

House Bill 2433

Sponsored by Representative G SMITH (at the request of Dave Pranger, Morrow County Public Works)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that seller of property larger than three acres disclose in seller's property disclosure statement certain information about noxious weeds.

A BILL FOR AN ACT

Relating to noxious weeds; creating new provisions; and amending ORS 105.464.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 105.464 is amended to read:

105.464. A seller's property disclosure statement must be in substantially the following form:

If required under ORS 105.465, a seller shall deliver in substantially the following form the seller's property disclosure statement to each buyer who makes a written offer to purchase real property in this state:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. Please refer to the line number(s) of the question(s) when you provide your explanation(s). If you are not claiming an exclusion or refusing to provide the form under ORS 105.475 (4), you should date and sign each page of this disclosure statement and each attachment.

Each seller of residential property described in ORS 105.465 must deliver this form to each buyer who makes a written offer to purchase. Under ORS 105.475 (4), refusal to provide this form gives the buyer the right to revoke their offer at any time prior to closing the transaction. Use only the section(s) of the form that apply to the transaction for which the form is used. If you are claiming an exclusion under ORS 105.470, fill out only Section 1.

An exclusion may be claimed only if the seller qualifies for the exclusion under the law. If not excluded, the seller must disclose the condition of the property or the buyer may revoke their offer to purchase anytime prior to closing the transaction. Questions regarding the legal consequences of the seller's choice should be directed to a qualified attorney.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (DO NOT FILL OUT THIS SECTION UNLESS YOU ARE CLAIMING AN EXCLUSION
2 UNDER ORS 105.470)

3
4 Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:

5
6 You may claim an exclusion under ORS 105.470 only if you qualify under the statute. If you are not
7 claiming an exclusion, you must fill out Section 2 of this form completely.

8
9 Initial only the exclusion you wish to claim.

10
11 _____ This is the first sale of a dwelling never occupied. The dwelling is constructed or installed
12 under building or installation permit(s) #_____, issued by _____.

13
14 _____ This sale is by a financial institution that acquired the property as custodian, agent or
15 trustee, or by foreclosure or deed in lieu of foreclosure.

16
17 _____ The seller is a court appointed receiver, personal representative, trustee, conservator or
18 guardian.

19
20 _____ This sale or transfer is by a governmental agency.

21
22 _____
23 Signature(s) of Seller claiming exclusion
24 Date _____

25
26 _____
27 Buyer(s) to acknowledge Seller's claim
28 Date _____

29 _____
30
31
32 (IF YOU DID NOT CLAIM AN EXCLUSION IN SECTION 1, YOU MUST FILL OUT THIS SEC-
33 TION.)

34
35 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

36
37 (NOT A WARRANTY)
38 (ORS 105.464)

39
40 NOTICE TO THE BUYER: THE FOLLOWING REPRESENTATIONS ARE MADE BY THE
41 SELLER(S) CONCERNING THE CONDITION OF THE PROPERTY LOCATED
42 AT _____ ("THE PROPERTY").

43
44 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS
45 OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DISCLOSURE.

1 BUYER HAS FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE
2 STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S SEPARATE SIGNED
3 WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S
4 DISCLOSURE STATEMENT, UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTER-
5 ING INTO A SALE AGREEMENT.

6
7 FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS
8 PROPERTY, BUYER IS ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF A QUALIFIED
9 SPECIALIST TO INSPECT THE PROPERTY ON BUYER'S BEHALF INCLUDING, FOR EXAM-
10 PLE, ONE OR MORE OF THE FOLLOWING: ARCHITECTS, ENGINEERS, PLUMBERS,
11 ELECTRICIANS, ROOFERS, ENVIRONMENTAL INSPECTORS, BUILDING INSPECTORS, CER-
12 TIFIED HOME INSPECTORS, OR PEST AND DRY ROT INSPECTORS.

13
14 Seller _____ is/ _____ is not occupying the property.

15
16 I. SELLER'S REPRESENTATIONS:

17
18 The following are representations made by the seller and are not the representations of any finan-
19 cial institution that may have made or may make a loan pertaining to the property, or that may
20 have or take a security interest in the property, or any real estate licensee engaged by the seller
21 or the buyer.

22
23 *If you mark yes on items with *, attach a copy or explain on an attached sheet.

24
25 1. TITLE

26 A. Do you have legal authority to sell the property? []Yes []No []Unknown

27 *B. Is title to the property subject to any of the
28 following: []Yes []No []Unknown

29 (1) First right of refusal

30 (2) Option

31 (3) Lease or rental agreement

32 (4) Other listing

33 (5) Life estate?

34 *C. Are there any encroachments, boundary
35 agreements, boundary disputes or recent
36 boundary changes? []Yes []No []Unknown

37 *D. Are there any rights of way, easements,
38 licenses, access limitations or claims that
39 may affect your interest in the property? []Yes []No []Unknown

40 *E. Are there any agreements for joint
41 maintenance of an easement or right of way? []Yes []No []Unknown

42 *F. Are there any governmental studies, designations,
43 zoning overlays, surveys or notices that would
44 affect the property? []Yes []No []Unknown

45 *G. Are there any pending or existing governmental

1 assessments against the property? []Yes []No []Unknown
 2 *H. Are there any zoning violations or
 3 nonconforming uses? []Yes []No []Unknown
 4 *I. Is there a boundary survey for the property? []Yes []No []Unknown
 5 *J. Are there any covenants, conditions,
 6 restrictions or private assessments that
 7 affect the property? []Yes []No []Unknown
 8 *K. Is the property subject to any special tax
 9 assessment or tax treatment that may result
 10 in levy of additional taxes if the property
 11 is sold? []Yes []No []Unknown
 12
 13 2. WATER
 14 A. Household water
 15 (1) The source of the water is (check ALL that apply):
 16 []Public []Community []Private
 17 []Other _____
 18 (2) Water source information:
 19 *a. Does the water source require a water permit? []Yes []No []Unknown
 20 If yes, do you have a permit? []Yes []No
 21 b. Is the water source located on the property? []Yes []No []Unknown
 22 *If not, are there any written agreements for
 23 a shared water source? []Yes []No []Unknown []NA
 24 *c. Is there an easement (recorded or unrecorded)
 25 for your access to or maintenance of the water
 26 source? []Yes []No []Unknown
 27 d. If the source of water is from a well or spring,
 28 have you had any of the following in the past
 29 12 months? []Flow test []Bacteria test
 30 []Chemical contents test []Yes []No []Unknown []NA
 31 *e. Are there any water source plumbing problems
 32 or needed repairs? []Yes []No []Unknown
 33 (3) Are there any water treatment systems for
 34 the property? []Yes []No []Unknown
 35 []Leased []Owned
 36 B. Irrigation
 37 (1) Are there any [] water rights or [] other
 38 irrigation rights for the property? []Yes []No []Unknown
 39 *(2) If any exist, has the irrigation water been
 40 used during the last five-year period? []Yes []No []Unknown []NA
 41 *(3) Is there a water rights certificate or other
 42 written evidence available? []Yes []No []Unknown []NA
 43 C. Outdoor sprinkler system
 44 (1) Is there an outdoor sprinkler system for the
 45 property? []Yes []No []Unknown

- 1 (2) Has a back flow valve been installed? []Yes []No []Unknown []NA
 2 (3) Is the outdoor sprinkler system operable? []Yes []No []Unknown []NA
 3
 4 3. SEWAGE SYSTEM
 5 A. Is the property connected to a public or
 6 community sewage system? []Yes []No []Unknown
 7 B. Are there any new public or community sewage
 8 systems proposed for the property? []Yes []No []Unknown
 9 C. Is the property connected to an on-site septic
 10 system? []Yes []No []Unknown
 11 If yes, was it installed by permit? []Yes []No []Unknown []NA
 12 *Has the system been repaired or altered? []Yes []No []Unknown
 13 Has the condition of the system been
 14 evaluated and a report issued? []Yes []No []Unknown
 15 Has it ever been pumped? []Yes []No []Unknown []NA
 16 If yes, when? _____
 17 *D. Are there any sewage system problems or
 18 needed repairs? []Yes []No []Unknown
 19 E. Does your sewage system require on-site
 20 pumping to another level? []Yes []No []Unknown
 21
 22 4. DWELLING INSULATION
 23 A. Is there insulation in the:
 24 (1) Ceiling? []Yes []No []Unknown
 25 (2) Exterior walls? []Yes []No []Unknown
 26 (3) Floors? []Yes []No []Unknown
 27 B. Are there any defective insulated doors or
 28 windows? []Yes []No []Unknown
 29
 30 5. DWELLING STRUCTURE
 31 *A. Has the roof leaked? []Yes []No []Unknown
 32 If yes, has it been repaired? []Yes []No []Unknown []NA
 33 B. Are there any additions, conversions or
 34 remodeling? []Yes []No []Unknown
 35 If yes, was a building permit required? []Yes []No []Unknown []NA
 36 If yes, was a building permit obtained? []Yes []No []Unknown []NA
 37 If yes, was final inspection obtained? []Yes []No []Unknown []NA
 38 C. Are there smoke alarms or detectors? []Yes []No []Unknown
 39 D. Is there a woodstove included in the sale? []Yes []No []Unknown
 40 Make _____
 41 *E. Has pest and dry rot, structural or
 42 "whole house" inspection been done
 43 within the last three years? []Yes []No []Unknown
 44 *F. Are there any moisture problems, areas of
 45 water penetration, mildew odors or other

- 1 moisture conditions (especially in the
 2 basement)?]Yes]No]Unknown
 3 *If yes, explain on attached sheet the frequency and
 4 extent of problem and any insurance claims,
 5 repairs or remediation done.
- 6 G. Is there a sump pump on the property?]Yes]No]Unknown
 7 H. Are there any materials used in the
 8 construction of the structure that are or
 9 have been the subject of a recall, class
 10 action suit, settlement or litigation?]Yes]No]Unknown
 11 If yes, what are the materials? _____
- 12 (1) Are there problems with the materials?]Yes]No]Unknown]NA
 13 (2) Are the materials covered by a warranty?]Yes]No]Unknown]NA
 14 (3) Have the materials been inspected?]Yes]No]Unknown]NA
 15 (4) Have there ever been claims filed for these
 16 materials by you or by previous owners?]Yes]No]Unknown]NA
 17 If yes, when? _____
- 18 (5) Was money received?]Yes]No]Unknown]NA
 19 (6) Were any of the materials repaired or
 20 replaced?]Yes]No]Unknown]NA
 21
- 22 6. DWELLING SYSTEMS AND FIXTURES
 23 If the following systems or fixtures are included
 24 in the purchase price, are they in good working
 25 order on the date this form is signed?
- 26 A. Electrical system, including wiring, switches,
 27 outlets and service]Yes]No]Unknown
 28 B. Plumbing system, including pipes, faucets,
 29 fixtures and toilets]Yes]No]Unknown
 30 C. Water heater tank]Yes]No]Unknown
 31 D. Garbage disposal]Yes]No]Unknown]NA
 32 E. Built-in range and oven]Yes]No]Unknown]NA
 33 F. Built-in dishwasher]Yes]No]Unknown]NA
 34 G. Sump pump]Yes]No]Unknown]NA
 35 H. Heating and cooling systems]Yes]No]Unknown]NA
 36 I. Security system]Owned]Leased]Yes]No]Unknown]NA
 37 J. Are there any materials or products used in
 38 the systems and fixtures that are or have
 39 been the subject of a recall, class action
 40 settlement or other *[litigations]* **litigation**?]Yes]No]Unknown
 41 If yes, what product? _____
- 42 (1) Are there problems with the product?]Yes]No]Unknown
 43 (2) Is the product covered by a warranty?]Yes]No]Unknown
 44 (3) Has the product been inspected?]Yes]No]Unknown
 45 (4) Have claims been filed for this product

- 1 by you or by previous owners? []Yes []No []Unknown
 2 If yes, when? _____
- 3 (5) Was money received? []Yes []No []Unknown
 4 (6) Were any of the materials or products repaired
 5 or replaced? []Yes []No []Unknown
 6
- 7 7. COMMON INTEREST
- 8 A. Is there a Home Owners' Association
 9 or other governing entity? []Yes []No []Unknown
 10 Name of Association or Other Governing
 11 Entity _____
 12 Contact Person _____
 13 Address _____
 14 Phone Number _____
- 15 B. Regular periodic assessments: \$_____
- 16 per []Month []Year []Other _____
- 17 *C. Are there any pending or proposed special
 18 assessments? []Yes []No []Unknown
- 19 D. Are there shared "common areas" or joint
 20 maintenance agreements for facilities like
 21 walls, fences, pools, tennis courts, walkways
 22 or other areas co-owned in undivided interest
 23 with others? []Yes []No []Unknown
- 24 E. Is the Home Owners' Association or other
 25 governing entity a party to pending litigation
 26 or subject to an unsatisfied judgment? []Yes []No []Unknown []NA
- 27 F. Is the property in violation of recorded
 28 covenants, conditions and restrictions or in
 29 violation of other bylaws or governing rules,
 30 whether recorded or not? []Yes []No []Unknown []NA
 31
- 32 8. GENERAL
- 33 A. Are there problems with settling, soil,
 34 standing water or drainage on the property
 35 or in the immediate area? []Yes []No []Unknown
- 36 B. Does the property contain fill? []Yes []No []Unknown
- 37 C. Is there any material damage to the property or
 38 any of the structure(s) from fire, wind, floods,
 39 beach movements, earthquake, expansive soils
 40 or landslides? []Yes []No []Unknown
- 41 D. Is the property in a designated floodplain? []Yes []No []Unknown
- 42 E. Is the property in a designated slide or other
 43 geologic hazard zone? []Yes []No []Unknown
- 44 *F. Has any portion of the property been tested
 45 or treated for asbestos, formaldehyde, radon

1 gas, lead-based paint, mold, fuel or chemical
2 storage tanks or contaminated soil or water? []Yes []No []Unknown

3 G. Are there any tanks or underground storage
4 tanks (e.g., septic, chemical, fuel, etc.)
5 on the property? []Yes []No []Unknown

6 H. Has the property ever been used as an illegal
7 drug manufacturing or distribution site? []Yes []No []Unknown
8 *If yes, was a Certificate of Fitness issued? []Yes []No []Unknown

9 *I If the property is larger than three acres,
10 has the property ever been subject either
11 to a written notice to eradicate weeds or
12 to a request from a government agency for
13 permission to enter the property to inspect
14 for noxious weeds or to implement noxious
15 weed control measures? []Yes []No []Unknown

16

17 9. FULL DISCLOSURE BY SELLERS

18 *A. Are there any other material defects
19 affecting this property or its value
20 that a prospective buyer should
21 know about? []Yes []No

22 *If yes, describe the defect on attached sheet
23 and explain the frequency and extent of the
24 problem and any insurance claims, repairs or
25 remediation.

26 B. Verification:

27 The foregoing answers and attached explanations (if any) are complete and correct to
28 the best of my/our knowledge and I/we have received a copy of this disclosure statement.
29 I/we authorize my/our agents to deliver a copy of this disclosure statement to all
30 prospective buyers of the property or their agents.

31

32 Seller(s) signature:

33

34 SELLER _____ DATE _____

35

36 SELLER _____ DATE _____

37

38

39

40 II. BUYER'S ACKNOWLEDGMENT

41

42 A. As buyer(s), I/we acknowledge the duty to pay diligent attention to any material defects that are
43 known to me/us or can be known by me/us by utilizing diligent attention and observation.

44

45 B. Each buyer acknowledges and understands that the disclosures set forth in this statement and in

1 any amendments to this statement are made only by the seller and are not the representations of
2 any financial institution that may have made or may make a loan pertaining to the property, or that
3 may have or take a security interest in the property, or of any real estate licensee engaged by the
4 seller or buyer. A financial institution or real estate licensee is not bound by and has no liability
5 with respect to any representation, misrepresentation, omission, error or inaccuracy contained in
6 another party's disclosure statement required by this section or any amendment to the disclosure
7 statement.

8
9 C. Buyer (which term includes all persons signing the "buyer's acknowledgment" portion of this
10 disclosure statement below) hereby acknowledges receipt of a copy of this disclosure statement (in-
11 cluding attachments, if any) bearing seller's signature(s).

12
13 DISCLOSURES, IF ANY, CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON
14 THE BASIS OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DIS-
15 CLOSURE. IF THE SELLER HAS FILLED OUT SECTION 2 OF THIS FORM, YOU, THE BUYER,
16 HAVE FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS DISCLOSURE STATEMENT TO
17 REVOKE YOUR OFFER BY DELIVERING YOUR SEPARATE SIGNED WRITTEN STATEMENT
18 OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S DISCLOSURE UNLESS
19 YOU WAIVE THIS RIGHT AT OR PRIOR TO ENTERING INTO A SALE AGREEMENT.

20
21 BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS SELLER'S PROPERTY
22 DISCLOSURE STATEMENT.

23
24 BUYER _____ DATE _____

25
26 BUYER _____ DATE _____

27
28 Agent receiving disclosure statement on buyer's behalf to sign and date:

29
30 _____ Real Estate Licensee

31
32 _____ Real Estate Firm

33
34 Date received by agent _____

35
36
37 **SECTION 2. The amendments to ORS 105.464 by section 1 of this 2007 Act apply to a**
38 **seller's property disclosure statement delivered to a buyer on or after the effective date of**
39 **this 2007 Act.**