

HOUSE AMENDMENTS TO SENATE BILL 99

By COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

March 19

1 On page 1 of the printed bill, line 2, after “ORS” insert “105.464,”.

2 On page 7, delete lines 24 and 25.

3 On page 8, after line 39, insert:

4 “**SECTION 13.** ORS 105.464 is amended to read:

5 “105.464. A seller’s property disclosure statement must be in substantially the following form:

6 “ _____

7

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

11 _____

12

13 INSTRUCTIONS TO THE SELLER

14

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

19

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

25

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

30 _____

31

32 **(DO NOT FILL OUT THIS SECTION UNLESS YOU ARE CLAIMING AN EXCLUSION**
33 **UNDER ORS 105.470)**

34

35 Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:

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

3
4 Initial only the exclusion you wish to claim.

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

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

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

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

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

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

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

29
30 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

31
32 (NOT A WARRANTY)
33 (ORS 105.464)
34

35 NOTICE TO THE BUYER: THE FOLLOWING REPRESENTATIONS ARE MADE BY THE
36 SELLER(S) CONCERNING THE CONDITION OF THE PROPERTY LOCATED
37 AT _____ ("THE PROPERTY").
38

39 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS
40 OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DISCLOSURE.
41 BUYER HAS FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE
42 STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S SEPARATE SIGNED
43 WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S
44 DISCLOSURE STATEMENT, UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTER-
45 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. Are there any encroachments, boundary
29 agreements, boundary disputes or recent
30 boundary changes? []Yes []No []Unknown

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

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

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

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

41 *H. Are there any zoning violations or
42 nonconforming uses? []Yes []No []Unknown

43 *I. Is there a boundary survey for the property? []Yes []No []Unknown

44 *J. Are there any covenants, conditions,
45 restrictions or private assessments that

1 affect the property? []Yes []No []Unknown

2 *K. Is the property subject to any special tax
3 assessment or tax treatment that may result
4 in levy of additional taxes if the property
5 is sold? []Yes []No []Unknown

6

7 2. WATER

8 A. Household water

9 (1) The source of the water is (check ALL that apply):
10 []Public []Community []Private
11 []Other _____

12 (2) Water source information:

13 *a. Does the water source require a water permit? []Yes []No []Unknown
14 If yes, do you have a permit? []Yes []No

15 b. Is the water source located on the property? []Yes []No []Unknown
16 *If not, are there any written agreements for
17 a shared water source? []Yes []No []Unknown []NA

18 *c. Is there an easement (recorded or unrecorded)
19 for your access to or maintenance of the water
20 source? []Yes []No []Unknown

21 d. If the source of water is from a well or spring,
22 have you had any of the following in the past
23 12 months? []Flow test []Bacteria test
24 []Chemical contents test []Yes []No []Unknown []NA

25 *e. Are there any water source plumbing problems
26 or needed repairs? []Yes []No []Unknown

27 (3) Are there any water treatment systems for
28 the property? []Yes []No []Unknown
29 []Leased []Owned

30 B. Irrigation

31 (1) Are there any [] water rights or [] other
32 irrigation rights for the property? []Yes []No []Unknown

33 *(2) If any exist, has the irrigation water been
34 used during the last five-year period? []Yes []No []Unknown []NA

35 *(3) Is there a water rights certificate or other
36 written evidence available? []Yes []No []Unknown []NA

37 C. Outdoor sprinkler system

38 (1) Is there an outdoor sprinkler system for the
39 property? []Yes []No []Unknown

40 (2) Has a back flow valve been installed? []Yes []No []Unknown []NA

41 (3) Is the outdoor sprinkler system operable? []Yes []No []Unknown []NA

42

43 3. SEWAGE SYSTEM

44 A. Is the property connected to a public or
45 community sewage system? []Yes []No []Unknown

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

1 H. Are there any materials used in the
2 construction of the structure that are or
3 have been the subject of a recall, class
4 action suit, settlement or litigation?]Yes]No]Unknown
5 If yes, what are the materials? _____

6 (1) Are there problems with the materials?]Yes]No]Unknown]NA
7 (2) Are the materials covered by a warranty?]Yes]No]Unknown]NA
8 (3) Have the materials been inspected?]Yes]No]Unknown]NA
9 (4) Have there ever been claims filed for these
10 materials by you or by previous owners?]Yes]No]Unknown]NA
11 If yes, when? _____

12 (5) Was money received?]Yes]No]Unknown]NA
13 (6) Were any of the materials repaired or
14 replaced?]Yes]No]Unknown]NA
15

16 6. DWELLING SYSTEMS AND FIXTURES
17 If the following systems or fixtures are included
18 in the purchase price, are they in good working
19 order on the date this form is signed?

20 A. Electrical system, including wiring, switches,
21 outlets and service]Yes]No]Unknown
22 B. Plumbing system, including pipes, faucets,
23 fixtures and toilets]Yes]No]Unknown
24 C. Water heater tank]Yes]No]Unknown
25 D. Garbage disposal]Yes]No]Unknown]NA
26 E. Built-in range and oven]Yes]No]Unknown]NA
27 F. Built-in dishwasher]Yes]No]Unknown]NA
28 G. Sump pump]Yes]No]Unknown]NA
29 H. Heating and cooling systems]Yes]No]Unknown]NA
30 I. Security system]Owned]Leased]Yes]No]Unknown]NA
31 J. Are there any materials or products used in
32 the systems and fixtures that are or have
33 been the subject of a recall, class action
34 settlement or other litigations?]Yes]No]Unknown
35 If yes, what product? _____

36 (1) Are there problems with the product?]Yes]No]Unknown
37 (2) Is the product covered by a warranty?]Yes]No]Unknown
38 (3) Has the product been inspected?]Yes]No]Unknown
39 (4) Have claims been filed for this product
40 by you or by previous owners?]Yes]No]Unknown
41 If yes, when? _____

42 (5) Was money received?]Yes]No]Unknown
43 (6) Were any of the materials or products repaired
44 or replaced?]Yes]No]Unknown
45

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

1 drug manufacturing or distribution site? []Yes []No []Unknown
2 *If yes, was a Certificate of Fitness issued? []Yes []No []Unknown
3 ***I. Has the property been classified as**
4 **forestland-urban interface?** []Yes []No []Unknown

5
6 9. FULL DISCLOSURE BY SELLERS

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

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

15 B. Verification:

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

20
21 Seller(s) signature:

22
23 SELLER _____ DATE _____

24
25 SELLER _____ DATE _____
26 _____

27
28
29 **II. BUYER'S ACKNOWLEDGMENT**

30
31 A. As buyer(s), I/we acknowledge the duty to pay diligent attention to any material defects that are
32 known to me/us or can be known by me/us by utilizing diligent attention and observation.

33
34 B. Each buyer acknowledges and understands that the disclosures set forth in this statement and in
35 any amendments to this statement are made only by the seller and are not the representations of
36 any financial institution that may have made or may make a loan pertaining to the property, or that
37 may have or take a security interest in the property, or of any real estate licensee engaged by the
38 seller or buyer. A financial institution or real estate licensee is not bound by and has no liability
39 with respect to any representation, misrepresentation, omission, error or inaccuracy contained in
40 another party's disclosure statement required by this section or any amendment to the disclosure
41 statement.

42
43 C. Buyer (which term includes all persons signing the "buyer's acknowledgment" portion of this
44 disclosure statement below) hereby acknowledges receipt of a copy of this disclosure statement (in-
45 cluding attachments, if any) bearing seller's signature(s).

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

8
9 BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS SELLER'S PROPERTY
10 DISCLOSURE STATEMENT.

11
12 BUYER _____ DATE _____

13
14 BUYER _____ DATE _____

15
16 Agent receiving disclosure statement on buyer's behalf to sign and date:

17
18 _____ Real Estate Licensee

19
20 _____ Real Estate Firm

21
22 Date received by agent _____

23 " _____ " .

24
25 In line 40, delete "13." and insert "14."
26 _____