

86R3070 NC-D

By: Huffman

S.B. No. 339

A BILL TO BE ENTITLED  
AN ACTrelating 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).

___ Range	___ Oven	___ Microwave
___ Dishwasher	___ Trash Compactor	___ Disposal
___ Washer/Dryer Hookups	___ Window Screens	___ Rain Gutters
___ Security System	___ Fire Detection Equipment Smoke Detector Smoke Detector - Hearing Impaired ___ Carbon Monoxide Alarm ___ Emergency Escape Ladder(s)	___ Intercom System
___ TV Antenna	___ Cable TV Wiring	___ Satellite Dish
___ Ceiling Fan(s)	___ Attic Fan(s)	___ Exhaust Fan(s)
___ Central A/C	___ Central Heating	___ Wall/Window Air Conditioning
___ Plumbing System	___ Septic System	___ Public Sewer System

<input type="checkbox"/> Patio/Decking	<input type="checkbox"/> Outdoor Grill	<input type="checkbox"/> Fences
<input type="checkbox"/> Pool	<input type="checkbox"/> Sauna	<input type="checkbox"/> Spa
<input type="checkbox"/> Pool Equipment	<input type="checkbox"/> Pool Heater	<input type="checkbox"/> Hot Tub
		<input type="checkbox"/> Automatic Lawn Sprinkler System
<input type="checkbox"/> Fireplace(s) & Chimney (Woodburning)		<input type="checkbox"/> Fireplace(s) & Chimney (Mock)
<input type="checkbox"/> Natural Gas Lines		<input type="checkbox"/> Gas Fixtures
<input type="checkbox"/> Liquid Propane Gas:	<input type="checkbox"/> LP Community (Captive)	<input type="checkbox"/> LP on Property
Garage: <input type="checkbox"/> Attached	<input type="checkbox"/> Not Attached	<input type="checkbox"/> Carport
Garage Door Opener(s):	<input type="checkbox"/> Electronic	<input type="checkbox"/> Control(s)
Water Heater:	<input type="checkbox"/> Gas	<input type="checkbox"/> Electric
Water Supply: <input type="checkbox"/> City	<input type="checkbox"/> Well <input type="checkbox"/> MUD	<input type="checkbox"/> Co-op

Roof Type: \_\_\_\_\_ Age: \_\_\_\_\_ (approx)

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

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

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

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

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\*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
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<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
<input type="checkbox"/> Plumbing/Sewers/ Septics	<input type="checkbox"/> Electrical Systems	<input type="checkbox"/> Lighting Fixtures
<input type="checkbox"/> 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	<input type="checkbox"/> Hazardous or Toxic Waste
<input type="checkbox"/> Needing Repair	
<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"/> Previous Flooding	<input type="checkbox"/> Radon Gas
<input type="checkbox"/> Improper Drainage	<input type="checkbox"/> Lead Based Paint
<input type="checkbox"/> Water Penetration	<input type="checkbox"/> Aluminum Wiring
<input type="checkbox"/> <del>Located in 100-Year Floodplain</del>	<input type="checkbox"/> Previous Fires
<input type="checkbox"/> Present Flood Insurance	<input type="checkbox"/> Unplatted Easements
<input type="checkbox"/> Coverage	
<input type="checkbox"/> Landfill, Settling, Soil	<input type="checkbox"/> Subsurface
<input type="checkbox"/> Movement, Fault Lines	<input type="checkbox"/> Structure or Pits
<input type="checkbox"/> Single Blockable Main	<input type="checkbox"/> Previous Use of Premises
<input type="checkbox"/> Drain in Pool/Hot Tub/Spa*	<input type="checkbox"/> 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 hazard for an individual.

5. Are you (Seller) aware of any item, equipment, or system in or 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.

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

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

(1) "100-year floodplain" means any area of land that is identified on a flood insurance rate map as an area that has a one

percent chance of being inundated by a flood event each year.

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

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

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

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

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

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

SELLER'S DISCLOSURE NOTICE OF  
FLOODPLAIN, FLOOD POOL, OR RESERVOIR

Concerning the property at \_\_\_\_\_ (street address and city) or described as \_\_\_\_\_ (legal description):

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

\_\_\_\_\_ ( ) wholly ( ) partly in a 100-year floodplain

\_\_\_\_\_ ( ) wholly ( ) partly in a 500-year floodplain

\_\_\_\_\_ ( ) wholly ( ) partly in a flood pool

\_\_\_\_\_ ( ) wholly ( ) partly in a reservoir

\_\_\_\_\_ within five miles downstream of a reservoir and the property:

\_\_\_\_\_ may flood under catastrophic circumstances  
\_\_\_\_\_ has flooded in a flood event.

For purposes of this notice:

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

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

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

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

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

(Purchaser's signature)

\_\_\_\_\_

(Date)

(Seller's signature)

(Date)

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

(1) the notice from the seller; or

(2) information described by the notice under

Subsection (c) from any other person.

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

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

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

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

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

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

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