

**A-Engrossed**  
**House Bill 2312**

Ordered by the House March 5  
Including House Amendments dated March 5

Sponsored by Representative REARDON (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.

Requires seller of property to disclose [*whether property is identified by FEMA as Special Flood Hazard Area or whether flood insurance is required by local ordinance or in order to obtain federally regulated loan*] **whether seller has ever purchased flood insurance.**

**A BILL FOR AN ACT**

1  
2 Relating to flood insurance; amending ORS 105.464.

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

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

**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 to purchase anytime prior to closing the transaction. Questions regarding the legal consequences  
2 of the seller's choice should be directed to a qualified attorney.

3 \_\_\_\_\_  
4  
5 (DO NOT FILL OUT THIS SECTION UNLESS YOU ARE CLAIMING AN EXCLUSION  
6 UNDER ORS 105.470)

7  
8 Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:

9  
10 You may claim an exclusion under ORS 105.470 only if you qualify under the statute. If you are not  
11 claiming an exclusion, you must fill out Section 2 of this form completely.

12  
13 Initial only the exclusion you wish to claim.

14  
15 \_\_\_\_\_ This is the first sale of a dwelling never occupied. The dwelling is constructed or installed  
16 under building or installation permit(s) #\_\_\_\_\_, issued by \_\_\_\_\_.

17  
18 \_\_\_\_\_ This sale is by a financial institution that acquired the property as custodian, agent or  
19 trustee, or by foreclosure or deed in lieu of foreclosure.

20  
21 \_\_\_\_\_ The seller is a court appointed receiver, personal representative, trustee, conservator or  
22 guardian.

23  
24 \_\_\_\_\_ This sale or transfer is by a governmental agency.

25  
26 \_\_\_\_\_  
27 Signature(s) of Seller claiming exclusion  
28 Date \_\_\_\_\_

29  
30 \_\_\_\_\_  
31 Buyer(s) to acknowledge Seller's claim  
32 Date \_\_\_\_\_

33 \_\_\_\_\_  
34  
35  
36 (IF YOU DID NOT CLAIM AN EXCLUSION IN SECTION 1, YOU MUST FILL OUT THIS SEC-  
37 TION.)

38  
39 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

40  
41 (NOT A WARRANTY)  
42 (ORS 105.464)

43  
44 NOTICE TO THE BUYER: THE FOLLOWING REPRESENTATIONS ARE MADE BY THE  
45 SELLER(S) CONCERNING THE CONDITION OF THE PROPERTY LOCATED

1 AT \_\_\_\_\_ (“THE PROPERTY”).

2

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

10

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

17

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

19

20 I. SELLER’S REPRESENTATIONS:

21

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

26

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

28

29 1. TITLE

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

31 \*B. Is title to the property subject to any of the

32 following: [ ]Yes [ ]No [ ]Unknown

33 (1) First right of refusal

34 (2) Option

35 (3) Lease or rental agreement

36 (4) Other listing

37 (5) Life estate?

38 \*C. Is the property being transferred an

39 unlawfully established unit of land? [ ]Yes [ ]No [ ]Unknown

40 \*D. Are there any encroachments, boundary

41 agreements, boundary disputes or recent

42 boundary changes? [ ]Yes [ ]No [ ]Unknown

43 \*E. Are there any rights of way, easements,

44 licenses, access limitations or claims that

45 may affect your interest in the property? [ ]Yes [ ]No [ ]Unknown

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

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

- 1 \*A. Has the roof leaked?  ]Yes  ]No  ]Unknown  
 2 If yes, has it been repaired?  ]Yes  ]No  ]Unknown  ]NA  
 3 B. Are there any additions, conversions or  
 4 remodeling?  ]Yes  ]No  ]Unknown  
 5 If yes, was a building permit required?  ]Yes  ]No  ]Unknown  ]NA  
 6 If yes, was a building permit obtained?  ]Yes  ]No  ]Unknown  ]NA  
 7 If yes, was final inspection obtained?  ]Yes  ]No  ]Unknown  ]NA  
 8 C. Are there smoke alarms or detectors?  ]Yes  ]No  ]Unknown  
 9 D. Are there carbon monoxide alarms?  ]Yes  ]No  ]Unknown  
 10 E. Is there a woodstove or fireplace  
 11 insert included in the sale?  ]Yes  ]No  ]Unknown  
 12 \*If yes, what is the make? \_\_\_\_\_  
 13 \*If yes, was it installed with a permit?  ]Yes  ]No  ]Unknown  
 14 \*If yes, is a certification label issued by the  
 15 United States Environmental Protection  
 16 Agency (EPA) or the Department of  
 17 Environmental Quality (DEQ) affixed to it?  ]Yes  ]No  ]Unknown  
 18 \*F. Has pest and dry rot, structural or  
 19 "whole house" inspection been done  
 20 within the last three years?  ]Yes  ]No  ]Unknown  
 21 \*G. Are there any moisture problems, areas of water  
 22 penetration, mildew odors or other moisture  
 23 conditions (especially in the basement)?  ]Yes  ]No  ]Unknown  
 24 \*If yes, explain on attached sheet the frequency  
 25 and extent of problem and any insurance claims,  
 26 repairs or remediation done.  
 27 H. Is there a sump pump on the property?  ]Yes  ]No  ]Unknown  
 28 I. Are there any materials used in the  
 29 construction of the structure that are or  
 30 have been the subject of a recall, class  
 31 action suit, settlement or litigation?  ]Yes  ]No  ]Unknown  
 32 If yes, what are the materials? \_\_\_\_\_  
 33 (1) Are there problems with the materials?  ]Yes  ]No  ]Unknown  ]NA  
 34 (2) Are the materials covered by a warranty?  ]Yes  ]No  ]Unknown  ]NA  
 35 (3) Have the materials been inspected?  ]Yes  ]No  ]Unknown  ]NA  
 36 (4) Have there ever been claims filed for these  
 37 materials by you or by previous owners?  ]Yes  ]No  ]Unknown  ]NA  
 38 If yes, when? \_\_\_\_\_  
 39 (5) Was money received?  ]Yes  ]No  ]Unknown  ]NA  
 40 (6) Were any of the materials repaired or  
 41 replaced?  ]Yes  ]No  ]Unknown  ]NA  
 42  
 43 6. DWELLING SYSTEMS AND FIXTURES  
 44 If the following systems or fixtures are included  
 45 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 suit settlement or 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. SEISMIC  
 9 Was the house constructed before 1974? [ ]Yes [ ]No [ ]Unknown  
 10 If yes, has the house been bolted to its  
 11 foundation? [ ]Yes [ ]No [ ]Unknown  
 12  
 13 9. GENERAL  
 14 A. Are there problems with settling, soil,  
 15 standing water or drainage on the property  
 16 or in the immediate area? [ ]Yes [ ]No [ ]Unknown  
 17 B. Does the property contain fill? [ ]Yes [ ]No [ ]Unknown  
 18 C. Is there any material damage to the property or  
 19 any of the structure(s) from fire, wind, floods,  
 20 beach movements, earthquake, expansive soils  
 21 or landslides? [ ]Yes [ ]No [ ]Unknown  
 22 D. Is the property in a designated floodplain? [ ]Yes [ ]No [ ]Unknown  
 23 **E. Have you ever purchased flood insurance**  
 24 **for the property?** [ ]Yes [ ]No  
 25 [*E. Is the property in a designated slide or*]  
 26 **F. Is the property in a designated slide or**  
 27 **other geologic hazard zone?** [ ]Yes [ ]No [ ]Unknown  
 28 [*\*F. Has any portion of the property been*]  
 29 **\*G. Has any portion of the property been** tested  
 30 **or treated for asbestos, formaldehyde, radon**  
 31 **gas, lead-based paint, mold, fuel or chemical**  
 32 **storage tanks or contaminated soil or water?** [ ]Yes [ ]No [ ]Unknown  
 33 [*G. Are there any tanks or underground*]  
 34 **H. Are there any tanks or underground** storage  
 35 **tanks (e.g., septic, chemical, fuel, etc.)**  
 36 **on the property?** [ ]Yes [ ]No [ ]Unknown  
 37 [*H. Has the property ever been used as an*]  
 38 **I. 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 **\*J. Has the property been classified as**  
 43 **forestland-urban interface?** [ ]Yes [ ]No [ ]Unknown  
 44  
 45 10. FULL DISCLOSURE BY SELLERS



1 \*A. Are there any other material defects affecting  
2 this property or its value that a prospective  
3 buyer should know about? [ ]Yes [ ]No

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

7 B. Verification:

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

12  
13 Seller(s) signature:

14  
15 SELLER \_\_\_\_\_ DATE \_\_\_\_\_

16  
17 SELLER \_\_\_\_\_ DATE \_\_\_\_\_  
18 \_\_\_\_\_

19  
20  
21 II. BUYER'S ACKNOWLEDGMENT

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

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

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

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

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 \_\_\_\_\_