

CHAPTER 356

H.B. No. 1081

AN ACT

relating to a seller's duty to disclose the condition of real property to a purchaser.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter A, Chapter 5, Property Code, is amended by adding Section 5.008 to read as follows:

Sec. 5.008. SELLER'S DISCLOSURE OF PROPERTY CONDITION. (a) A seller of residential real property comprising not more than one dwelling unit located in this state shall give to the purchaser of the property a written notice as prescribed by this section or a written notice substantially similar to the notice prescribed by this section which contains, at a minimum, all of the items in the notice prescribed by this section.

(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).

- | | | |
|---|--|---|
| <input type="checkbox"/> Range | <input type="checkbox"/> Oven | <input type="checkbox"/> Microwave |
| <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Trash Compactor | <input type="checkbox"/> Disposal |
| <input type="checkbox"/> Washer/Dryer | <input type="checkbox"/> Window Screens | <input type="checkbox"/> Rain Gutters |
| <input type="checkbox"/> Hookups | | |
| <input type="checkbox"/> Security System | <input type="checkbox"/> Fire Detection Equipment | <input type="checkbox"/> Intercom System |
| <input type="checkbox"/> TV Antenna | <input type="checkbox"/> Cable TV Wiring | <input type="checkbox"/> Satellite Dish |
| <input type="checkbox"/> Ceiling Fan(s) | <input type="checkbox"/> Attic Fan(s) | <input type="checkbox"/> Exhaust Fan(s) |
| <input type="checkbox"/> Central A/C | <input type="checkbox"/> Central Heating | <input type="checkbox"/> Wall/Window Air Conditioning |
| <input type="checkbox"/> Plumbing System | <input type="checkbox"/> Septic System | <input type="checkbox"/> 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"/> Hot Tub |
| <input type="checkbox"/> Pool Equipment | <input type="checkbox"/> Pool Heater | <input type="checkbox"/> Automatic Lawn Sprinkler System |
| <input type="checkbox"/> Fireplace(s) & Chimney (Woodburning) | | <input type="checkbox"/> Fireplace(s) & Chimney (Mock) |
| <input type="checkbox"/> Gas Lines (Nat./LP) | | <input type="checkbox"/> Gas Fixtures |
| 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): _____

2. 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 |
| <input type="checkbox"/> Plumbing/Sewers/Septics | <input type="checkbox"/> Electrical Systems | <input type="checkbox"/> Lighting Fixtures |

Other Structural Components (Describe): _____

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

3. 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.

- Active Termites (includes wood-destroying insects)
- Termite or Wood Rot Damage Needing Repair
- Previous Termite Damage
- Previous Termite Treatment
- Previous Flooding
- Improper Drainage
- Water Penetration
- Located in 100-Year Floodplain
- Present Flood Insurance Coverage
- Landfill, Settling, Soil Movement, Fault Lines
- Previous Structural or Roof Repair
- Hazardous or Toxic Waste
- Asbestos Components
- Urea formaldehyde Insulation
- Radon Gas
- Lead Based Paint
- Aluminum Wiring
- Previous Fires
- Unplatted Easements
- Subsurface Structure or Pits

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

4. 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).

5. 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.

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

Date

Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice.

Date

Signature of Purchaser

(c) A seller or seller's agent shall have no duty to make a disclosure or release information related to whether a death by natural causes, suicide, or accident unrelated to the condition of the property occurred on the property or whether a previous occupant had, may have had, has, or may have AIDS, HIV related illnesses, or HIV infection.

(d) The notice shall be completed to the best of seller's belief and knowledge as of the date the notice is completed and signed by the seller. If the information required by the notice is unknown to the seller, the seller shall indicate that fact on the notice, and by that act is in compliance with this section.

(e) This section does not apply to a transfer:

- (1) pursuant to a court order or foreclosure sale;
- (2) by a trustee in bankruptcy;
- (3) to a mortgage by a mortgagor or successor in interest, or to a beneficiary of a deed of trust by a trustor or successor in interest;
- (4) by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a deed of trust or a sale pursuant to a court ordered foreclosure or has acquired the real property by a deed in lieu of foreclosure;
- (5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;
- (6) from one co-owner to one or more other co-owners;
- (7) made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors;
- (8) between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree;
- (9) to or from any governmental entity;
- (10) transfers of new residences of not more than one dwelling unit which have not previously been occupied for residential purposes; or
- (11) transfers of real property where the value of any dwelling does not exceed five percent (5%) of the value of the property.

(f) The notice shall be delivered by the seller to the purchaser on or before the effective date of an executory contract binding the purchaser to purchase the property. If a contract is entered without the seller providing the notice required by this section, the purchaser may terminate the contract for any reason within seven days after receiving the notice.

SECTION 2. This Act takes effect January 1, 1994.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 31, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1081 on May 18, 1993: Yeas 72, Nays 55, 4 present, not voting; passed by the Senate, with amendments, on May 13, 1993, by a viva-voce vote.

Approved May 30, 1993.

Effective Jan. 1, 1994.