

- SUBJECT:** Requiring a seller to provide notice of potential municipal annexation
- COMMITTEE:** Land and Resource Management — favorable, without amendment
- VOTE:** 8 ayes — Bonnen, Farrar, Alvarado, Bolton, Hamilton, Orr, Paxton, Thibaut
0 nays
1 absent — Homer
- WITNESSES:** For — (*Registered, but did not testify:* Cindy Segovia, Bexar County Commissioners Court)
Against — None
- BACKGROUND:** Property Code, sec. 5.011 requires a person selling a residential single-family dwelling to give to a purchaser a written notice explaining that if the property subject to contract is located outside the limits of a municipality, the property may now or later be subject to annexation by the municipality. The notice also must notify purchasers that they may contact all municipalities located in the general proximity of the property for further information of the likelihood of annexation in the near future. If the notice is delivered as provided, the seller has no duty to provide additional information regarding the likelihood of annexation.
- DIGEST:** HB 28 would add Property Code, sec. 5.0111, requiring that in addition to the annexation notice required under current law, a seller would have to give written notice to a purchaser indicating whether he or she has received notice that the property to be sold was included in a municipal annexation plan. The seller would have to include a copy of any notice of future annexation received from a municipality. The seller also would have to provide a notice of possible annexation to the buyer that adhered to the format and content set forth in the bill.
- The notice of possible annexation would cite the requirement in law that the seller provide the notice and would require the seller to check one of three options:

- the seller has received notice of inclusion in an annexation plan by a municipality and has attached a copy of the notice;
- the seller has not received notice of inclusion in an annexation plan by a municipality; or
- the seller is not aware whether notice has been received regarding possible municipal annexation.

The seller would have to give the notice to the purchaser before the contract was executed that bound the purchaser to the property. The notice could be given separately, as part of contractual negotiations, or as part of any other notice the seller provided.

If a contract was executed without the seller's providing the required notice, the purchaser would be able to terminate the contract for any reason before either the seventh day after the purchaser received the notice, or the date the transfer occurred, whichever occurred first. The option to terminate the contract would not apply if the seller did not receive written notice from a municipality that the property was included in an annexation plan.

The notice requirement would not apply to a real estate transfer that was:

- a property transfer completely within an incorporated municipality;
- under a court order of foreclosure or by a trustee in bankruptcy;
- conducted by a fiduciary in the course of administering a decedent's estate, conservatorship, or trust;
- to a spouse or direct blood relation of the seller;
- to or from a governmental entity;
- of a mineral interest, leasehold interest, or security interest; or
- described by other criteria related to transfers of deeds of trust.

The bill would take effect September 1, 2009, and would apply only to a transfer of property where the contract binding the purchaser to the property was executed on or after this date.

**SUPPORTERS
SAY:**

HB 28 would offer a simple, non-invasive approach for reducing the number of Texans who purchase a house specifically outside city limits only to find later that the area has been scheduled for annexation by a neighboring municipality. The bill simply would require a seller to provide a disclosure notifying an interested buyer whether the seller was

aware of any municipal plans to annex the property in consideration. Sellers could choose an option stating they are not aware of the status of annexation either way, which would place full responsibility on the buyer to research the annexation plan independently. This would also protect sellers from assuming additional liability by claiming they know affirmatively whether the property is in an annexation plan.

The bill would not apply to sales in incorporated municipal boundaries or other types of sales defined in statute. HB 28 would place minimal additional responsibility on sellers located outside of city limits, but would have considerable value to buyers who were concerned about the annexation status of the property.

**OPPONENTS
SAY:**

HB 28 would create a disclosure requirement for sellers to provide information that should be under the due diligence of the buyer. If purchasers are concerned about buying a property that remains outside city limits, then they should take it upon themselves to check the annexation status of the property with the neighboring municipalities. Adding this requirement for sellers would create one more obligation on the already expansive list of disclosure requirements.

Adding the annexation notice also might subject the seller to liability over whether a notice of annexation actually was received. Buyers who later discover purchased property was part of an annexation plan may use this information to take legal action against the seller by claiming a municipality did send notice to the seller's residence.