

By: Huffman

S.B. No. 638

A BILL TO BE ENTITLED

AN ACT

relating to seller's disclosures regarding the proximity of certain residential real property to certain landfills and related facilities.

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).

___ Range	___ Oven	___ Microwave
___ Dishwasher	___ Trash Compactor	___ Disposal
___ Washer/Dryer	___ Window	___ Rain Gutters
___ Hookups	___ Screens	
___ Security	___ Fire Detection	___ Intercom
___ System	___ Equipment	___ System
	___ Smoke Detector	
	___ Smoke Detector -	

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

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

35 If yes, then describe. (Attach additional sheets if necessary):
36 _____
37 _____

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

41 If the answer to the question above is no or unknown,
42 explain. (Attach additional sheets if necessary): _____

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

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

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

- 23
24 ☐ Interior Walls ☐ Ceilings ☐ Floors
25 ☐ Exterior Walls ☐ Doors ☐ Windows
26 ☐ Roof ☐ Foundation/
27 Slab(s) ☐ Basement
28 ☐ Walls/Fences ☐ Driveways ☐ Sidewalks
29 ☐ Plumbing/Sewers/
30 Septics ☐ Electrical ☐ Lighting
 Systems Fixtures

31 ☐ Other Structural Components (Describe): _____

1 _____
2 _____
3 If the answer to any of the above is yes, explain. (Attach
4 additional sheets if necessary): _____
5 _____
6 _____

7 4. Are you (Seller) aware of any of the following conditions?
8 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- | | | |
|----|---|---|
| 9 | | |
| 10 | <input type="checkbox"/> Active Termites | <input type="checkbox"/> Previous Structural |
| 11 | (includes | or Roof Repair |
| 12 | wood-destroying insects) | |
| 13 | <input type="checkbox"/> Termite or Wood Rot Damage | <input type="checkbox"/> Hazardous or Toxic Waste |
| 14 | Needing Repair | |
| 15 | <input type="checkbox"/> Previous Termite Damage | <input type="checkbox"/> Asbestos Components |
| 16 | <input type="checkbox"/> Previous Termite | <input type="checkbox"/> Urea formaldehyde |
| 17 | Treatment | Insulation |
| 18 | <input type="checkbox"/> Previous Flooding | <input type="checkbox"/> Radon Gas |
| 19 | <input type="checkbox"/> Improper Drainage | <input type="checkbox"/> Lead Based Paint |
| 20 | <input type="checkbox"/> Water Penetration | <input type="checkbox"/> Aluminum Wiring |
| 21 | <input type="checkbox"/> Located in 100-Year | <input type="checkbox"/> Previous Fires |
| 22 | Floodplain | |
| 23 | <input type="checkbox"/> Present Flood Insurance | <input type="checkbox"/> Unplatted Easements |
| 24 | Coverage | |
| 25 | <input type="checkbox"/> Landfill, Settling, Soil | <input type="checkbox"/> Subsurface |
| 26 | Movement, Fault Lines | Structure or Pits |
| 27 | <input type="checkbox"/> Single Blockable Main | <input type="checkbox"/> Previous Use of Premises |
| 28 | Drain in Pool/Hot | for Manufacture of |
| 29 | Tub/Spa* | Methamphetamine |

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

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

36 5. Are you (Seller) aware of any item, equipment, or system in or
37 on the property that is in need of repair? ☐ Yes (if you are

aware) ___ No (if you are not aware). If yes, explain (attach additional sheets as necessary).

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

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

- ___ Room additions, structural modifications, or other alterations or repairs made without necessary permits or not in compliance with building codes in effect at that time.
- ___ Homeowners' Association or maintenance fees or assessments.
- ___ Any "common area" (facilities such as pools, tennis courts, walkways, or other areas) co-owned in undivided interest with others.
- ___ Any notices of violations of deed restrictions or governmental ordinances affecting the condition or use of the Property.
- ___ Any lawsuits directly or indirectly affecting the Property.
- ___ Any condition on the Property which materially affects the physical health or safety of an individual.
- ___ Any rainwater harvesting system located on the property that is larger than 500 gallons and that uses a public water supply as an auxiliary water source.
- ___ Any portion of the property that is located in a groundwater conservation district or a subsidence district.
- ___ Any portion of the property that is located within one mile of the boundary of a municipal solid waste facility that requires a permit or registration issued by the Texas Commission on Environmental Quality.

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

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

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

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

_____	_____
Date	Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice.

_____	_____
Date	Signature of Purchaser

SECTION 2. Section 5.008(b), Property Code, as amended by this Act, applies only to a transfer of property that occurs on or after the effective date of this Act. A transfer of property that occurs before the effective date of this Act is governed by the law applicable to the transfer immediately before that date, and the former law is continued in effect for that purpose. For the purposes of this section, a transfer of property occurs before the effective date of this Act if the contract binding the purchaser to purchase the property is executed before that date.

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