

# B-Engrossed House Bill 3172

Ordered by the Senate June 3  
Including House Amendments dated April 23 and Senate Amendments  
dated June 3

Sponsored by Representative HOLVEY

## 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.

Modifies provisions related to septic systems in disclosure statement required of seller of real property.

## A BILL FOR AN ACT

1  
2 Relating to evaluation of residential septic systems; creating new provisions; and amending ORS  
3 105.464.

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

5 **SECTION 1.** ORS 105.464 is amended to read:

6 105.464. A seller's property disclosure statement must be in substantially the following form:  
7 \_\_\_\_\_  
8  
9

10 If required under ORS 105.465, a seller shall deliver in substantially the following form the seller's  
11 property disclosure statement to each buyer who makes a written offer to purchase real property  
12 in this state:  
13 \_\_\_\_\_  
14

## 15 INSTRUCTIONS TO THE SELLER

16  
17 Please complete the following form. Do not leave any spaces blank. Please refer to the line  
18 number(s) of the question(s) when you provide your explanation(s). If you are not claiming an ex-  
19 clusion or refusing to provide the form under ORS 105.475 (4), you should date and sign each page  
20 of this disclosure statement and each attachment.  
21

22 Each seller of residential property described in ORS 105.465 must deliver this form to each buyer  
23 who makes a written offer to purchase. Under ORS 105.475 (4), refusal to provide this form gives the  
24 buyer the right to revoke their offer at any time prior to closing the transaction. Use only the  
25 section(s) of the form that apply to the transaction for which the form is used. If you are claiming  
26 an exclusion under ORS 105.470, fill out only Section 1.  
27

28 An exclusion may be claimed only if the seller qualifies for the exclusion under the law. If not ex-

**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.

cluded, 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.

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

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

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

Initial only the exclusion you wish to claim.

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

\_\_\_\_\_ This sale is by a financial institution that acquired the property as custodian, agent or trustee, or by foreclosure or deed in lieu of foreclosure.

\_\_\_\_\_ The seller is a court appointed receiver, personal representative, trustee, conservator or guardian.

\_\_\_\_\_ This sale or transfer is by a governmental agency.

\_\_\_\_\_  
Signature(s) of Seller claiming exclusion  
Date \_\_\_\_\_

\_\_\_\_\_  
Buyer(s) to acknowledge Seller's claim  
Date \_\_\_\_\_

**(IF YOU DID NOT CLAIM AN EXCLUSION IN SECTION 1, YOU MUST FILL OUT THIS SECTION.)**

**Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT**

(NOT A WARRANTY)  
(ORS 105.464)

**NOTICE TO THE BUYER: THE FOLLOWING REPRESENTATIONS ARE MADE BY THE**

1 SELLER(S) CONCERNING THE CONDITION OF THE PROPERTY LOCATED  
2 AT \_\_\_\_\_ (“THE PROPERTY”).  
3

4 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS  
5 OF SELLER’S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DISCLOSURE.  
6 BUYER HAS FIVE DAYS FROM THE SELLER’S DELIVERY OF THIS SELLER’S DISCLOSURE  
7 STATEMENT TO REVOKE BUYER’S OFFER BY DELIVERING BUYER’S SEPARATE SIGNED  
8 WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER’S  
9 DISCLOSURE STATEMENT, UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTER-  
10 ING INTO A SALE AGREEMENT.

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

18  
19 Seller \_\_\_\_\_ is/ \_\_\_\_\_ is not occupying the property.  
20

21 I. SELLER’S REPRESENTATIONS:  
22

23 The following are representations made by the seller and are not the representations of any finan-  
24 cial institution that may have made or may make a loan pertaining to the property, or that may  
25 have or take a security interest in the property, or any real estate licensee engaged by the seller  
26 or the buyer.  
27

28 \*If you mark yes on items with \*, attach a copy or explain on an attached sheet.  
29

30 1. TITLE

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

32 \*B. Is title to the property subject to any of the  
33 following: [ ]Yes [ ]No [ ]Unknown

34 (1) First right of refusal

35 (2) Option

36 (3) Lease or rental agreement

37 (4) Other listing

38 (5) Life estate?

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

41 \*D. Are there any encroachments, boundary  
42 agreements, boundary disputes or recent  
43 boundary changes? [ ]Yes [ ]No [ ]Unknown

44 \*E. Are there any rights of way, easements,  
45 licenses, access limitations or claims that

- 1           may affect your interest in the property?            ]Yes    ]No    ]Unknown
- 2 \*F. Are there any agreements for joint
- 3           maintenance of an easement or right of way?            ]Yes    ]No    ]Unknown
- 4 \*G. Are there any governmental studies, designations,
- 5           zoning overlays, surveys or notices that would
- 6           affect the property?    ]Yes    ]No    ]Unknown
- 7 \*H. Are there any pending or existing governmental
- 8           assessments against the property?                            ]Yes    ]No    ]Unknown
- 9 \*I. Are there any zoning violations or
- 10           nonconforming uses?    ]Yes    ]No    ]Unknown
- 11 \*J. Is there a boundary survey for the
- 12           property?    ]Yes    ]No    ]Unknown
- 13 \*K. Are there any covenants, conditions,
- 14           restrictions or private assessments that
- 15           affect the property?    ]Yes    ]No    ]Unknown
- 16 \*L. Is the property subject to any special tax
- 17           assessment or tax treatment that may result
- 18           in levy of additional taxes if the property
- 19           is sold?    ]Yes    ]No    ]Unknown

21    2. WATER

22    A. Household water

23    (1) The source of the water is (check ALL that apply):

- 24            ]Public    ]Community    ]Private
- 25            ]Other \_\_\_\_\_

26    (2) Water source information:

- 27 \*a. Does the water source require a water permit?            ]Yes    ]No    ]Unknown
- 28           If yes, do you have a permit?                                ]Yes    ]No
- 29    b. Is the water source located on the property?            ]Yes    ]No    ]Unknown
- 30           \*If not, are there any written agreements for
- 31           a shared water source?    ]Yes    ]No    ]Unknown    ]NA
- 32 \*c. Is there an easement (recorded or unrecorded)
- 33           for your access to or maintenance of the water
- 34           source?    ]Yes    ]No    ]Unknown
- 35    d. If the source of water is from a well or spring,
- 36           have you had any of the following in the past
- 37           12 months?    ]Flow test    ]Bacteria test
- 38    ]Chemical contents test    ]Yes    ]No    ]Unknown    ]NA
- 39 \*e. Are there any water source plumbing problems
- 40           or needed repairs?    ]Yes    ]No    ]Unknown
- 41    (3) Are there any water treatment systems for
- 42           the property?    ]Yes    ]No    ]Unknown
- 43            ]Leased    ]Owned

44    B. Irrigation

45    (1) Are there any  ] water rights or  ] other

- 1 irrigation rights for the property? [ ]Yes [ ]No [ ]Unknown
- 2 \*(2) If any exist, has the irrigation water been  
3 used during the last five-year period? [ ]Yes [ ]No [ ]Unknown [ ]NA
- 4 \*(3) Is there a water rights certificate or other  
5 written evidence available? [ ]Yes [ ]No [ ]Unknown [ ]NA
- 6 C. Outdoor sprinkler system
- 7 (1) Is there an outdoor sprinkler system for the  
8 property? [ ]Yes [ ]No [ ]Unknown
- 9 (2) Has a back flow valve been installed? [ ]Yes [ ]No [ ]Unknown [ ]NA
- 10 (3) Is the outdoor sprinkler system operable? [ ]Yes [ ]No [ ]Unknown [ ]NA
- 11
- 12 [3. SEWAGE SYSTEM
- 13 A. *Is the property connected to a public or*  
14 *community sewage system?* [ ]Yes [ ]No [ ]Unknown
- 15 B. *Are there any new public or community sewage*  
16 *systems proposed for the property?* [ ]Yes [ ]No [ ]Unknown
- 17 C. *Is the property connected to an on-site septic*  
18 *system?* [ ]Yes [ ]No [ ]Unknown  
19 *If yes, was it installed by permit?* [ ]Yes [ ]No [ ]Unknown [ ]NA  
20 *\*Has the system been repaired or altered?* [ ]Yes [ ]No [ ]Unknown  
21 *Has the condition of the system been*  
22 *evaluated and a report issued?* [ ]Yes [ ]No [ ]Unknown  
23 *Has it ever been pumped?* [ ]Yes [ ]No [ ]Unknown [ ]NA  
24 *If yes, when? \_\_\_\_\_*
- 25 \*D. *Are there any sewage system problems or*  
26 *needed repairs?* [ ]Yes [ ]No [ ]Unknown
- 27 E. *Does your sewage system require on-site*  
28 *pumping to another level?* [ ]Yes [ ]No [ ]Unknown]
- 29
- 30 **3. SEWAGE SYSTEM**
- 31 **A. Is the property connected to a public or**  
32 **community sewage system?** [ ]Yes [ ]No [ ]Unknown
- 33 **B. Are there any new public or community sewage**  
34 **systems proposed for the property?** [ ]Yes [ ]No [ ]Unknown
- 35 **C. Is the property connected to an on-site septic**  
36 **system?** [ ]Yes [ ]No [ ]Unknown
- 37 **(1) If yes, when was the system installed?** \_\_\_\_\_ [ ]Unknown [ ]NA
- 38 **(2) \*If yes, was the system installed by permit?** [ ]Yes [ ]No [ ]Unknown [ ]NA
- 39 **(3) \*Has the system been repaired or altered?** [ ]Yes [ ]No [ ]Unknown
- 40 **(4) \*Has the condition of the system been**  
41 **evaluated and a report issued?** [ ]Yes [ ]No [ ]Unknown
- 42 **(5) Has the septic tank ever been pumped?** [ ]Yes [ ]No [ ]Unknown  
43 **If yes, when?** \_\_\_\_\_ [ ]NA
- 44 **(6) Does the system have a pump?** [ ]Yes [ ]No [ ]Unknown
- 45 **(7) Does the system have a treatment unit such**

- 1 as a sand filter or an aerobic unit? [ ]Yes [ ]No [ ]Unknown
- 2 (8) \*Is a service contract for routine
- 3 maintenance required for the system? [ ]Yes [ ]No [ ]Unknown
- 4 (9) Are all components of the system located on
- 5 the property? [ ]Yes [ ]No [ ]Unknown
- 6 D. \*Are there any sewage system problems or
- 7 needed repairs? [ ]Yes [ ]No [ ]Unknown
- 8 E. Does your sewage system require on-site
- 9 pumping to another level? [ ]Yes [ ]No [ ]Unknown
- 10
- 11 4. DWELLING INSULATION
- 12 A. Is there insulation in the:
- 13 (1) Ceiling? [ ]Yes [ ]No [ ]Unknown
- 14 (2) Exterior walls? [ ]Yes [ ]No [ ]Unknown
- 15 (3) Floors? [ ]Yes [ ]No [ ]Unknown
- 16 B. Are there any defective insulated doors or
- 17 windows? [ ]Yes [ ]No [ ]Unknown
- 18
- 19 5. DWELLING STRUCTURE
- 20 \*A. Has the roof leaked? [ ]Yes [ ]No [ ]Unknown
- 21 If yes, has it been repaired? [ ]Yes [ ]No [ ]Unknown [ ]NA
- 22 B. Are there any additions, conversions or
- 23 remodeling? [ ]Yes [ ]No [ ]Unknown
- 24 If yes, was a building permit required? [ ]Yes [ ]No [ ]Unknown [ ]NA
- 25 If yes, was a building permit obtained? [ ]Yes [ ]No [ ]Unknown [ ]NA
- 26 If yes, was final inspection obtained? [ ]Yes [ ]No [ ]Unknown [ ]NA
- 27 C. Are there smoke alarms or detectors? [ ]Yes [ ]No [ ]Unknown
- 28 D. Are there carbon monoxide alarms? [ ]Yes [ ]No [ ]Unknown
- 29 E. Is there a woodstove or fireplace
- 30 insert included in the sale? [ ]Yes [ ]No [ ]Unknown
- 31 \*If yes, what is the make? \_\_\_\_\_
- 32 \*If yes, was it installed with a permit? [ ]Yes [ ]No [ ]Unknown
- 33 \*If yes, is a certification label issued by the
- 34 United States Environmental Protection
- 35 Agency (EPA) or the Department of
- 36 Environmental Quality (DEQ) affixed to it? [ ]Yes [ ]No [ ]Unknown
- 37 \*F. Has pest and dry rot, structural or
- 38 "whole house" inspection been done
- 39 within the last three years? [ ]Yes [ ]No [ ]Unknown
- 40 \*G. Are there any moisture problems, areas of water
- 41 penetration, mildew odors or other moisture
- 42 conditions (especially in the basement)? [ ]Yes [ ]No [ ]Unknown
- 43 \*If yes, explain on attached sheet the frequency
- 44 and extent of problem and any insurance claims,
- 45 repairs or remediation done.

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

- 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 affecting
- 8 this property or its value that a prospective
- 9 buyer should know about? [ ]Yes [ ]No

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

13 B. Verification:

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

18  
19 Seller(s) signature:

20  
21 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

22  
23 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

24  
25  
26  
27 II. BUYER'S ACKNOWLEDGMENT

28  
29 A. As buyer(s), I/we acknowledge the duty to pay diligent attention to any material defects that are  
 30 known to me/us or can be known by me/us by utilizing diligent attention and observation.

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

40  
 41 C. Buyer (which term includes all persons signing the 'buyer's acknowledgment' portion of this dis-  
 42 closure statement below) hereby acknowledges receipt of a copy of this disclosure statement (in-  
 43 cluding attachments, if any) bearing seller's signature(s).

44  
45 DISCLOSURES, IF ANY, CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON

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

7  
8 BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS SELLER'S PROPERTY  
9 DISCLOSURE STATEMENT.

10  
11 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

12  
13 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

14  
15 Agent receiving disclosure statement on buyer's behalf to sign and date:

16  
17 \_\_\_\_\_ Real Estate Licensee

18  
19 \_\_\_\_\_ Real Estate Firm

20  
21 Date received by agent \_\_\_\_\_

22 \_\_\_\_\_

23  
24 **SECTION 2. The amendments to ORS 105.464 by section 1 of this 2013 Act apply to writ-**  
25 **ten offers to purchase real property tendered on or after the effective date of this 2013 Act.**

26 \_\_\_\_\_