

A-Engrossed
House Bill 2723

Ordered by the House April 19
Including House Amendments dated April 19

Sponsored by Representative GREENLICK; Representatives BUCKLEY, GARRARD, P SMITH

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.

[Grants cities and counties authority to approve creation of lot or parcel that does not meet all requirements for land division for specified purchaser who acquires land without knowledge of legal status of land.]

[Clarifies language of existing law authorizing fewer than all owners of lot, parcel or tract to obtain approval of land division under specified circumstances.]

Establishes process by which county or city may validate and owner may record established unit of land if unit was unlawfully created by previous owner on or before January 1, 2007.

Prohibits recordation of instrument documenting new lot or parcel without proof that unit of land is lawfully established.

Requires seller of property to disclose whether unit of land being transferred is lawfully established.

A BILL FOR AN ACT

1
2 Relating to post-transfer division of land; creating new provisions; and amending 92.010, 92.018,
3 92.060, 92.177, 92.190, 92.345, 93.040 and 105.464.

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

5 **SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS 92.010**
6 **to 92.190.**

7 **SECTION 2. (1) A county or city may approve an application to validate a unit of land**
8 **that was created by a sale that did not comply with the applicable criteria for creation of a**
9 **unit of land if the unit of land:**

10 **(a) Is not a lawfully established unit of land; and**

11 **(b) Could have complied with the applicable criteria for the creation of a lawfully estab-**
12 **lished unit of land in effect when the unit of land was sold.**

13 **(2) Notwithstanding subsection (1)(b) of this section, a county or city may approve an**
14 **application to validate a unit of land under this section if the county or city approved a**
15 **permit, as defined in ORS 215.402 or 227.160, respectively, for the construction or placement**
16 **of a dwelling or other building on the unit of land after the sale. If the permit was approved**
17 **for a dwelling, the county or city must determine that the dwelling qualifies for replacement**
18 **under the criteria set forth in ORS 215.755 (1)(a) to (e).**

19 **(3) A county or city may approve an application for a permit, as defined in ORS 215.402**
20 **or 227.160, respectively, or a permit under the applicable state or local building code for the**
21 **continued use of a dwelling or other building on a unit of land that was not lawfully estab-**
22 **lished if:**

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 (a) The dwelling or other building was lawfully established prior to January 1, 2007; and

2 (b) The permit does not change or intensify the use of the dwelling or other building.

3 (4) An application to validate a unit of land under this section is an application for a
4 permit, as defined in ORS 215.402 or 227.160. An application to a county under this section
5 is not subject to the minimum lot or parcel sizes established by ORS 215.780.

6 (5) A unit of land becomes a lawfully established parcel when the county or city validates
7 the unit of land under this section if the owner of the unit of land causes a partition plat to
8 be recorded within 90 days after the date the county or city validates the unit of land.

9 (6) A county or city may not approve an application to validate a unit of land under this
10 section if the unit of land was unlawfully created on or after January 1, 2007.

11 (7) Development or improvement of a parcel created under subsection (5) of this section
12 must comply with the applicable laws in effect when a complete application for the develop-
13 ment or improvement is submitted as described in ORS 215.427 (3)(a) or 227.178 (3)(a).

14 **SECTION 3.** A county clerk may not record a deed, land sale contract, mortgage or other
15 instrument documenting a new lot or parcel on or after the effective date of this 2007 Act
16 unless the instrument is accompanied by a copy of the approved final subdivision or partition
17 plat or a statement signed by the authorized county or city planning department that the
18 instrument reflects a division of land that is described in ORS 92.010 (3) or (8)(a) to (e).

19 **SECTION 4.** ORS 92.010 is amended to read:

20 92.010. As used in ORS 92.010 to 92.190, unless the context requires otherwise:

21 (1) "Declarant" means the person who files a declaration under ORS 92.075.

22 (2) "Declaration" means the instrument described in ORS 92.075 by which the subdivision or
23 partition plat was created.

24 (3)(a) "Lawfully established unit of land" means:

25 (A) A lot or parcel created pursuant to ORS 92.010 to 92.190; or

26 (B) Another unit of land created:

27 (i) In compliance with all applicable planning, zoning and subdivision or partition ordi-
28 nances and regulations; or

29 (ii) By deed or land sales contract, if there were no applicable planning, zoning or subdivi-
30 sion or partition ordinances or regulations.

31 (b) "Lawfully established unit of land" does not mean a unit of land created solely to es-
32 tablish a separate tax account.

33 [(3)] (4) "Lot" means a single unit of land that is created by a subdivision of land.

34 [(4)] (5) "Negotiate" means any activity preliminary to the execution of a binding agreement for
35 the sale of land in a subdivision or partition, including but not limited to advertising, solicitation
36 and promotion of the sale of such land.

37 [(5)] (6) "Parcel" means a single unit of land that is created by a partition of land.

38 [(6)] (7) "Partition" means either an act of partitioning land or an area or tract of land parti-
39 tioned.

40 [(7)] (8) "Partition land" means to divide land to create two or three parcels of land within a
41 calendar year, but does not include:

42 (a) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for
43 the sale of real property or the creation of cemetery lots;

44 (b) An adjustment of a property line by the relocation of a common boundary where an addi-
45 tional unit of land is not created and where the existing unit of land reduced in size by the adjust-

1 ment complies with any applicable zoning ordinance;

2 (c) The division of land resulting from the recording of a subdivision or condominium plat;

3 (d) A sale or grant by a person to a public agency or public body for state highway, county road,
4 city street or other right of way purposes provided that such road or right of way complies with the
5 applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any
6 property divided by the sale or grant of property for state highway, county road, city street or other
7 right of way purposes shall continue to be considered a single unit of land until such time as the
8 property is further subdivided or partitioned; or

9 (e) A sale or grant by a public agency or public body of excess property resulting from the ac-
10 quisition of land by the state, a political subdivision or special district for highways, county roads,
11 city streets or other right of way purposes when the sale or grant is part of a property line ad-
12 justment incorporating the excess right of way into adjacent property. The property line adjustment
13 shall be approved or disapproved by the applicable local government. If the property line adjustment
14 is approved, it shall be recorded in the deed records of the county where the property is located.

15 [(8)] (9) "Partition plat" includes a final map and other writing containing all the descriptions,
16 locations, specifications, provisions and information concerning a partition.

17 [(9)] (10) "Plat" includes a final subdivision plat, replat or partition plat.

18 [(10)] (11) "Property line" means the division line between two units of land.

19 [(11)] (12) "Property line adjustment" means the relocation or elimination of a common property
20 line between abutting properties.

21 [(12)] (13) "Replat" means the act of platting the lots, parcels and easements in a recorded
22 subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat
23 or to increase or decrease the number of lots in the subdivision.

24 [(13)] (14) "Road" or "street" means a public or private way that is created to provide ingress
25 or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way
26 that is created to provide ingress or egress to such land in conjunction with the use of such land
27 for forestry, mining or agricultural purposes.

28 [(14)] (15) "Sale" or "sell" includes every disposition or transfer of land [*in a subdivision or*
29 *partition*] or an interest or estate therein.

30 [(15)] (16) "Subdivide land" means to divide land to create four or more lots within a calendar
31 year.

32 [(16)] (17) "Subdivision" means either an act of subdividing land or an area or a tract of land
33 subdivided.

34 [(17)] (18) "Subdivision plat" includes a final map and other writing containing all the de-
35 scriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

36 [(18)] (19) "Utility easement" means an easement noted on a subdivision plat or partition plat
37 for the purpose of installing or maintaining public utility infrastructure for the provision of water,
38 power, heat or telecommunications to the public.

39 **SECTION 5.** ORS 92.018 is amended to read:

40 92.018. (1) **If** a person [*who buys a lot or parcel that was created without approval of the appro-*
41 *prate city or county authority*] **buys a unit of land that is not a lawfully established unit of land,**
42 **the person** may bring an individual action against the seller in an appropriate court to recover
43 damages or to obtain equitable relief. The court [*may*] **shall** award reasonable attorney fees to the
44 prevailing party in an action under this section.

45 (2) If the seller of [*the lot or parcel*] **a unit of land that was not lawfully established** is a

1 county that involuntarily acquired the [lot or parcel] **unit of land** by means of foreclosure under
 2 ORS chapter 312 of delinquent tax liens, the person who purchases the [lot or parcel] **unit of land**
 3 is not entitled to damages or equitable relief.

4 **SECTION 6.** ORS 92.177 is amended to read:

5 92.177. [*Where application is made to the governing body of a city or county for approval of the*
 6 *creation of lots or parcels which were improperly formed without the approval of the governing body,*]

7 **When a unit of land was sold before January 1, 2007, but was not a lawfully established unit**
 8 **of land**, the governing body of [a] **the** city or county or its [designate] **designee** shall consider and
 9 may approve an application for the creation of [lots or parcels] **a parcel pursuant to section 2 of**
 10 **this 2007 Act**, notwithstanding that less than all of the owners of the existing [legal lot or parcel]
 11 **lawfully established unit of land** have applied for the approval.

12 **SECTION 7.** ORS 93.040 is amended to read:

13 93.040. (1) The following statement shall be included in the body of an instrument transferring
 14 or contracting to transfer fee title to real property except for owner's sale agreements or earnest
 15 money receipts, or both, as provided in subsection (2) of this section: "BEFORE SIGNING OR AC-
 16 CEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE
 17 ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT
 18 ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF AP-
 19 PPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS
 20 INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK
 21 WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY **THAT**
 22 **THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR**
 23 **PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF**
 24 **THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR**
 25 **FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF**
 26 **NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352."**

27 (2) In all owner's sale agreements and earnest money receipts, there shall be included in the
 28 body of the instrument the following statement: "THE PROPERTY DESCRIBED IN THIS INSTRU-
 29 MENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES.
 30 THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR
 31 FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND
 32 THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS
 33 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON
 34 TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY,
 35 UNDER ORS 197.352. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON
 36 ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY
 37 OR COUNTY PLANNING DEPARTMENT **TO VERIFY THAT THE UNIT OF LAND BEING**
 38 **TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS**
 39 **92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY**
 40 **THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE**
 41 **RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352."**

42 (3) In all owners' sale agreements and earnest money receipts subject to ORS 358.505, there
 43 shall be included in the body of the instrument or by addendum the following statement: "THE
 44 PROPERTY DESCRIBED IN THIS INSTRUMENT IS SUBJECT TO SPECIAL ASSESSMENT UN-
 45 DER ORS 358.505. ORS 358.515 REQUIRES NOTIFICATION TO THE STATE HISTORIC PRESER-

1 VATION OFFICER OF SALE OR TRANSFER OF THIS PROPERTY.”

2 (4) An action may not be maintained against the county recording officer for recording an in-
3 strument that does not contain the statement required in subsection (1) or (2) of this section.

4 (5) An action may not be maintained against any person for failure to include in the instrument
5 the statement required in subsection (1) or (2) of this section, or for recording an instrument that
6 does not contain the statement required in subsection (1) or (2) of this section, unless the person
7 acquiring or agreeing to acquire fee title to the real property would not have executed or accepted
8 the instrument but for the absence in the instrument of the statement required by subsection (1) or
9 (2) of this section. An action may not be maintained by the person acquiring or agreeing to acquire
10 fee title to the real property against any person other than the person transferring or contracting
11 to transfer fee title to the real property.

12 **SECTION 8.** ORS 105.464 is amended to read:

13 105.464. A seller’s property disclosure statement must be in substantially the following form:
14

15
16 If required under ORS 105.465, a seller shall deliver in substantially the following form the
17 seller’s property disclosure statement to each buyer who makes a written offer to purchase
18 real property in this state:
19

20
21 **INSTRUCTIONS TO THE SELLER**

22
23 Please complete the following form. Do not leave any spaces blank. Please refer to the line
24 number(s) of the question(s) when you provide your explanation(s). If you are not claiming an ex-
25 clusion or refusing to provide the form under ORS 105.475 (4), you should date and sign each page
26 of this disclosure statement and each attachment.
27

28 Each seller of residential property described in ORS 105.465 must deliver this form to each buyer
29 who makes a written offer to purchase. Under ORS 105.475 (4), refusal to provide this form gives the
30 buyer the right to revoke their offer at any time prior to closing the transaction. Use only the
31 section(s) of the form that apply to the transaction for which the form is used. If you are claiming
32 an exclusion under ORS 105.470, fill out only Section 1.
33

34 An exclusion may be claimed only if the seller qualifies for the exclusion under the law. If not ex-
35 cluded, the seller must disclose the condition of the property or the buyer may revoke their offer
36 to purchase anytime prior to closing the transaction. Questions regarding the legal consequences
37 of the seller’s choice should be directed to a qualified attorney.
38

39
40 **(DO NOT FILL OUT THIS SECTION UNLESS YOU ARE CLAIMING AN EXCLUSION**
41 **UNDER ORS 105.470)**

42
43 **Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:**

44
45 You may claim an exclusion under ORS 105.470 only if you qualify under the statute. If you are not

1 claiming an exclusion, you must fill out Section 2 of this form completely.

2
3 Initial only the exclusion you wish to claim.

4
5 _____ This is the first sale of a dwelling never occupied. The dwelling is constructed or installed
6 under building or installation permit(s) #_____, issued by _____.

7
8 _____ This sale is by a financial institution that acquired the property as custodian, agent or
9 trustee, or by foreclosure or deed in lieu of foreclosure.

10
11 _____ The seller is a court appointed receiver, personal representative, trustee, conservator or
12 guardian.

13
14 _____ This sale or transfer is by a governmental agency.

15
16 _____
17 Signature(s) of Seller claiming exclusion
18 Date _____

19
20 _____
21 Buyer(s) to acknowledge Seller's claim
22 Date _____

23 _____
24
25
26 (IF YOU DID NOT CLAIM AN EXCLUSION IN SECTION 1, YOU MUST FILL OUT THIS SEC-
27 TION.)

28
29 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

30
31 (NOT A WARRANTY)
32 (ORS 105.464)

33
34 NOTICE TO THE BUYER: THE FOLLOWING REPRESENTATIONS ARE MADE BY THE
35 SELLER(S) CONCERNING THE CONDITION OF THE PROPERTY LOCATED
36 AT _____ ("THE PROPERTY").

37
38 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS
39 OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DISCLOSURE.
40 BUYER HAS FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE
41 STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S SEPARATE SIGNED
42 WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S
43 DISCLOSURE STATEMENT, UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTER-
44 ING INTO A SALE AGREEMENT.

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

7
8 Seller _____ is/ _____ is not occupying the property.

9
10 I. SELLER'S REPRESENTATIONS:

11
12 The following are representations made by the seller and are not the representations of any finan-
13 cial institution that may have made or may make a loan pertaining to the property, or that may
14 have or take a security interest in the property, or any real estate licensee engaged by the seller
15 or the buyer.

16
17 *If you mark yes on items with *, attach a copy or explain on an attached sheet.

18
19 1. TITLE

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

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

23 (1) First right of refusal

24 (2) Option

25 (3) Lease or rental agreement

26 (4) Other listing

27 (5) Life estate?

28 *C. Is the property being transferred a
29 lawfully established unit of land? []Yes []No []Unknown

30 [*C.] *D. Are there any encroachments, boundary
31 agreements, boundary disputes or recent
32 boundary changes? []Yes []No []Unknown

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

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

38 [*F.] *G. Are there any governmental studies, designations,
39 zoning overlays, surveys or notices that would
40 affect the property? []Yes []No []Unknown

41 [*G.] *H. Are there any pending or existing governmental
42 assessments against the property? []Yes []No []Unknown

43 [*H.] *I. Are there any zoning violations or
44 nonconforming uses? []Yes []No []Unknown

45 [*I.] *J. Is there a boundary survey for the

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

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

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

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

1 tanks (e.g., septic, chemical, fuel, etc.)
2 on the property? []Yes []No []Unknown

3 H. Has the property ever been used as an illegal
4 drug manufacturing or distribution site? []Yes []No []Unknown

5 *If yes, was a Certificate of Fitness issued? []Yes []No []Unknown

6

7 9. FULL DISCLOSURE BY SELLERS

8 *A. Are there any other material defects
9 affecting this property or its value
10 that a prospective buyer should
11 know about? []Yes []No

12 *If yes, describe the defect on attached sheet
13 and explain the frequency and extent of the
14 problem and any insurance claims, repairs or
15 remediation.

16 B. Verification:

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

21

22 Seller(s) signature:

23

24 SELLER _____ DATE _____

25

26 SELLER _____ DATE _____

27

28

29

30 II. BUYER'S ACKNOWLEDGMENT

31

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

34

35 B. Each buyer acknowledges and understands that the disclosures set forth in this statement and in
36 any amendments to this statement are made only by the seller and are not the representations of
37 any financial institution that may have made or may make a loan pertaining to the property, or that
38 may have or take a security interest in the property, or of any real estate licensee engaged by the
39 seller or buyer. A financial institution or real estate licensee is not bound by and has no liability
40 with respect to any representation, misrepresentation, omission, error or inaccuracy contained in
41 another party's disclosure statement required by this section or any amendment to the disclosure
42 statement.

43

44 C. Buyer (which term includes all persons signing the "buyer's acknowledgment" portion of this
45 disclosure statement below) hereby acknowledges receipt of a copy of this disclosure statement (in-

cluding attachments, if any) bearing seller's signature(s).

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

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

BUYER _____ DATE _____

BUYER _____ DATE _____

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

_____ Real Estate Licensee

_____ Real Estate Firm

Date received by agent _____

SECTION 9. ORS 92.060 is amended to read:

92.060. (1) The initial point, also known as the point of beginning, of a plat must be on the exterior boundary of the plat and must be marked with a monument that is either galvanized iron pipe or an iron or steel rod. If galvanized iron pipe is used, the pipe may not be less than three-quarter inch inside diameter and 30 inches long. If an iron or steel rod is used, the rod may not be less than five-eighths of an inch in least dimension and 30 inches long. The location of the monument shall be with reference by survey to a section corner, one-quarter corner, one-sixteenth corner, Donation Land Claim corner or to a monumented lot corner or boundary corner of a recorded subdivision, partition or condominium plat. When setting a required monument is impracticable under the circumstances, the county surveyor may authorize the setting of another type of monument.

(2) In subdivision plats, the intersections, the initial point, also known as the point of beginning, the point of ending, points of curves and points of tangents, or the point of intersection of the curve if the point is within the pavement area of the road, of the centerlines of all streets and roads and all points on the exterior boundary where the boundary line changes direction, must be marked with monuments either of galvanized iron pipe or iron or steel rods. If galvanized iron pipe is used, the pipe may not be less than three-quarter inch inside diameter and 30 inches long. If iron or steel rods are used, the rod may not be less than five-eighths of an inch in least dimension and 30 inches long. When setting a required monument is impracticable under the circumstances:

- (a) The county surveyor may authorize the setting of another type of monument; or

1 (b) The county surveyor may waive the setting of the monument.

2 (3) All lot and parcel corners except lot corners of cemetery lots must be marked with monu-
3 ments of either galvanized iron pipe not less than one-half inch inside diameter or iron or steel rods
4 not less than five-eighths inch in least dimension and not less than 24 inches long. When setting a
5 required monument is impracticable under the circumstances:

6 (a) The surveyor may set another type of monument; or

7 (b) The county surveyor may waive the setting of the monument.

8 (4) A surveyor shall set monuments with sufficient accuracy that measurements may be taken
9 between monuments within one-tenth of a foot or within one ten-thousandth of the distance shown
10 on the subdivision or partition plat, whichever is greater.

11 (5) A surveyor shall set monuments on the exterior boundary of a subdivision, unless the county
12 surveyor waives the setting of a particular monument, where changes in the direction of the
13 boundary occur and shall reference the monuments on the plat of the subdivision before the plat of
14 the subdivision is offered for recording. However, the surveyor need not set the remaining monu-
15 ments for the subdivision prior to the recording of the plat of the subdivision if:

16 (a) The registered professional land surveyor performing the survey work certifies that the re-
17 maining monuments will be set, unless the county surveyor waives the setting of a particular monu-
18 ment, on or before a specified date as provided in ORS 92.070 (2); and

19 (b) The person subdividing the land furnishes to the county or city by which the subdivision was
20 approved a bond, cash deposit, irrevocable letter of credit issued by an insured institution as defined
21 in ORS 706.008 or other security as required by the county or city guaranteeing the payment of the
22 cost of setting the remaining monuments for the subdivision as provided in ORS 92.065.

23 (6) A surveyor shall set all monuments on the exterior boundary and all parcel corner monu-
24 ments of partitions, unless the county surveyor waives the setting of a particular monument, before
25 the partition plat is offered for recording. Unless the governing body provides otherwise, any parcels
26 created outside an urban growth boundary that are greater than 10 acres need not be surveyed or
27 monumented.

28 (7) Except as provided in subsections (8) and (9) of this section, an adjusted property line created
29 by the relocation of a common boundary as described in ORS 92.010 [(7)(b)] **(8)(b)** must be surveyed
30 and monumented in accordance with subsection (3) of this section and a survey, complying with ORS
31 209.250, must be filed with the county surveyor.

32 (8) Unless the governing body of a city or county has otherwise provided by ordinance, a survey
33 or monument is not required for a property line adjustment when the abutting properties are each
34 greater than 10 acres. Nothing in this subsection exempts a local government from minimum area
35 requirements established in acknowledged comprehensive plans and land use regulations.

36 (9) The requirements of subsection (7) of this section do not apply to property transferred
37 through a property line adjustment as provided in ORS 92.010 [(7)(e)] **(8)(e)**.

38 **SECTION 10.** ORS 92.190 is amended to read:

39 92.190. (1) The replat of a portion of a recorded plat shall not act to vacate any recorded
40 covenants or restrictions.

41 (2) Nothing in ORS 92.180 to 92.190 is intended to prevent the operation of vacation actions by
42 statutes in ORS chapter 271 or 368.

43 (3) The governing body of a city or county may use procedures other than replatting procedures
44 in ORS 92.180 and 92.185 to adjust property lines as described in ORS 92.010 [(11)] **(12)**, as long as
45 those procedures include the recording, with the county clerk, of conveyances conforming to the

1 approved property line adjustment as surveyed in accordance with ORS 92.060 (7).

2 (4) A property line adjustment deed shall contain the names of the parties, the description of the
3 adjusted line, references to original recorded documents and signatures of all parties with proper
4 acknowledgment.

5 **SECTION 11.** ORS 92.345 is amended to read:

6 92.345. (1) Prior to negotiating within this state for the sale or lease of subdivided lands located
7 outside this state, or prior to the sale or lease of any subdivided or series partitioned lands located
8 within this state, the subdivider, series partitioner or agent of the subdivider or series partitioner
9 shall by a "Notice of Intention" notify the Real Estate Commissioner in writing of the intention to
10 sell or lease. A notice of intention shall contain true information as follows:

11 (a) The name and the business and residence address of the subdivider or series partitioner;

12 (b) The names and the business addresses of all licensees of the commissioner and of all other
13 persons selling or leasing, within this state, interests in the subdivision or series partition;

14 (c) With respect to subdivided or series partitioned lands located in this state:

15 (A) For "subdivided land" or a "subdivision" as those terms are defined, respectively, by ORS
16 92.010 [(15) and] (16) **and (17)**, a certified copy of the plat filed for record under ORS 92.120 and a
17 copy of any conditions imposed by the city or county governing body;

18 (B) For "partitioned land" or a "partition" as those terms are defined by ORS 92.010 [(6) and]
19 (7) **and (8)**, a certified copy of the plat filed for record under ORS 92.120 and a copy of any condi-
20 tions imposed by the city or county governing body; and

21 (C) For all other land subject to ORS 92.305 to 92.495, a survey, diagram, drawing or other
22 writing designating and describing, including location and boundaries when applicable, the interests
23 to be sold and a statement from the city or county governing body that the proposal as depicted on
24 the survey, diagram, drawing or other writing has received all necessary local approvals or that no
25 local approval is required;

26 (d) With respect to subdivided lands located outside this state:

27 (A) A copy of the plat, map, survey, diagram, drawing or other writing designating and de-
28 scribing, including location and boundaries when applicable, the interests to be sold, in the final
29 recorded form required by the governing body having jurisdiction over the property; and

30 (B) A written statement from the appropriate governing body that the plat, map, survey, dia-
31 gram, drawing or other writing is in compliance with all applicable laws, ordinances and regulations;

32 (e) A brief but comprehensive statement describing the land on and the locality in which the
33 subdivision or series partition is located;

34 (f) A statement of the condition of the title to the land;

35 (g) A statement of the provisions, if any, that have been made for legal access, sewage disposal
36 and public utilities in the proposed subdivision or series partition, including water, electricity, gas
37 and telephone facilities;

38 (h) A statement of the use or uses for which the proposed subdivision or series partition will
39 be offered; and

40 (i) A statement of the provisions, if any, limiting the use or occupancy of the interests in the
41 subdivision or series partition.

42 (2) The notice of intention shall be accompanied by a filing fee as follows:

43 (a) For subdivisions or series partitions containing 10 or fewer lots, parcels or interests, \$100.

44 (b) For subdivisions or series partitions containing over 10 lots, parcels or interests, \$100, and
45 \$25 for each additional lot, parcel or interest, but in no case shall the fee be more than \$2,500.

1 (3) For lands located outside this state, the notice of intention shall include only the area shown
2 by the plat, survey, diagram, drawing or other writing required under subsection (1)(d) of this sec-
3 tion. The subdivision of any contiguous lands located outside this state shall be treated as a sepa-
4 rate subdivision for which an additional complete filing must be made, even though the plat, map,
5 survey, diagram, drawing or other writing of the contiguous lands is recorded simultaneously as part
6 of an overall development.

7
