

SUBJECT: Disclosing underground pipelines when selling unimproved real property

COMMITTEE: Business and Industry — favorable, with amendment

VOTE: 9 ayes — Brimer, Rhodes, Corte, Dukes, Elkins, Giddings, Janek, Solomons, Woolley

0 nays

WITNESSES: For — John Sommer, Valero Energy; Ronald Walker, Texas Association of Realtors

Against — None

On — Sergio Munoz, Valley Association for Quality Living

DIGEST: HB 1665, as amended, would require sellers, including developers, of unimproved real property sold for a residential purpose to provide the purchaser with a written notice disclosing, to the best knowledge of the seller, the existence and location of any pipeline located under the surface of the property used for the transportation of natural gas, any other petroleum or gas product, or any hazardous substance. Notice would have to be delivered before the effective date of the contract binding the buyer to purchase the property.

Sellers would not be required to give notice if the seller was obligated to furnish a title insurance commitment prior to closing and the buyer had the right to terminate the contract if objections to the title were not cured prior to closing.

HB 1665 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house but would only apply to contracts for the sale of property entered into on or after January 1, 1998.

SUPPORTERS SAY: HB 1665 would protect the buyers of land that has been converted to residential use from dangerous conditions under the surface of the land of which they would otherwise be unaware. This problem often occurs when agricultural land is converted to residential use. The agricultural land may

have pipelines that transport hazardous substances under the surface. Buyers who purchase such property should be told that such conditions exist. The pipelines could not only be a safety hazard but could also significantly diminish the value of the property.

When standard real estate contracts and forms are used and title insurance is obtained, such conditions are covered and adequate notice is required. However, in many places where agricultural land is being converted, it is being sold to unsophisticated and often low income buyers who do not have the resources to have the property inspected or to purchase title insurance. Once such buyers sign the contract, they are locked into buying the property even if they were not able to find out about such conditions until after the contract was signed.

Sellers are already required to provide a number of notices to buyers to inform buyers of conditions that might not be otherwise apparent to the buyer. These notices are given to protect buyers from sellers who could attempt to conceal conditions that could diminish the value of the property. This legislation would not require the seller to investigate the existence of underground pipelines, but only to provide the buyer with whatever information the seller already has about such pipelines.

**OPPONENTS
SAY:**

The notice requirements that sellers must provide in order to sell property are becoming burdensome on sellers, and this bill would add one more requirement. Many sellers are just as unsophisticated as some buyers, and this bill would give buyers another way to terminate a signed contract if the seller was not able to or did not know to comply.

NOTES:

The committee amendments would delete the requirement that the seller inform the buyer of any injection well, tank or other facility used for storage or disposal of hazardous or solid waste, natural gas or other petroleum product. The committee amendments would also exempt sellers from the notice requirement if the seller were obligated to furnish a title insurance commitment prior to closing and if the buyer had the right to terminate the contract if objections to title were not cured prior to closing.