

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 3450

By COMMITTEE ON RULES

June 5

1 On page 15 of the printed A-engrossed bill, after line 13, insert:

2 “**SECTION 14a. If Senate Bill 102 becomes law, section 14 of this 2009 Act (amending ORS**
3 **105.464) is repealed and ORS 105.464, as amended by section 18, chapter __, Oregon Laws 2009**
4 **(Enrolled Senate Bill 102), is amended to read:**

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

6
7 “ _____

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

12 _____
13
14 **INSTRUCTIONS TO THE SELLER**

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

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

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

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

1 Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:

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

5
6 Initial only the exclusion you wish to claim.

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

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

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

16
17 _____ This sale or transfer is by a governmental agency.

18
19 _____
20 Signature(s) of Seller claiming exclusion

21 Date _____

22
23 _____
24 Buyer(s) to acknowledge Seller's claim

25 Date _____

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

31
32 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

33
34 (NOT A WARRANTY)

35 (ORS 105.464)

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

40
41 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS
42 OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DISCLOSURE.
43 BUYER HAS FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE
44 STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S SEPARATE SIGNED
45 WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S

1 DISCLOSURE STATEMENT, UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTER-
2 ING INTO A SALE AGREEMENT.

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

10
11 Seller _____ is/ _____ is not occupying the property.

12
13 I. SELLER'S REPRESENTATIONS:

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

19
20 *If you mark yes on items with *, attach a copy or explain on an attached sheet.

21
22 1. TITLE

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

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

26 (1) First right of refusal

27 (2) Option

28 (3) Lease or rental agreement

29 (4) Other listing

30 (5) Life estate?

31 *C. Is the property being transferred an
32 unlawfully established unit of land? []Yes []No []Unknown

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

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

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

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

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

1 *I. Are there any zoning violations or
2 nonconforming uses? []Yes []No []Unknown

3 *J. Is there a boundary survey for the
4 property? []Yes []No []Unknown

5 *K. Are there any covenants, conditions,
6 restrictions or private assessments that
7 affect the property? []Yes []No []Unknown

8 *L. 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 or fireplace*
40 *insert included in the sale?* []Yes []No []Unknown
41 **If yes, what is the make?*
42 _____
43 **If yes, was it installed with a permit?* []Yes []No []Unknown
44 **If yes, is a certification label issued by the*
45 *United States Environmental Protection Agency*

- 1 (EPA) or the Department of Environmental
2 Quality (DEQ) affixed to it? []Yes []No []Unknown
- 3 *E. Has pest and dry rot, structural or
4 'whole house' inspection been done
5 within the last three years? []Yes []No []Unknown
- 6 *F. Are there any moisture problems, areas of
7 water penetration, mildew odors or other
8 moisture conditions (especially in the
9 basement)? []Yes []No []Unknown
- 10 *If yes, explain on attached sheet the frequency and
11 extent of problem and any insurance claims,
12 repairs or remediation done.
- 13 G. Is there a sump pump on the property? []Yes []No []Unknown
- 14 H. Are there any materials used in the
15 construction of the structure that are or
16 have been the subject of a recall, class
17 action suit, settlement or litigation? []Yes []No []Unknown
- 18 If yes, what are the materials? _____]
- 19 **D. Are there carbon monoxide alarms?** []Yes []No []Unknown
- 20 **E. Is there a woodstove or fireplace**
21 **insert included in the sale?** []Yes []No []Unknown
- 22 ***If yes, what is the make?**
23 _____
- 24 ***If yes, was it installed with a permit?** []Yes []No []Unknown
- 25 ***If yes, is a certification label issued by the**
26 **United States Environmental Protection Agency**
27 **(EPA) or the Department of Environmental**
28 **Quality (DEQ) affixed to it?** []Yes []No []Unknown
- 29 *F. Has pest and dry rot, structural or
30 'whole house' inspection been done
31 within the last three years? []Yes []No []Unknown
- 32 *G. Are there any moisture problems, areas of
33 water penetration, mildew odors or other
34 moisture conditions (especially in the
35 basement)? []Yes []No []Unknown
- 36 *If yes, explain on attached sheet the frequency
37 and extent of problem and any insurance
38 claims, repairs or remediation done.
- 39 H. Is there a sump pump on the property? []Yes []No []Unknown
- 40 I. Are there any materials used in the
41 construction of the structure that are or
42 have been the subject of a recall, class
43 action suit, settlement or litigation? []Yes []No []Unknown
- 44 If yes, what are the materials? _____
- 45 (1) Are there problems with the materials? []Yes []No []Unknown []NA

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

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

1 *A. Are there any other material defects
2 affecting this property or its value
3 that a prospective buyer should
4 know about? []Yes []No

5 *If yes, describe the defect on attached sheet
6 and explain the frequency and extent of the
7 problem and any insurance claims, repairs or
8 remediation.

9 B. Verification:

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

14
15 Seller(s) signature:

16
17 SELLER _____ DATE _____

18
19 SELLER _____ DATE _____
20 _____

21
22
23 II. BUYER'S ACKNOWLEDGMENT

24
25 A. As buyer(s), I/we acknowledge the duty to pay diligent attention to any material defects that are
26 known to me/us or can be known by me/us by utilizing diligent attention and observation.

27
28 B. Each buyer acknowledges and understands that the disclosures set forth in this statement and in
29 any amendments to this statement are made only by the seller and are not the representations of
30 any financial institution that may have made or may make a loan pertaining to the property, or that
31 may have or take a security interest in the property, or of any real estate licensee engaged by the
32 seller or buyer. A financial institution or real estate licensee is not bound by and has no liability
33 with respect to any representation, misrepresentation, omission, error or inaccuracy contained in
34 another party's disclosure statement required by this section or any amendment to the disclosure
35 statement.

36
37 C. Buyer (which term includes all persons signing the 'buyer's acknowledgment' portion of this dis-
38 closure statement below) hereby acknowledges receipt of a copy of this disclosure statement (in-
39 cluding attachments, if any) bearing seller's signature(s).

40
41 DISCLOSURES, IF ANY, CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON
42 THE BASIS OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DIS-
43 CLOSURE. IF THE SELLER HAS FILLED OUT SECTION 2 OF THIS FORM, YOU, THE BUYER,
44 HAVE FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS DISCLOSURE STATEMENT TO
45 REVOKE YOUR OFFER BY DELIVERING YOUR SEPARATE SIGNED WRITTEN STATEMENT

1 OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S DISCLOSURE UNLESS
2 YOU WAIVE THIS RIGHT AT OR PRIOR TO ENTERING INTO A SALE AGREEMENT.

3
4 BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS SELLER'S PROPERTY
5 DISCLOSURE STATEMENT.

6
7 BUYER _____ DATE _____

8
9 BUYER _____ DATE _____

10
11 Agent receiving disclosure statement on buyer's behalf to sign and date:

12
13 _____ Real Estate Licensee

14
15 _____ Real Estate Firm

16
17 Date received by agent _____

18 " _____ " .

19
20 Delete lines 16 through 22 and insert:

21 "**SECTION 16. (1) Sections 2, 3, 5 and 8 of this 2009 Act and the amendments to ORS**
22 **105.464 by sections 14 and 14a of this 2009 Act become operative on April 1, 2011.**

23 "**(2) Section 10 of this 2009 Act and the amendments to ORS 90.320 by section 12 of this**
24 **2009 Act become operative on July 1, 2010.**

25 "**SECTION 17. (1) Sections 2 and 3 of this 2009 Act apply to a conveyance of fee title that**
26 **is recorded on or after April 1, 2011.**

27 "**(2) Section 10 of this 2009 Act and the amendments to ORS 90.320 by section 12 of this**
28 **2009 Act apply to rental agreements that a landlord enters into on or after July 1, 2010.**

29 "**(3) The amendments to ORS 105.464 by sections 14 and 14a of this 2009 Act apply to**
30 **property disclosures made by a seller on or after April 1, 2011, to a buyer making a written**
31 **offer.**"

32 _____