

By: Hughes

S.B. No. 864

A BILL TO BE ENTITLED

AN ACT

relating to certain seller's disclosures for the sale of residential real property.

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 -	
	___ Hearing Impaired	
	___ Carbon Monoxide	

1		Alarm	
2		___ Emergency Escape	
3		Ladder(s)	
4	___ TV Antenna	___ Cable TV	___ Satellite
5		Wiring	Dish
6	___ Ceiling Fan(s)	___ Attic Fan(s)	___ Exhaust
7			Fan(s)
8	___ Central A/C	___ Central Heating	___ 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	___ <u>Fuel Gas Piping:</u>	___ <u>Black Iron Pipe</u>	___ <u>Corrugated</u>
26		___ <u>Copper</u>	___ <u>Stainless Steel</u>
27			<u>Tubing</u>
28	Garage: ___ Attached	___ Not Attached	___ Carport
29	Garage Door Opener(s):	___ Electronic	___ Control(s)
30	Water Heater:	___ Gas	___ Electric
31	Water Supply: ___ City	___ Well ___ MUD	___ Co-op

32 Roof Type: _____ Age: _____(approx)

33 Are you (Seller) aware of any of the above items that are not in

34 working condition, that have known defects, or that are in need of

35 repair? ___ Yes ___ No ___ Unknown.

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

37 _____

38 _____

39 2. Does the property have working smoke detectors installed in

40 accordance with the smoke detector requirements of Chapter 766,

41 Health and Safety Code?* ___ Yes ___ No ___ Unknown.

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

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

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

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

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

☐ Plumbing/Sewers/ ☐ Electrical ☐ Lighting
Septics Systems Fixtures

☐ Other Structural Components (Describe):_____

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

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

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

<input type="checkbox"/> Active Termites (includes wood-destroying insects)	<input type="checkbox"/> Previous Structural or Roof Repair
<input type="checkbox"/> Termite or Wood Rot Damage Needing Repair	<input type="checkbox"/> Hazardous or Toxic Waste
<input type="checkbox"/> Previous Termite Damage	<input type="checkbox"/> Asbestos Components
<input type="checkbox"/> Previous Termite Treatment	<input type="checkbox"/> Urea formaldehyde Insulation
<input type="checkbox"/> Improper Drainage	<input type="checkbox"/> Radon Gas
<input type="checkbox"/> Water Damage Not Due to a Flood Event	<input type="checkbox"/> Lead Based Paint
	<input type="checkbox"/> Aluminum Wiring
	<input type="checkbox"/> Previous Fires
	<input type="checkbox"/> Unplatted Easements
<input type="checkbox"/> Landfill, Settling, Soil Movement, Fault Lines	<input type="checkbox"/> Subsurface Structure or Pits
<input type="checkbox"/> Single Blockable Main Drain in Pool/Hot Tub/Spa*	<input type="checkbox"/> Previous Use of Premises for Manufacture of Methamphetamine

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

*A single blockable main drain may cause a suction entrapment

1 hazard for an individual.

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

6 _____

7 6. 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 ☐ Present flood insurance coverage

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

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

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

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

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

20 ☐ Located () wholly () partly in a floodway

21 ☐ Located () wholly () partly in a flood pool

22 ☐ Located () wholly () partly in a reservoir

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

25 _____

26 * For purposes of this notice:

27 "100-year floodplain" means any area of land that:

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

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

1 (C) may include a regulatory floodway, flood pool, or
2 reservoir.

3 "500-year floodplain" means any area of land that:

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

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

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

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

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

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

27 7. Have you (Seller) ever filed a claim for flood damage to the

1 property with any insurance provider, including the National Flood
2 Insurance Program (NFIP)?* ☐ Yes ☐ No. If yes, explain (attach
3 additional sheets as necessary): _____
4 _____

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

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

17 9. Are you (Seller) aware of any of the following?
18 Write Yes (Y) if you are aware, write No (N) if you are not aware.
19
20 ☐ Room additions, structural modifications, or other
21 alterations or repairs made without necessary permits or not
22 in compliance with building codes in effect at that time.
23 ☐ Homeowners' Association or maintenance fees or assessments.
24 ☐ Any "common area" (facilities such as pools, tennis courts,
25 walkways, or other areas) co-owned in undivided interest with
26 others.
27 ☐ Any notices of violations of deed restrictions or
28 governmental ordinances affecting the condition or use of the
29 Property.
30 ☐ Any lawsuits directly or indirectly affecting the Property.
31 ☐ Any condition on the Property which materially affects the
32 physical health or safety of an individual.
33 ☐ Any rainwater harvesting system located on the property that
34 is larger than 500 gallons and that uses a public water supply
35 as an auxiliary water source.

1 ___ Any portion of the property that is located in a groundwater
2 conservation district or a subsidence district.

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

5 _____
6 _____

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

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

24 12. Are you (Seller) aware of the property being located within a
25 special district? ____ Yes if you are aware ____ No if you are not
26 aware. If yes, provide the following information about each
27 special district in which the property is located:

28 (A) the name of the district; and

(B) the dollar amount of any ad valorem taxes or special assessments imposed by the district for the preceding tax year.
(Attach additional sheets if necessary):

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, 2023.