

House Bill 2140

Sponsored by Representative BOONE (Pre-session filed.)

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 real property to disclose seismic risk in seller's property disclosure statement.

A BILL FOR AN ACT

Relating to seller's property disclosure of seismic risk; 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:

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:

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.

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

3
4 Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:

5
6 You may claim an exclusion under ORS 105.470 only if you qualify under the statute. If you are not
7 claiming an exclusion, you must fill out Section 2 of this form completely.

8
9 Initial only the exclusion you wish to claim.

10
11 _____ This is the first sale of a dwelling never occupied. The dwelling is constructed or installed
12 under building or installation permit(s) #_____, issued by _____.

13
14 _____ This sale is by a financial institution that acquired the property as custodian, agent or
15 trustee, or by foreclosure or deed in lieu of foreclosure.

16
17 _____ The seller is a court appointed receiver, personal representative, trustee, conservator or
18 guardian.

19
20 _____ This sale or transfer is by a governmental agency.

21
22 _____
23 Signature(s) of Seller claiming exclusion
24 Date _____

25
26 _____
27 Buyer(s) to acknowledge Seller's claim
28 Date _____

29 _____
30
31
32 (IF YOU DID NOT CLAIM AN EXCLUSION IN SECTION 1, YOU MUST FILL OUT THIS SEC-
33 TION.)

34
35 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

36
37 (NOT A WARRANTY)
38 (ORS 105.464)

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

43
44 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS
45 OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DISCLOSURE.

1 BUYER HAS FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE
2 STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S SEPARATE SIGNED
3 WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S
4 DISCLOSURE STATEMENT, UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTER-
5 ING INTO A SALE AGREEMENT.

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

13
14 Seller _____ is/ _____ is not occupying the property.

15
16 I. SELLER'S REPRESENTATIONS:

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

22
23 *If you mark yes on items with *, attach a copy or explain on an attached sheet.

24
25 1. TITLE

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

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

29 (1) First right of refusal

30 (2) Option

31 (3) Lease or rental agreement

32 (4) Other listing

33 (5) Life estate?

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

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

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

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

44 *G. Are there any governmental studies, designations,
45 zoning overlays, surveys or notices that would

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

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

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

- 1 fixtures and toilets []Yes []No []Unknown
- 2 C. Water heater tank []Yes []No []Unknown
- 3 D. Garbage disposal []Yes []No []Unknown []NA
- 4 E. Built-in range and oven []Yes []No []Unknown []NA
- 5 F. Built-in dishwasher []Yes []No []Unknown []NA
- 6 G. Sump pump []Yes []No []Unknown []NA
- 7 H. Heating and cooling systems []Yes []No []Unknown []NA
- 8 I. Security system []Owned []Leased []Yes []No []Unknown []NA
- 9 J. Are there any materials or products used in
- 10 the systems and fixtures that are or have
- 11 been the subject of a recall, class action
- 12 **suit** settlement or [*other litigations*]
- 13 **litigation**? []Yes []No []Unknown
- 14 If yes, what product? _____
- 15 (1) Are there problems with the product? []Yes []No []Unknown
- 16 (2) Is the product covered by a warranty? []Yes []No []Unknown
- 17 (3) Has the product been inspected? []Yes []No []Unknown
- 18 (4) Have claims been filed for this product
- 19 by you or by previous owners? []Yes []No []Unknown
- 20 If yes, when? _____
- 21 (5) Was money received? []Yes []No []Unknown
- 22 (6) Were any of the materials or products repaired
- 23 or replaced? []Yes []No []Unknown
- 24
- 25 7. COMMON INTEREST
- 26 A. Is there a Home Owners' Association
- 27 or other governing entity? []Yes []No []Unknown
- 28 Name of Association or Other Governing
- 29 Entity _____
- 30 Contact Person _____
- 31 Address _____
- 32 Phone Number _____
- 33 B. Regular periodic assessments: \$_____
- 34 per []Month []Year []Other _____
- 35 *C. Are there any pending or proposed special
- 36 assessments? []Yes []No []Unknown
- 37 D. Are there shared "common areas" or joint
- 38 maintenance agreements for facilities like
- 39 walls, fences, pools, tennis courts, walkways
- 40 or other areas co-owned in undivided interest
- 41 with others? []Yes []No []Unknown
- 42 E. Is the Home Owners' Association or other
- 43 governing entity a party to pending litigation
- 44 or subject to an unsatisfied judgment? []Yes []No []Unknown []NA
- 45 F. Is the property in violation of recorded

1 covenants, conditions and restrictions or in
 2 violation of other bylaws or governing rules,
 3 whether recorded or not?]Yes]No]Unknown]NA

4

5 [8. *GENERAL*]

6 **8. SEISMIC**

7 **Was the house constructed before 1973?**]Yes]No]Unknown

8 **If yes, has the house been bolted to its**
 9 **foundation?**]Yes]No]Unknown

10

11 **9. GENERAL**

12 A. Are there problems with settling, soil,
 13 standing water or drainage on the property
 14 or in the immediate area?]Yes]No]Unknown

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

16 C. Is there any material damage to the property or
 17 any of the structure(s) from fire, wind, floods,
 18 beach movements, earthquake, expansive soils
 19 or landslides?]Yes]No]Unknown

20 D. Is the property in a designated floodplain?]Yes]No]Unknown

21 E. Is the property in a designated slide or other
 22 geologic hazard zone?]Yes]No]Unknown

23 *F. Has any portion of the property been tested
 24 or treated for asbestos, formaldehyde, radon
 25 gas, lead-based paint, mold, fuel or chemical
 26 storage tanks or contaminated soil or water?]Yes]No]Unknown

27 G. Are there any tanks or underground storage
 28 tanks (e.g., septic, chemical, fuel, etc.)
 29 on the property?]Yes]No]Unknown

30 H. Has the property ever been used as an illegal
 31 drug manufacturing or distribution site?]Yes]No]Unknown

32 *If yes, was a Certificate of Fitness issued?]Yes]No]Unknown

33 *I. Has the property been classified as
 34 forestland-urban interface?]Yes]No]Unknown

35

36 [9. *FULL DISCLOSURE BY SELLERS*]

37 **10. 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
