have known defects, or that are in need of  
 2-24 repair?  Yes  No  Unknown.  
 2-25 If yes, then describe. (Attach additional sheets if necessary):  
 2-26 \_\_\_\_\_  
 2-27 \_\_\_\_\_  
 2-28 2. Does the property have working smoke detectors installed in  
 2-29 accordance with the smoke detector requirements of Chapter 766,  
 2-30 Health and Safety Code?\*  Yes  No  Unknown.  
 2-31 If the answer to the question above is no or unknown,  
 2-32 explain. (Attach additional sheets if necessary): \_\_\_\_\_  
 2-33 \_\_\_\_\_  
 2-34 \_\_\_\_\_  
 2-35 \*Chapter 766 of the Health and Safety Code requires  
 2-36 one-family or two-family dwellings to have working smoke detectors  
 2-37 installed in accordance with the requirements of the building code  
 2-38 in effect in the area in which the dwelling is located, including  
 2-39 performance, location, and power source requirements. If you do  
 2-40 not know the building code requirements in effect in your area, you  
 2-41 may check unknown above or contact your local building official for  
 2-42 more information. A buyer may require a seller to install smoke  
 2-43 detectors for the hearing impaired if: (1) the buyer or a member of  
 2-44 the buyer's family who will reside in the dwelling is hearing  
 2-45 impaired; (2) the buyer gives the seller written evidence of the  
 2-46 hearing impairment from a licensed physician; and (3) within 10  
 2-47 days after the effective date, the buyer makes a written request for  
 2-48 the seller to install smoke detectors for the hearing impaired and  
 2-49 specifies the locations for installation. The parties may agree  
 2-50 who will bear the cost of installing the smoke detectors and which  
 2-51 brand of smoke detectors to install.  
 2-52 3. Are you (Seller) aware of any known defects/malfunctions in any  
 2-53 of the following?  
 2-54 Write Yes (Y) if you are aware, write No (N) if you are not aware.  
 2-55  
 2-56  Interior Walls  Ceilings  Floors  
 2-57  Exterior Walls  Doors  Windows  
 2-58  Roof  Foundation/  
 2-59 Slab(s)  Basement  
 2-60  Walls/Fences  Driveways  Sidewalks  
 2-61  Plumbing/Sewers/  
 2-62 Septics  Electrical  Lighting  
 Systems  Fixtures  
 2-63  Other Structural Components (Describe): \_\_\_\_\_  
 2-64 \_\_\_\_\_  
 2-65 \_\_\_\_\_  
 2-66 If the answer to any of the above is yes, explain. (Attach  
 2-67 additional sheets if necessary): \_\_\_\_\_  
 2-68 \_\_\_\_\_  
 2-69 \_\_\_\_\_

3-1 4. Are you (Seller) aware of any of the following conditions?  
 3-2 Write Yes (Y) if you are aware, write No (N) if you are not aware.  
 3-3  
 3-4  Active Termites  Previous Structural  
 3-5 (includes or Roof Repair  
 3-6 wood-destroying insects)  
 3-7  Termite or Wood Rot Damage  Hazardous or Toxic Waste  
 3-8 Needing Repair  
 3-9  Previous Termite Damage  Asbestos Components  
 3-10  Previous Termite  Urea formaldehyde  
 3-11 Treatment  Insulation  
 3-12 [ Previous Flooding]  Radon Gas  
 3-13  Improper Drainage  Lead Based Paint  
 3-14  Water Damage Not Due to a  Aluminum Wiring  
 3-15 Flood Event [Penetration]  
 3-16 [ Located in 100-Year  Previous Fires  
 3-17 Floodplain]  
 3-18 [ Present Flood Insurance  Unplatted Easements  
 3-19 Coverage]  
 3-20  Landfill, Settling, Soil  Subsurface  
 3-21 Movement, Fault Lines  Structure or Pits  
 3-22  Single Blockable Main  Previous Use of Premises  
 3-23 Drain in Pool/Hot for Manufacture of  
 3-24 Tub/Spa\* Methamphetamine  
 3-25 If the answer to any of the above is yes, explain. (Attach  
 3-26 additional sheets if necessary):  
 3-27 \_\_\_\_\_  
 3-28 \_\_\_\_\_

3-29 \*A single blockable main drain may cause a suction entrapment  
 3-30 hazard for an individual.

3-31 5. Are you (Seller) aware of any item, equipment, or system in or  
 3-32 on the property that is in need of repair?  Yes (if you are  
 3-33 aware)  No (if you are not aware). If yes, explain (attach  
 3-34 additional sheets as necessary).  
 3-35 \_\_\_\_\_

3-36 6. Are you (Seller) aware of any of the following conditions? \*  
 3-37 Write Yes (Y) if you are aware, write No (N) if you are not aware.

3-38  Present flood insurance coverage  
 3-39  Previous flooding due to a failure or breach of a reservoir or a  
 3-40 controlled or emergency release of water from a reservoir  
 3-41  Previous water penetration into a structure on the property due  
 3-42 to a natural flood event  
 3-43 Write Yes (Y) if you are aware and check wholly or partly as  
 3-44 applicable, write No (N) if you are not aware.

3-45  Located ( ) wholly ( ) partly in a 100-year floodplain  
 3-46 (Special Flood Hazard Area-Zone A, V, A99, AE, AO, AH, VE, or AR)  
 3-47  Located ( ) wholly ( ) partly in a 500-year floodplain  
 3-48 (Moderate Flood Hazard Area-Zone X (shaded))  
 3-49  Located ( ) wholly ( ) partly in a floodway  
 3-50  Located ( ) wholly ( ) partly in a flood pool  
 3-51  Located ( ) wholly ( ) partly in a reservoir  
 3-52 If the answer to any of the above is yes, explain (attach additional  
 3-53 sheets as necessary):  
 3-54 \_\_\_\_\_

3-55 \*For purposes of this notice:  
 3-56 "100-year floodplain" means any area of land that:  
 3-57 (A) is identified on the flood insurance rate map as a  
 3-58 special flood hazard area, which is designated as Zone A, V, A99,  
 3-59 AE, AO, AH, VE, or AR on the map;  
 3-60 (B) has a one percent annual chance of flooding, which  
 3-61 is considered to be a high risk of flooding; and  
 3-62 (C) may include a regulatory floodway, flood pool, or  
 3-63 reservoir.  
 3-64 "500-year floodplain" means any area of land that:  
 3-65 (A) is identified on the flood insurance rate map as a  
 3-66 moderate flood hazard area, which is designated on the map as Zone X  
 3-67 (shaded); and

4-1 (B) has a two-tenths of one percent annual chance of  
4-2 flooding, which is considered to be a moderate risk of flooding.

4-3 "Flood pool" means the area adjacent to a reservoir that lies  
4-4 above the normal maximum operating level of the reservoir and that  
4-5 is subject to controlled inundation under the management of the  
4-6 United States Army Corps of Engineers.

4-7 "Flood insurance rate map" means the most recent flood hazard  
4-8 map published by the Federal Emergency Management Agency under the  
4-9 National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et  
4-10 seq.).

4-11 "Floodway" means an area that is identified on the flood  
4-12 insurance rate map as a regulatory floodway, which includes the  
4-13 channel of a river or other watercourse and the adjacent land areas  
4-14 that must be reserved for the discharge of a base flood, also  
4-15 referred to as a 100-year flood, without cumulatively increasing  
4-16 the water surface elevation more than a designated height.

4-17 "Reservoir" means a water impoundment project operated by the  
4-18 United States Army Corps of Engineers that is intended to retain  
4-19 water or delay the runoff of water in a designated surface area of  
4-20 land.

4-21 7. Have you (Seller) ever filed a claim for flood damage to the  
4-22 property with any insurance provider, including the National Flood  
4-23 Insurance Program (NFIP)?\*  Yes  No. If yes, explain (attach  
4-24 additional sheets as necessary): \_\_\_\_\_

4-25 \_\_\_\_\_  
4-26 \*Homes in high risk flood zones with mortgages from federally  
4-27 regulated or insured lenders are required to have flood insurance.  
4-28 Even when not required, the Federal Emergency Management Agency  
4-29 (FEMA) encourages homeowners in high risk, moderate risk, and low  
4-30 risk flood zones to purchase flood insurance that covers the  
4-31 structure(s) and the personal property within the structure(s).

4-32 8. Have you (Seller) ever received assistance from FEMA or the  
4-33 U.S. Small Business Administration (SBA) for flood damage to the  
4-34 property?  Yes  No. If yes, explain (attach additional sheets  
4-35 as necessary): \_\_\_\_\_

4-36 \_\_\_\_\_  
4-37 9. Are you (Seller) aware of any of the following?  
4-38 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- 4-39 \_\_\_\_\_
- 4-40  Room additions, structural modifications, or other
- 4-41 alterations or repairs made without necessary permits or not
- 4-42 in compliance with building codes in effect at that time.
- 4-43  Homeowners' Association or maintenance fees or assessments.
- 4-44  Any "common area" (facilities such as pools, tennis courts,
- 4-45 walkways, or other areas) co-owned in undivided interest with
- 4-46 others.
- 4-47  Any notices of violations of deed restrictions or
- 4-48 governmental ordinances affecting the condition or use of the
- 4-49 Property.
- 4-50  Any lawsuits directly or indirectly affecting the Property.
- 4-51  Any condition on the Property which materially affects the
- 4-52 physical health or safety of an individual.
- 4-53  Any rainwater harvesting system located on the property that
- 4-54 is larger than 500 gallons and that uses a public water supply
- 4-55 as an auxiliary water source.
- 4-56  Any portion of the property that is located in a groundwater
- 4-57 conservation district or a subsidence district.

4-58 If the answer to any of the above is yes, explain. (Attach  
4-59 additional sheets if necessary): \_\_\_\_\_

4-60 \_\_\_\_\_  
4-61 \_\_\_\_\_  
4-62 10 [7]. If the property is located in a coastal area that is  
4-63 seaward of the Gulf Intracoastal Waterway or within 1,000 feet of  
4-64 the mean high tide bordering the Gulf of Mexico, the property may be  
4-65 subject to the Open Beaches Act or the Dune Protection Act (Chapter  
4-66 61 or 63, Natural Resources Code, respectively) and a beachfront  
4-67 construction certificate or dune protection permit may be required  
4-68 for repairs or improvements. Contact the local government with  
4-69 ordinance authority over construction adjacent to public beaches

5-1 for more information.  
5-2 11 [8]. This property may be located near a military installation  
5-3 and may be affected by high noise or air installation compatible use  
5-4 zones or other operations. Information relating to high noise and  
5-5 compatible use zones is available in the most recent Air  
5-6 Installation Compatible Use Zone Study or Joint Land Use Study  
5-7 prepared for a military installation and may be accessed on the  
5-8 Internet website of the military installation and of the county and  
5-9 any municipality in which the military installation is located.

5-10 \_\_\_\_\_  
5-11 Date Signature of Seller  
5-12 The undersigned purchaser hereby acknowledges receipt of the  
5-13 foregoing notice.

5-14 \_\_\_\_\_  
5-15 Date Signature of Purchaser

5-16 SECTION 2. Section 5.008, Property Code, as amended by this  
5-17 Act, applies only to a contract for the sale of real property  
5-18 entered into on or after the effective date of this Act. A contract  
5-19 entered into before the effective date of this Act is governed by  
5-20 the law in effect on the date the contract was entered into, and  
5-21 that law is continued in effect for that purpose.

5-22 SECTION 3. This Act takes effect September 1, 2019.

5-23 \* \* \* \* \*