

**PROPOSED AMENDMENTS TO
HOUSE BILL 3172**

1 On page 1 of the printed bill, delete line 3 and insert “105.464.”.

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

3 **“SECTION 1.** ORS 105.464 is amended to read:

4 “105.464. A seller’s property disclosure statement must be in substantially
5 the following form:

6 “ _____

7

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

11 _____

12 **INSTRUCTIONS TO THE SELLER**

13

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

19

20 Each seller of residential property described in ORS 105.465 must deliver this
21 form to each buyer who makes a written offer to purchase. Under ORS
22 105.475 (4), refusal to provide this form gives the buyer the right to revoke

1 their offer at any time prior to closing the transaction. Use only the
2 section(s) of the form that apply to the transaction for which the form is
3 used. If you are claiming an exclusion under ORS 105.470, fill out only Sec-
4 tion 1.

5

6 An exclusion may be claimed only if the seller qualifies for the exclusion
7 under the law. If not excluded, the seller must disclose the condition of the
8 property or the buyer may revoke their offer to purchase anytime prior to
9 closing the transaction. Questions regarding the legal consequences of the
10 seller's choice should be directed to a qualified attorney.

11

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

14

15 Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:

16

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

20

21 Initial only the exclusion you wish to claim.

22

23 _____ This is the first sale of a dwelling never occupied. The dwelling is
24 constructed or installed under building or installation permit(s) #_____, is-
25 sued by _____.

26

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

29

30 _____ The seller is a court appointed receiver, personal representative,

1 trustee, conservator or guardian.

2

3 _____ This sale or transfer is by a governmental agency.

4

5

6

Signature(s) of Seller claiming exclusion

7

Date _____

8

9

10

Buyer(s) to acknowledge Seller's claim

11

Date _____

12

13

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

16

17 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

18

(NOT A WARRANTY)

19

(ORS 105.464)

20

21

22 NOTICE TO THE BUYER: THE FOLLOWING REPRESENTATIONS ARE
23 MADE BY THE SELLER(S) CONCERNING THE CONDITION OF THE
24 PROPERTY LOCATED AT _____ ("THE PROPERTY").

25

26 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE
27 SELLER ON THE BASIS OF SELLER'S ACTUAL KNOWLEDGE OF THE
28 PROPERTY AT THE TIME OF DISCLOSURE. BUYER HAS FIVE DAYS
29 FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE
30 STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S

1 SEPARATE SIGNED WRITTEN STATEMENT OF REVOCATION TO THE
2 SELLER DISAPPROVING THE SELLER'S DISCLOSURE STATEMENT,
3 UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTERING
4 INTO A SALE AGREEMENT.

5

6 FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC
7 CONDITION OF THIS PROPERTY, BUYER IS ADVISED TO OBTAIN AND
8 PAY FOR THE SERVICES OF A QUALIFIED SPECIALIST TO INSPECT
9 THE PROPERTY ON BUYER'S BEHALF INCLUDING, FOR EXAMPLE,
10 ONE OR MORE OF THE FOLLOWING: ARCHITECTS, ENGINEERS,
11 PLUMBERS, ELECTRICIANS, ROOFERS, ENVIRONMENTAL INSPEC-
12 TORS, BUILDING INSPECTORS, CERTIFIED HOME INSPECTORS, OR
13 PEST AND DRY ROT INSPECTORS.

14

15 Seller _____ is/ _____ is not occupying the property.

16

17 I. SELLER'S REPRESENTATIONS:

18

19 The following are representations made by the seller and are not the re-
20 presentations of any financial institution that may have made or may make
21 a loan pertaining to the property, or that may have or take a security in-
22 terest in the property, or any real estate licensee engaged by the seller or
23 the buyer.

24

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

27

28 1. TITLE

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

30 *B. Is title to the property subject to any of the

- 1 following:]Yes]No]Unknown
- 2 (1) First right of refusal
- 3 (2) Option
- 4 (3) Lease or rental agreement
- 5 (4) Other listing
- 6 (5) Life estate?
- 7 *C. Is the property being transferred an
- 8 unlawfully established unit of land?]Yes]No]Unknown
- 9 *D. Are there any encroachments, boundary
- 10 agreements, boundary disputes or recent
- 11 boundary changes?]Yes]No]Unknown
- 12 *E. Are there any rights of way, easements,
- 13 licenses, access limitations or claims that
- 14 may affect your interest in the property?]Yes]No]Unknown
- 15 *F. Are there any agreements for joint
- 16 maintenance of an easement or right of way?]Yes]No]Unknown
- 17 *G. Are there any governmental studies, designations,
- 18 zoning overlays, surveys or notices that would
- 19 affect the property?]Yes]No]Unknown
- 20 *H. Are there any pending or existing governmental
- 21 assessments against the property?]Yes]No]Unknown
- 22 *I. Are there any zoning violations or
- 23 nonconforming uses?]Yes]No]Unknown
- 24 *J. Is there a boundary survey for the
- 25 property?]Yes]No]Unknown
- 26 *K. Are there any covenants, conditions,
- 27 restrictions or private assessments that
- 28 affect the property?]Yes]No]Unknown
- 29 *L. Is the property subject to any special tax
- 30 assessment or tax treatment that may result

1 in levy of additional taxes if the property
2 is sold? []Yes []No []Unknown

3

4 2. WATER

5 A. Household water

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

7 []Public []Community []Private

8 []Other _____

9 (2) Water source information:

10 *a. Does the water source require a water permit? []Yes []No []Unknown

11 If yes, do you have a permit? []Yes []No

12 b. Is the water source located on the property? []Yes []No []Unknown

13 *If not, are there any written agreements for

14 a shared water source? []Yes []No []Unknown []NA

15 *c. Is there an easement (recorded or unrecorded)

16 for your access to or maintenance of the water

17 source? []Yes []No []Unknown

18 d. If the source of water is from a well or spring,

19 have you had any of the following in the past

20 12 months? []Flow test []Bacteria test

21 []Chemical contents test []Yes []No []Unknown []NA

22 *e. Are there any water source plumbing problems

23 or needed repairs? []Yes []No []Unknown

24 (3) Are there any water treatment systems for

25 the property? []Yes []No []Unknown

26 []Leased []Owned

27 B. Irrigation

28 (1) Are there any [] water rights or [] other

29 irrigation rights for the property? []Yes []No []Unknown

30 *(2) If any exist, has the irrigation water been

1 used during the last five-year period? []Yes []No []Unknown []NA

2 *(3) Is there a water rights certificate or other

3 written evidence available? []Yes []No []Unknown []NA

4 C. Outdoor sprinkler system

5 (1) Is there an outdoor sprinkler system for the

6 property? []Yes []No []Unknown

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

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

9

10 [3. *SEWAGE SYSTEM*

11 A. *Is the property connected to a public or*

12 *community sewage system?* []Yes []No []Unknown

13 B. *Are there any new public or community sewage*

14 *systems proposed for the property?* []Yes []No []Unknown

15 C. *Is the property connected to an on-site septic*

16 *system?* []Yes []No []Unknown

17 *If yes, was it installed by permit?* []Yes []No []Unknown []NA

18 **Has the system been repaired or altered?* []Yes []No []Unknown

19 *Has the condition of the system been*

20 *evaluated and a report issued?* []Yes []No []Unknown

21 *Has it ever been pumped?* []Yes []No []Unknown []NA

22 *If yes, when? _____*

23 *D. *Are there any sewage system problems or*

24 *needed repairs?* []Yes []No []Unknown

25 E. *Does your sewage system require on-site*

26 *pumping to another level?* []Yes []No []Unknown]

27

28 **3. SEWAGE SYSTEM**

29 **A. Is the property connected to a public or**

30 **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 (1) **If yes, when was the system installed?** _____ []Unknown
- 6 (2) **Was the system installed by permit?** []Yes []No []Unknown []NA
- 7 (3) ***Do you have a copy of the permit?** []Yes []No []Unknown []NA
- 8 (4) ***Do you have a copy of the as-built drawing?** []Yes []No []Unknown []NA
- 9 (5) **Does the system have a septic tank?** []Yes []No []Unknown
- 10 (6) **Does the system have a treatment field such**
11 **as a sand filter or an aerobic unit?** []Yes []No []Unknown
- 12 (7) **Does the system have a drainfield?** []Yes []No []Unknown
- 13 (8) **Are all components of the system located**
14 **on the property?** []Yes []No []Unknown
- 15 (9) ***Has the system been repaired or altered?** []Yes []No []Unknown
- 16 (10) ***Has the condition of the system been**
17 **evaluated and a report issued?** []Yes []No []Unknown
18 **If yes, when?** _____
- 19 (11) ***Has the septic tank ever been pumped?** []Yes []No []Unknown []NA
20 **If yes, when?** _____
- 21 (12) ***Is a service contract for routine**
22 **maintenance required for the system?** []Yes []No []Unknown
- 23 (13) **Does the system have a pump?** []Yes []No []Unknown
- 24 **D. Are there any sewage system problems or**
25 **needed repairs?** []Yes []No []Unknown
- 26 **E. Does your sewage system require on-site**
27 **pumping to another level?** []Yes []No []Unknown
- 28

29 4. DWELLING INSULATION

- 30 A. Is there insulation in the:

- 1 (1) Ceiling? []Yes []No []Unknown
- 2 (2) Exterior walls? []Yes []No []Unknown
- 3 (3) Floors? []Yes []No []Unknown

4 B. Are there any defective insulated doors or
 5 windows?
 6

7 4. DWELLING INSULATION

8 A. Is there insulation in the:

- 9 (1) Ceiling? []Yes []No []Unknown
- 10 (2) Exterior walls? []Yes []No []Unknown
- 11 (3) Floors? []Yes []No []Unknown

12 B. Are there any defective insulated doors or
 13 windows? []Yes []No []Unknown
 14

15 5. DWELLING STRUCTURE

- 16 *A. Has the roof leaked? []Yes []No []Unknown
- 17 If yes, has it been repaired? []Yes []No []Unknown []NA

- 18 B. Are there any additions, conversions or
 19 remodeling? []Yes []No []Unknown
- 20 If yes, was a building permit required? []Yes []No []Unknown []NA
- 21 If yes, was a building permit obtained? []Yes []No []Unknown []NA
- 22 If yes, was final inspection obtained? []Yes []No []Unknown []NA

23 C. Are there smoke alarms or detectors? []Yes []No []Unknown

24 D. Are there carbon monoxide alarms? []Yes []No []Unknown

25 E. Is there a woodstove or fireplace
 26 insert included in the sale? []Yes []No []Unknown
 27 *If yes, what is the make? _____

28 *If yes, was it installed with a permit? []Yes []No []Unknown

29 *If yes, is a certification label issued by the
 30 United States Environmental Protection

1 Agency (EPA) or the Department of
2 Environmental Quality (DEQ) affixed to it? []Yes []No []Unknown

3 *F. Has pest and dry rot, structural or
4 “whole house” inspection been done
5 within the last three years? []Yes []No []Unknown

6 *G. Are there any moisture problems, areas of water
7 penetration, mildew odors or other moisture
8 conditions (especially in the basement)? []Yes []No []Unknown

9 *If yes, explain on attached sheet the frequency
10 and extent of problem and any insurance claims,
11 repairs or remediation done.

12 H. Is there a sump pump on the property? []Yes []No []Unknown

13 I. Are there any materials used in the
14 construction of the structure that are or
15 have been the subject of a recall, class
16 action suit, settlement or litigation? []Yes []No []Unknown

17 If yes, what are the materials? _____

18 (1) Are there problems with the materials? []Yes []No []Unknown []NA

19 (2) Are the materials covered by a warranty? []Yes []No []Unknown []NA

20 (3) Have the materials been inspected? []Yes []No []Unknown []NA

21 (4) Have there ever been claims filed for these
22 materials by you or by previous owners? []Yes []No []Unknown []NA

23 If yes, when? _____

24 (5) Was money received? []Yes []No []Unknown []NA

25 (6) Were any of the materials repaired or
26 replaced? []Yes []No []Unknown []NA

27

28 6. DWELLING SYSTEMS AND FIXTURES

29 If the following systems or fixtures are included
30 in the purchase price, are they in good working

1 order on the date this form is signed?

2 A. Electrical system, including wiring, switches,
3 outlets and service []Yes []No []Unknown

4 B. Plumbing system, including pipes, faucets,
5 fixtures and toilets []Yes []No []Unknown

6 C. Water heater tank []Yes []No []Unknown

7 D. Garbage disposal []Yes []No []Unknown []NA

8 E. Built-in range and oven []Yes []No []Unknown []NA

9 F. Built-in dishwasher []Yes []No []Unknown []NA

10 G. Sump pump []Yes []No []Unknown []NA

11 H. Heating and cooling systems []Yes []No []Unknown []NA

12 I. Security system []Owned []Leased []Yes []No []Unknown []NA

13 J. Are there any materials or products used in
14 the systems and fixtures that are or have
15 been the subject of a recall, class action
16 settlement or other litigations? []Yes []No []Unknown

17 If yes, what product? _____

18 (1) Are there problems with the product? []Yes []No []Unknown

19 (2) Is the product covered by a warranty? []Yes []No []Unknown

20 (3) Has the product been inspected? []Yes []No []Unknown

21 (4) Have claims been filed for this product
22 by you or by previous owners? []Yes []No []Unknown

23 If yes, when? _____

24 (5) Was money received? []Yes []No []Unknown

25 (6) Were any of the materials or products repaired
26 or replaced? []Yes []No []Unknown

27

28 7. COMMON INTEREST

29 A. Is there a Home Owners' Association
30 or other governing entity? []Yes []No []Unknown

1 Name of Association or Other Governing
2 Entity _____
3 Contact Person _____
4 Address _____
5 Phone Number _____

6 B. Regular periodic assessments: \$_____ per
7 []Month []Year []Other _____

8 *C. Are there any pending or proposed special
9 assessments? []Yes []No []Unknown

10 D. Are there shared 'common areas' or joint
11 maintenance agreements for facilities like
12 walls, fences, pools, tennis courts, walkways
13 or other areas co-owned in undivided interest
14 with others? []Yes []No []Unknown

15 E. Is the Home Owners' Association or other
16 governing entity a party to pending litigation
17 or subject to an unsatisfied judgment? []Yes []No []Unknown []NA

18 F. Is the property in violation of recorded
19 covenants, conditions and restrictions or in
20 violation of other bylaws or governing rules,
21 whether recorded or not? []Yes []No []Unknown []NA

22

23 8. GENERAL

24 A. Are there problems with settling, soil,
25 standing water or drainage on the property
26 or in the immediate area? []Yes []No []Unknown

27 B. Does the property contain fill? []Yes []No []Unknown

28 C. Is there any material damage to the property or
29 any of the structure(s) from fire, wind, floods,
30 beach movements, earthquake, expansive soils

- 1 or landslides?]Yes]No]Unknown
- 2 D. Is the property in a designated floodplain?]Yes]No]Unknown
- 3 E. Is the property in a designated slide or other
- 4 geologic hazard zone?]Yes]No]Unknown
- 5 *F. Has any portion of the property been tested
- 6 or treated for asbestos, formaldehyde, radon
- 7 gas, lead-based paint, mold, fuel or chemical
- 8 storage tanks or contaminated soil or water?]Yes]No]Unknown
- 9 G. Are there any tanks or underground storage
- 10 tanks (e.g., septic, chemical, fuel, etc.)
- 11 on the property?]Yes]No]Unknown
- 12 H. Has the property ever been used as an illegal
- 13 drug manufacturing or distribution site?]Yes]No]Unknown
- 14 *If yes, was a Certificate of Fitness issued?]Yes]No]Unknown
- 15 *I. Has the property been classified as
- 16 forestland-urban interface?]Yes]No]Unknown

17

18 9. FULL DISCLOSURE BY SELLERS

- 19 *A. Are there any other material defects affecting
- 20 this property or its value that a prospective
- 21 buyer should know about?]Yes]No

22 *If yes, describe the defect on attached sheet and

23 explain the frequency and extent of the problem

24 and any insurance claims, repairs or remediation.

25 B. Verification:

26 The foregoing answers and attached explanations (if any) are complete and correct to

27 the best of my/our knowledge and I/we have received a copy of this disclosure statement.

28 I/we authorize my/our agents to deliver a copy of this disclosure statement to all

29 prospective buyers of the property or their agents.

30

1 Seller(s) signature:

2

3 SELLER _____ DATE _____

4

5 SELLER _____ DATE _____

6 _____

7

8 **II. BUYER'S ACKNOWLEDGMENT**

9

10 A. As buyer(s), I/we acknowledge the duty to pay diligent attention to any
11 material defects that are known to me/us or can be known by me/us by uti-
12 lizing diligent attention and observation.

13

14 B. Each buyer acknowledges and understands that the disclosures set forth
15 in this statement and in any amendments to this statement are made only
16 by the seller and are not the representations of any financial institution that
17 may have made or may make a loan pertaining to the property, or that may
18 have or take a security interest in the property, or of any real estate licensee
19 engaged by the seller or buyer. A financial institution or real estate licensee
20 is not bound by and has no liability with respect to any representation,
21 misrepresentation, omission, error or inaccuracy contained in another party's
22 disclosure statement required by this section or any amendment to the dis-
23 closure statement.

24

25 C. Buyer (which term includes all persons signing the 'buyer's acknowledg-
26 ment' portion of this disclosure statement below) hereby acknowledges re-
27 ceipt of a copy of this disclosure statement (including attachments, if any)
28 bearing seller's signature(s).

29

30 **DISCLOSURES, IF ANY, CONTAINED IN THIS FORM ARE PROVIDED**

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

10

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

13

14 BUYER _____ DATE _____

15

16 BUYER _____ DATE _____

17

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

19

20 _____ Real Estate Licensee

21

22 _____ Real Estate Firm

23

24 Date received by agent _____

25

26 " SECTION 2. The amendments to ORS 105.464 by section 1 of this
27 2013 Act apply to written offers to purchase real property tendered on
28 or after the effective date of this 2013 Act."

29