

HOUSE AMENDMENTS TO HOUSE BILL 3172

By COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT EFFICIENCY

April 23

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

2 Delete line 3.

3 Delete lines 5 through 30 and delete pages 2 through 11 and insert:

4 “**SECTION 1.** 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

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

35

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 **3. SEWAGE SYSTEM**
- 23 **A. Is the property connected to a public or**
- 24 **community sewage system?** []Yes []No []Unknown
- 25 **B. Are there any new public or community sewage**
- 26 **systems proposed for the property?** []Yes []No []Unknown
- 27 **C. Is the property connected to an on-site septic**
- 28 **system?** []Yes []No []Unknown
- 29 **(1) If yes, when was the system installed?** _____ []Unknown
- 30 **(2) *If yes, was the system installed by permit?** []Yes []No []Unknown
- 31 **(3) *Has the system been repaired or altered?** []Yes []No []Unknown
- 32 **(4) *Has the condition of the system been**
- 33 **evaluated and a report issued?** []Yes []No []Unknown
- 34 **(5) Has the septic tank ever been pumped?** []Yes []No []Unknown
- 35 **If yes, when?** _____ []Unknown
- 36 **(6) Does the system have a pump?** []Yes []No []Unknown
- 37 **(7) Does the system have a treatment unit such**
- 38 **as a sand filter or an aerobic unit?** []Yes []No []Unknown
- 39 **(8) *Is a service contract for routine**
- 40 **maintenance required for the system?** []Yes []No []Unknown
- 41 **(9) Are all components of the system located on**
- 42 **the property?** []Yes []No []Unknown
- 43 **D. Are there any sewage system problems or**
- 44 **needed repairs?** []Yes []No []Unknown
- 45 **E. Does your sewage system require on-site**

1	pumping to another level?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
2				
3	4. DWELLING INSULATION			
4	A. Is there insulation in the:			
5	(1) Ceiling?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
6	(2) Exterior walls?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
7	(3) Floors?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
8	B. Are there any defective insulated doors or			
9	windows?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
10				
11	5. DWELLING STRUCTURE			
12	*A. Has the roof leaked?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
13	If yes, has it been repaired?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown []NA
14	B. Are there any additions, conversions or			
15	remodeling?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
16	If yes, was a building permit required?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown []NA
17	If yes, was a building permit obtained?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown []NA
18	If yes, was final inspection obtained?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown []NA
19	C. Are there smoke alarms or detectors?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
20	D. Are there carbon monoxide alarms?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
21	E. Is there a woodstove or fireplace			
22	insert included in the sale?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
23	*If yes, what is the make? _____			
24	*If yes, was it installed with a permit?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
25	*If yes, is a certification label issued by the			
26	United States Environmental Protection			
27	Agency (EPA) or the Department of			
28	Environmental Quality (DEQ) affixed to it?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
29	*F. Has pest and dry rot, structural or			
30	“whole house” inspection been done			
31	within the last three years?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
32	*G. Are there any moisture problems, areas of water			
33	penetration, mildew odors or other moisture			
34	conditions (especially in the basement)?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
35	*If yes, explain on attached sheet the frequency			
36	and extent of problem and any insurance claims,			
37	repairs or remediation done.			
38	H. Is there a sump pump on the property?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
39	I. Are there any materials used in the			
40	construction of the structure that are or			
41	have been the subject of a recall, class			
42	action suit, settlement or litigation?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown
43	If yes, what are the materials? _____			
44	(1) Are there problems with the materials?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown []NA
45	(2) Are the materials covered by a warranty?	<input type="checkbox"/>]Yes	<input type="checkbox"/>]No	<input type="checkbox"/>]Unknown []NA

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

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

1 this property or its value that a prospective
2 buyer should know about? []Yes []No

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

6 B. Verification:

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

11

12 Seller(s) signature:

13

14 SELLER _____ DATE _____

15

16 SELLER _____ DATE _____

17

18

19

20 II. BUYER'S ACKNOWLEDGMENT

21

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

24

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

33

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

37

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

45

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

3

4 BUYER _____ DATE _____

5

6 BUYER _____ DATE _____

7

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

9

10 _____ Real Estate Licensee

11

12 _____ Real Estate Firm

13

14 Date received by agent _____

15

“ _____

16

17 **“SECTION 2. The amendments to ORS 105.464 by section 1 of this 2013 Act apply to**
18 **written offers to purchase real property tendered on or after the effective date of this 2013**
19 **Act.”.**

20
