

1-1 By: Morrison (Senate Sponsor - Huffman) H.B. No. 3815
 1-2 (In the Senate - Received from the House May 8, 2019;
 1-3 May 10, 2019, read first time and referred to Committee on Business
 1-4 & Commerce; May 20, 2019, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 20, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
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 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to a seller's disclosure notice for residential property
 1-20 regarding floodplains, flood pools, floodways, or reservoirs.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 5.008(b), Property Code, is amended to
 1-23 read as follows:

1-24 (b) The notice must be executed and must, at a minimum, read
 1-25 substantially similar to the following:

1-26 SELLER'S DISCLOSURE NOTICE

1-27 CONCERNING THE PROPERTY AT _____

1-28 (Street Address and City)

1-29 THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF
 1-30 THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY
 1-31 SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR
 1-32 WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT
 1-33 A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

1-34 Seller ___ is ___ is not occupying the Property.

1-35 If unoccupied, how long since Seller has occupied the Property?
 1-36 _____

1-37 1. The Property has the items checked below:

1-38 Write Yes (Y), No (N), or Unknown (U).

- | | | | |
|------|---------------------|----------------------|------------------|
| 1-39 | | | |
| 1-40 | ___ Range | ___ Oven | ___ Microwave |
| 1-41 | ___ Dishwasher | ___ Trash Compactor | ___ Disposal |
| 1-42 | ___ Washer/Dryer | ___ Window | ___ Rain Gutters |
| 1-43 | ___ Hookups | ___ Screens | |
| 1-44 | ___ Security | ___ Fire Detection | ___ Intercom |
| 1-45 | ___ System | ___ Equipment | ___ System |
| 1-46 | | ___ Smoke Detector | |
| 1-47 | | ___ Smoke Detector - | |
| 1-48 | | ___ Hearing Impaired | |
| 1-49 | | ___ Carbon Monoxide | |
| 1-50 | | ___ Alarm | |
| 1-51 | | ___ Emergency Escape | |
| 1-52 | | ___ Ladder(s) | |
| 1-53 | ___ TV Antenna | ___ Cable TV | ___ Satellite |
| 1-54 | | ___ Wiring | ___ Dish |
| 1-55 | ___ Ceiling Fan(s) | ___ Attic Fan(s) | ___ Exhaust |
| 1-56 | | | ___ Fan(s) |
| 1-57 | ___ Central A/C | ___ Central Heating | ___ Wall/Window |
| 1-58 | | | ___ Air |
| 1-59 | | | ___ Conditioning |
| 1-60 | ___ Plumbing System | ___ Septic System | ___ Public Sewer |

- 2-1 _____ System
- 2-2 Patio/Decking Outdoor Grill Fences
- 2-3 Pool Sauna Spa
- 2-4 _____ Hot Tub
- 2-5 Pool Equipment Pool Heater Automatic Lawn
- 2-6 _____ Sprinkler
- 2-7 _____ System
- 2-8 Fireplace(s) & _____ Fireplace(s) &
- 2-9 Chimney _____ Chimney
- 2-10 (Woodburning) _____ (Mock)
- 2-11 Natural Gas Lines _____ Gas Fixtures
- 2-12 Liquid Propane Gas: LP Community _____ LP on Property
- 2-13 _____ (Captive)
- 2-14 Garage: Attached Not Attached Carport
- 2-15 Garage Door Opener(s): Electronic Control(s)
- 2-16 Water Heater: Gas Electric
- 2-17 Water Supply: City Well MUD Co-op
- 2-18 Roof Type: _____ Age: _____(approx)
- 2-19 Are you (Seller) aware of any of the above items that are not in
- 2-20 working condition, that have known defects, or that are in need of
- 2-21 repair? Yes No Unknown.
- 2-22 If yes, then describe. (Attach additional sheets if necessary):
- 2-23 _____
- 2-24 _____

2-25 2. Does the property have working smoke detectors installed in

2-26 accordance with the smoke detector requirements of Chapter 766,

2-27 Health and Safety Code?* Yes No Unknown.

2-28 If the answer to the question above is no or unknown,

2-29 explain. (Attach additional sheets if necessary): _____

2-30 _____

2-31 _____

2-32 *Chapter 766 of the Health and Safety Code requires

2-33 one-family or two-family dwellings to have working smoke detectors

2-34 installed in accordance with the requirements of the building code

2-35 in effect in the area in which the dwelling is located, including

2-36 performance, location, and power source requirements. If you do

2-37 not know the building code requirements in effect in your area, you

2-38 may check unknown above or contact your local building official for

2-39 more information. A buyer may require a seller to install smoke

2-40 detectors for the hearing impaired if: (1) the buyer or a member of

2-41 the buyer's family who will reside in the dwelling is hearing

2-42 impaired; (2) the buyer gives the seller written evidence of the

2-43 hearing impairment from a licensed physician; and (3) within 10

2-44 days after the effective date, the buyer makes a written request for

2-45 the seller to install smoke detectors for the hearing impaired and

2-46 specifies the locations for installation. The parties may agree

2-47 who will bear the cost of installing the smoke detectors and which

2-48 brand of smoke detectors to install.

2-49 3. Are you (Seller) aware of any known defects/malfunctions in any

2-50 of the following?

2-51 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- 2-52 _____
- 2-53 Interior Walls Ceilings Floors
- 2-54 Exterior Walls Doors Windows
- 2-55 Roof Foundation/ Basement
- 2-56 _____ Slab(s)
- 2-57 Walls/Fences Driveways Sidewalks
- 2-58 Plumbing/Sewers/ Electrical Lighting
- 2-59 Septics _____ Systems _____ Fixtures
- 2-60 Other Structural Components (Describe): _____
- 2-61 _____
- 2-62 _____

2-63 If the answer to any of the above is yes, explain. (Attach

2-64 additional sheets if necessary): _____

2-65 _____

2-66 _____

2-67 4. Are you (Seller) aware of any of the following conditions?

2-68 Write Yes (Y) if you are aware, write No (N) if you are not aware.

2-69 _____

- 3-1 Active Termites Previous Structural
- 3-2 (includes or Roof Repair
- 3-3 wood-destroying insects)
- 3-4 Termite or Wood Rot Damage Hazardous or Toxic Waste
- 3-5 Needing Repair
- 3-6 Previous Termite Damage Asbestos Components
- 3-7 Previous Termite Urea formaldehyde
- 3-8 Treatment Insulation
- 3-9 [Previous Flooding] Radon Gas
- 3-10 Improper Drainage Lead Based Paint
- 3-11 Water Damage Not Due to a Aluminum Wiring
- 3-12 Flood Event [Penetration]
- 3-13 [Located in 100-Year Previous Fires
- 3-14 Floodplain]
- 3-15 [Present Flood Insurance Unplatted Easements
- 3-16 Coverage]
- 3-17 Landfill, Settling, Soil Subsurface
- 3-18 Movement, Fault Lines Structure or Pits
- 3-19 Single Blockable Main Previous Use of Premises
- 3-20 Drain in Pool/Hot for Manufacture of
- 3-21 Tub/Spa* Methamphetamine
- 3-22 If the answer to any of the above is yes, explain. (Attach
- 3-23 additional sheets if necessary): _____
- 3-24 _____
- 3-25 _____

3-26 *A single blockable main drain may cause a suction entrapment

3-27 hazard for an individual.

3-28 5. Are you (Seller) aware of any item, equipment, or system in or

3-29 on the property that is in need of repair? Yes (if you are

3-30 aware) No (if you are not aware). If yes, explain (attach

3-31 additional sheets as necessary).

3-32 _____

3-33 6. Are you (Seller) aware of any of the following conditions?*

3-34 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- 3-35 Present flood insurance coverage
- 3-36 Previous flooding due to a failure or breach of a reservoir or a
- 3-37 controlled or emergency release of water from a reservoir
- 3-38 Previous water penetration into a structure on the property due
- 3-39 to a natural flood event
- 3-40 Write Yes (Y) if you are aware and check wholly or partly as
- 3-41 applicable, write No (N) if you are not aware.

- 3-42 Located () wholly () partly in a 100-year floodplain
- 3-43 (Special Flood Hazard Area-Zone A, V, A99, AE, AO, AH, VE, or AR)
- 3-44 Located () wholly () partly in a 500-year floodplain
- 3-45 (Moderate Flood Hazard Area-Zone X (shaded))
- 3-46 Located () wholly () partly in a floodway
- 3-47 Located () wholly () partly in a flood pool
- 3-48 Located () wholly () partly in a reservoir

3-49 If the answer to any of the above is yes, explain (attach additional

3-50 sheets as necessary): _____

3-51 _____

3-52 * For purposes of this notice:

3-53 "100-year floodplain" means any area of land that:

3-54 (A) is identified on the flood insurance rate map as a

3-55 special flood hazard area, which is designated as Zone A, V, A99,

3-56 AE, AO, AH, VE, or AR on the map;

3-57 (B) has a one percent annual chance of flooding, which

3-58 is considered to be a high risk of flooding; and

3-59 (C) may include a regulatory floodway, flood pool, or

3-60 reservoir.

3-61 "500-year floodplain" means any area of land that:

3-62 (A) is identified on the flood insurance rate map as a

3-63 moderate flood hazard area, which is designated on the map as Zone X

3-64 (shaded); and

3-65 (B) has a two-tenths of one percent annual chance of

3-66 flooding, which is considered to be a moderate risk of flooding.

3-67 "Flood pool" means the area adjacent to a reservoir that lies

4-1 above the normal maximum operating level of the reservoir and that
4-2 is subject to controlled inundation under the management of the
4-3 United States Army Corps of Engineers.

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

4-8 "Floodway" means an area that is identified on the flood
4-9 insurance rate map as a regulatory floodway, which includes the
4-10 channel of a river or other watercourse and the adjacent land areas
4-11 that must be reserved for the discharge of a base flood, also
4-12 referred to as a 100-year flood, without cumulatively increasing
4-13 the water surface elevation more than a designated height.

4-14 "Reservoir" means a water impoundment project operated by the
4-15 United States Army Corps of Engineers that is intended to retain
4-16 water or delay the runoff of water in a designated surface area of
4-17 land.

4-18 7. Have you (Seller) ever filed a claim for flood damage to the
4-19 property with any insurance provider, including the National Flood
4-20 Insurance Program (NFIP)?* Yes No. If yes, explain (attach
4-21 additional sheets as necessary): _____

4-22 _____
4-23 *Homes in high risk flood zones with mortgages from federally
4-24 regulated or insured lenders are required to have flood insurance.
4-25 Even when not required, the Federal Emergency Management Agency
4-26 (FEMA) encourages homeowners in high risk, moderate risk, and low
4-27 risk flood zones to purchase flood insurance that covers the
4-28 structure(s) and the personal property within the structure(s).

4-29 8. Have you (Seller) ever received assistance from FEMA or the
4-30 U.S. Small Business Administration (SBA) for flood damage to the
4-31 property? Yes No. If yes, explain (attach additional sheets
4-32 as necessary): _____

4-33 _____
4-34 9. Are you (Seller) aware of any of the following?
4-35 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- 4-36 _____
- 4-37 ___ Room additions, structural modifications, or other
- 4-38 alterations or repairs made without necessary permits or not
- 4-39 in compliance with building codes in effect at that time.
- 4-40 ___ Homeowners' Association or maintenance fees or assessments.
- 4-41 ___ Any "common area" (facilities such as pools, tennis courts,
- 4-42 walkways, or other areas) co-owned in undivided interest with
- 4-43 others.
- 4-44 ___ Any notices of violations of deed restrictions or
- 4-45 governmental ordinances affecting the condition or use of the
- 4-46 Property.
- 4-47 ___ Any lawsuits directly or indirectly affecting the Property.
- 4-48 ___ Any condition on the Property which materially affects the
- 4-49 physical health or safety of an individual.
- 4-50 ___ Any rainwater harvesting system located on the property that
- 4-51 is larger than 500 gallons and that uses a public water supply
- 4-52 as an auxiliary water source.
- 4-53 ___ Any portion of the property that is located in a groundwater
- 4-54 conservation district or a subsidence district.

4-55 If the answer to any of the above is yes, explain. (Attach
4-56 additional sheets if necessary): _____

4-57 _____

4-58 _____
4-59 10 [7]. If the property is located in a coastal area that is
4-60 seaward of the Gulf Intracoastal Waterway or within 1,000 feet of
4-61 the mean high tide bordering the Gulf of Mexico, the property may be
4-62 subject to the Open Beaches Act or the Dune Protection Act (Chapter
4-63 61 or 63, Natural Resources Code, respectively) and a beachfront
4-64 construction certificate or dune protection permit may be required
4-65 for repairs or improvements. Contact the local government with
4-66 ordinance authority over construction adjacent to public beaches
4-67 for more information.

4-68 11 [8]. This property may be located near a military installation
4-69 and may be affected by high noise or air installation compatible use

5-1 zones or other operations. Information relating to high noise and
5-2 compatible use zones is available in the most recent Air
5-3 Installation Compatible Use Zone Study or Joint Land Use Study
5-4 prepared for a military installation and may be accessed on the
5-5 Internet website of the military installation and of the county and
5-6 any municipality in which the military installation is located.

5-7 _____
5-8 Date Signature of Seller
5-9 The undersigned purchaser hereby acknowledges receipt of the
5-10 foregoing notice.

5-11 _____
5-12 Date Signature of Purchaser

5-13 SECTION 2. Section 5.008, Property Code, as amended by this
5-14 Act, applies only to a contract for the sale of real property
5-15 entered into on or after the effective date of this Act. A contract
5-16 entered into before the effective date of this Act is governed by
5-17 the law in effect on the date the contract was entered into, and
5-18 that law is continued in effect for that purpose.

5-19 SECTION 3. This Act takes effect September 1, 2019.

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5-20