

# Senate Bill 360

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## 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 **as introduced**.

Requires seller of residential real property to disclose, if known, whether property is located within one mile of land included in inventory of significant mineral and aggregate resources pursuant to statewide land use planning goal.

## A BILL FOR AN ACT

Relating to seller's property disclosures; creating new provisions; and amending ORS 105.464.

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

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

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

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

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## INSTRUCTIONS TO THE SELLER

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

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

An exclusion may be claimed only if the seller qualifies for the exclusion under the law. If not excluded, 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.

**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.

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**(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 SELLER(S) CONCERNING THE CONDITION OF THE PROPERTY LOCATED AT \_\_\_\_\_ ("THE PROPERTY").**

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

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

15  
 16 Seller \_\_\_\_\_ is/ \_\_\_\_\_ is not occupying the property.

17  
 18 I. SELLER'S REPRESENTATIONS:

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

24  
 25 \*If you mark yes on items with \*, attach a copy or explain on an attached sheet.

26  
 27 1. TITLE

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

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

31 (1) First right of refusal

32 (2) Option

33 (3) Lease or rental agreement

34 (4) Other listing

35 (5) Life estate?

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

38 \*D. Are there any encroachments, boundary  
 39 agreements, boundary disputes or recent  
 40 boundary changes? [ ]Yes [ ]No [ ]Unknown

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

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

- 1 \*G. Are there any governmental studies, designations,  
 2 zoning overlays, surveys or notices that would  
 3 affect the property? [ ]Yes [ ]No [ ]Unknown
- 4 \*H. Are there any pending or existing governmental  
 5 assessments against the property? [ ]Yes [ ]No [ ]Unknown
- 6 \*I. Are there any zoning violations or  
 7 nonconforming uses? [ ]Yes [ ]No [ ]Unknown
- 8 \*J. Is there a boundary survey for the  
 9 property? [ ]Yes [ ]No [ ]Unknown
- 10 \*K. Are there any covenants, conditions,  
 11 restrictions or private assessments that  
 12 affect the property? [ ]Yes [ ]No [ ]Unknown
- 13 \*L. Is the property subject to any special tax  
 14 assessment or tax treatment that may result  
 15 in levy of additional taxes if the property  
 16 is sold? [ ]Yes [ ]No [ ]Unknown
- 17
- 18 2. WATER
- 19 A. Household water
- 20 (1) The source of the water is (check ALL that apply):  
 21 [ ]Public [ ]Community [ ]Private  
 22 [ ]Other \_\_\_\_\_
- 23 (2) Water source information:
- 24 \*a. Does the water source require a water permit? [ ]Yes [ ]No [ ]Unknown  
 25 If yes, do you have a permit? [ ]Yes [ ]No
- 26 b. Is the water source located on the property? [ ]Yes [ ]No [ ]Unknown  
 27 \*If not, are there any written agreements for  
 28 a shared water source? [ ]Yes [ ]No [ ]Unknown [ ]NA
- 29 \*c. Is there an easement (recorded or unrecorded)  
 30 for your access to or maintenance of the water  
 31 source? [ ]Yes [ ]No [ ]Unknown
- 32 d. If the source of water is from a well or spring,  
 33 have you had any of the following in the past  
 34 12 months? [ ]Flow test [ ]Bacteria test  
 35 [ ]Chemical contents test [ ]Yes [ ]No [ ]Unknown [ ]NA
- 36 \*e. Are there any water source plumbing problems  
 37 or needed repairs? [ ]Yes [ ]No [ ]Unknown
- 38 (3) Are there any water treatment systems for  
 39 the property? [ ]Yes [ ]No [ ]Unknown  
 40 [ ]Leased [ ]Owned
- 41 B. Irrigation
- 42 (1) Are there any [ ] water rights or [ ] other  
 43 irrigation rights for the property? [ ]Yes [ ]No [ ]Unknown
- 44 \*(2) If any exist, has the irrigation water been  
 45 used during the last five-year period? [ ]Yes [ ]No [ ]Unknown [ ]NA

- 1 \*(3) Is there a water rights certificate or other  
2 written evidence available? [ ]Yes [ ]No [ ]Unknown [ ]NA  
3 C. Outdoor sprinkler system  
4 (1) Is there an outdoor sprinkler system for the  
5 property? [ ]Yes [ ]No [ ]Unknown  
6 (2) Has a back flow valve been installed? [ ]Yes [ ]No [ ]Unknown [ ]NA  
7 (3) Is the outdoor sprinkler system operable? [ ]Yes [ ]No [ ]Unknown [ ]NA  
8  
9 3. SEWAGE SYSTEM  
10 A. Is the property connected to a public or  
11 community sewage system? [ ]Yes [ ]No [ ]Unknown  
12 B. Are there any new public or community sewage  
13 systems proposed for the property? [ ]Yes [ ]No [ ]Unknown  
14 C. Is the property connected to an on-site septic  
15 system? [ ]Yes [ ]No [ ]Unknown  
16 (1) If yes, when was the system installed? \_\_\_\_\_ [ ]Unknown [ ]NA  
17 (2) \*If yes, was the system installed by permit? [ ]Yes [ ]No [ ]Unknown [ ]NA  
18 (3) \*Has the system been repaired or altered? [ ]Yes [ ]No [ ]Unknown  
19 (4) \*Has the condition of the system been  
20 evaluated and a report issued? [ ]Yes [ ]No [ ]Unknown  
21 (5) Has the septic tank ever been pumped?  
22 If yes, when? \_\_\_\_\_ [ ]NA  
23 (6) Does the system have a pump? [ ]Yes [ ]No [ ]Unknown  
24 (7) Does the system have a treatment unit such  
25 as a sand filter or an aerobic unit? [ ]Yes [ ]No [ ]Unknown  
26 (8) \*Is a service contract for routine  
27 maintenance required for the system? [ ]Yes [ ]No [ ]Unknown  
28 (9) Are all components of the system located on  
29 the property? [ ]Yes [ ]No [ ]Unknown  
30 D. \*Are there any sewage system problems or  
31 needed repairs? [ ]Yes [ ]No [ ]Unknown  
32 E. Does your sewage system require on-site  
33 pumping to another level? [ ]Yes [ ]No [ ]Unknown  
34  
35 4. DWELLING INSULATION  
36 A. Is there insulation in the:  
37 (1) Ceiling? [ ]Yes [ ]No [ ]Unknown  
38 (2) Exterior walls? [ ]Yes [ ]No [ ]Unknown  
39 (3) Floors? [ ]Yes [ ]No [ ]Unknown  
40 B. Are there any defective insulated doors or  
41 windows? [ ]Yes [ ]No [ ]Unknown  
42  
43 5. DWELLING STRUCTURE  
44 \*A. Has the roof leaked? [ ]Yes [ ]No [ ]Unknown  
45 If yes, has it been repaired? [ ]Yes [ ]No [ ]Unknown [ ]NA

- 1 B. Are there any additions, conversions or  
 2 remodeling?  ]Yes  ]No  ]Unknown  
 3 If yes, was a building permit required?  ]Yes  ]No  ]Unknown  ]NA  
 4 If yes, was a building permit obtained?  ]Yes  ]No  ]Unknown  ]NA  
 5 If yes, was final inspection obtained?  ]Yes  ]No  ]Unknown  ]NA  
 6 C. Are there smoke alarms or detectors?  ]Yes  ]No  ]Unknown  
 7 D. Are there carbon monoxide alarms?  ]Yes  ]No  ]Unknown  
 8 E. Is there a woodstove or fireplace  
 9 insert included in the sale?  ]Yes  ]No  ]Unknown  
 10 \*If yes, what is the make? \_\_\_\_\_  
 11 \*If yes, was it installed with a permit?  ]Yes  ]No  ]Unknown  
 12 \*If yes, is a certification label issued by the  
 13 United States Environmental Protection  
 14 Agency (EPA) or the Department of  
 15 Environmental Quality (DEQ) affixed to it?  ]Yes  ]No  ]Unknown  
 16 \*F. Has pest and dry rot, structural or  
 17 “whole house” inspection been done  
 18 within the last three years?  ]Yes  ]No  ]Unknown  
 19 \*G. Are there any moisture problems, areas of water  
 20 penetration, mildew odors or other moisture  
 21 conditions (especially in the basement)?  ]Yes  ]No  ]Unknown  
 22 \*If yes, explain on attached sheet the frequency  
 23 and extent of problem and any insurance claims,  
 24 repairs or remediation done.  
 25 H. Is there a sump pump on the property?  ]Yes  ]No  ]Unknown  
 26 I. Are there any materials used in the  
 27 construction of the structure that are or  
 28 have been the subject of a recall, class  
 29 action suit[,] **or** settlement or **other**  
 30 litigation?  ]Yes  ]No  ]Unknown  
 31 If yes, what are the materials? \_\_\_\_\_  
 32 (1) Are there problems with the materials?  ]Yes  ]No  ]Unknown  ]NA  
 33 (2) Are the materials covered by a warranty?  ]Yes  ]No  ]Unknown  ]NA  
 34 (3) Have the materials been inspected?  ]Yes  ]No  ]Unknown  ]NA  
 35 (4) Have there ever been claims filed for these  
 36 materials by you or by previous owners?  ]Yes  ]No  ]Unknown  ]NA  
 37 If yes, when? \_\_\_\_\_  
 38 (5) Was money received?  ]Yes  ]No  ]Unknown  ]NA  
 39 (6) Were any of the materials repaired or  
 40 replaced?  ]Yes  ]No  ]Unknown  ]NA  
 41  
 42 6. DWELLING SYSTEMS AND FIXTURES  
 43 If the following systems or fixtures are included  
 44 in the purchase price, are they in good working  
 45 order on the date this form is signed?

- 1 A. Electrical system, including wiring, switches,  
2 outlets and service  ]Yes  ]No  ]Unknown
- 3 B. Plumbing system, including pipes, faucets,  
4 fixtures and toilets  ]Yes  ]No  ]Unknown
- 5 C. Water heater tank  ]Yes  ]No  ]Unknown
- 6 D. Garbage disposal  ]Yes  ]No  ]Unknown  ]NA
- 7 E. Built-in range and oven  ]Yes  ]No  ]Unknown  ]NA
- 8 F. Built-in dishwasher  ]Yes  ]No  ]Unknown  ]NA
- 9 G. Sump pump  ]Yes  ]No  ]Unknown  ]NA
- 10 H. Heating and cooling systems  ]Yes  ]No  ]Unknown  ]NA
- 11 I. Security system  ]Owned  ]Leased  ]Yes  ]No  ]Unknown  ]NA
- 12 J. Are there any materials or products used in  
13 the systems and fixtures that are or have  
14 been the subject of a recall, class action  
15 **suit or** settlement or other *[litigations]*  
16 **litigation?**  ]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  
31 Name of Association or Other Governing  
32 Entity \_\_\_\_\_  
33 Contact Person \_\_\_\_\_  
34 Address \_\_\_\_\_  
35 Phone Number \_\_\_\_\_
- 36 B. Regular periodic assessments: \$\_\_\_\_\_
- 37 per  ]Month  ]Year  ]Other \_\_\_\_\_
- 38 \*C. Are there any pending or proposed special  
39 assessments?  ]Yes  ]No  ]Unknown
- 40 D. Are there shared "common areas" or joint  
41 maintenance agreements for facilities like  
42 walls, fences, pools, tennis courts, walkways  
43 or other areas co-owned in undivided interest  
44 with others?  ]Yes  ]No  ]Unknown
- 45 E. Is the Home Owners' Association or other

- 1 governing entity a party to pending litigation  
 2 or subject to an unsatisfied judgment?  ]Yes  ]No  ]Unknown  ]NA
- 3 F. Is the property in violation of recorded  
 4 covenants, conditions and restrictions or in  
 5 violation of other bylaws or governing rules,  
 6 whether recorded or not?  ]Yes  ]No  ]Unknown  ]NA
- 7
- 8 8. GENERAL
- 9 A. Are there problems with settling, soil,  
 10 standing water or drainage on the property  
 11 or in the immediate area?  ]Yes  ]No  ]Unknown
- 12 B. Does the property contain fill?  ]Yes  ]No  ]Unknown
- 13 C. Is there any material damage to the property or  
 14 any of the structure(s) from fire, wind, floods,  
 15 beach movements, earthquake, expansive soils  
 16 or landslides?  ]Yes  ]No  ]Unknown
- 17 D. Is the property in a designated floodplain?  ]Yes  ]No  ]Unknown
- 18 E. Is the property in a designated slide or other  
 19 geologic hazard zone?  ]Yes  ]No  ]Unknown
- 20 \*F. Has any portion of the property been tested  
 21 or treated for asbestos, formaldehyde, radon  
 22 gas, lead-based paint, mold, fuel or chemical  
 23 storage tanks or contaminated soil or water?  ]Yes  ]No  ]Unknown
- 24 G. Are there any tanks or underground storage  
 25 tanks (e.g., septic, chemical, fuel, etc.)  
 26 on the property?  ]Yes  ]No  ]Unknown
- 27 H. Has the property ever been used as an illegal  
 28 drug manufacturing or distribution site?  ]Yes  ]No  ]Unknown
- 29 \*If yes, was a Certificate of Fitness issued?  ]Yes  ]No  ]Unknown
- 30 \*I. Has the property been classified as  
 31 forestland-urban interface?  ]Yes  ]No  ]Unknown
- 32 **J. Is the property located within one mile of**  
 33 **land included in an inventory of significant**  
 34 **mineral and aggregate resources pursuant to**  
 35 **a statewide land use planning goal?**  ]Yes  ]No  ]Unknown
- 36
- 37 9. FULL DISCLOSURE BY SELLERS
- 38 \*A. Are there any other material defects affecting  
 39 this property or its value that a prospective  
 40 buyer should know about?  ]Yes  ]No
- 41 \*If yes, describe the defect on attached sheet and  
 42 explain the frequency and extent of the problem  
 43 and any insurance claims, repairs or remediation.
- 44 B. Verification:  
 45 The foregoing answers and attached explanations (if any) are complete and correct to



1 the best of my/our knowledge and I/we have received a copy of this disclosure statement.  
2 I/we authorize my/our agents to deliver a copy of this disclosure statement to all  
3 prospective buyers of the property or their agents.

4  
5 Seller(s) signature:

6  
7 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

8  
9 SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
10 \_\_\_\_\_

11  
12  
13 **II. BUYER'S ACKNOWLEDGMENT**

14  
15 A. As buyer(s), I/we acknowledge the duty to pay diligent attention to any material defects that are  
16 known to me/us or can be known by me/us by utilizing diligent attention and observation.

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

26  
27 C. Buyer (which term includes all persons signing the "buyer's acknowledgment" portion of this  
28 disclosure statement below) hereby acknowledges receipt of a copy of this disclosure statement (in-  
29 cluding attachments, if any) bearing seller's signature(s).

30  
31 DISCLOSURES, IF ANY, CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON  
32 THE BASIS OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DIS-  
33 CLOSURE. IF THE SELLER HAS FILLED OUT SECTION 2 OF THIS FORM, YOU, THE BUYER,  
34 HAVE FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS DISCLOSURE STATEMENT TO  
35 REVOKE YOUR OFFER BY DELIVERING YOUR SEPARATE SIGNED WRITTEN STATEMENT  
36 OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S DISCLOSURE UNLESS  
37 YOU WAIVE THIS RIGHT AT OR PRIOR TO ENTERING INTO A SALE AGREEMENT.

38  
39 BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS SELLER'S PROPERTY  
40 DISCLOSURE STATEMENT.

41  
42 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

43  
44 BUYER \_\_\_\_\_ DATE \_\_\_\_\_  
45

1 Agent receiving disclosure statement on buyer’s behalf to sign and date:

2

3 \_\_\_\_\_ Real Estate Licensee

4

5 \_\_\_\_\_ Real Estate Firm

6

7 Date received by agent \_\_\_\_\_

8

\_\_\_\_\_

9

10 **SECTION 2. The amendments to ORS 105.464 by section 1 of this 2015 Act apply to a**  
11 **property disclosure statement delivered in response to a written offer to purchase real**  
12 **property tendered on or after the effective date of this 2015 Act.**

13

\_\_\_\_\_