

# House Bill 2312

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 **as introduced**.

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.

## 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  
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

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

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

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

9  
10 Initial only the exclusion you wish to claim.

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

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

17  
18 \_\_\_\_\_ The seller is a court appointed receiver, personal representative, trustee, conservator or  
19 guardian.

20  
21 \_\_\_\_\_ This sale or transfer is by a governmental agency.

22  
23 \_\_\_\_\_  
24 Signature(s) of Seller claiming exclusion  
25 Date \_\_\_\_\_

26  
27 \_\_\_\_\_  
28 Buyer(s) to acknowledge Seller's claim  
29 Date \_\_\_\_\_

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

35  
36 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

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

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

44  
45 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS

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

7

8 FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS  
9 PROPERTY, BUYER IS ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF A QUALIFIED  
10 SPECIALIST TO INSPECT THE PROPERTY ON BUYER'S BEHALF INCLUDING, FOR EXAM-  
11 PLE, ONE OR MORE OF THE FOLLOWING: ARCHITECTS, ENGINEERS, PLUMBERS,  
12 ELECTRICIANS, ROOFERS, ENVIRONMENTAL INSPECTORS, BUILDING INSPECTORS, CER-  
13 TIFIED HOME INSPECTORS, OR 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 representations of any finan-  
20 cial institution that may have made or may make a loan pertaining to the property, or that may  
21 have or take a security interest in the property, or any real estate licensee engaged by the seller  
22 or the buyer.

23

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

25

26 1. TITLE

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

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

30 (1) First right of refusal

31 (2) Option

32 (3) Lease or rental agreement

33 (4) Other listing

34 (5) Life estate?

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

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

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

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

45 \*G. Are there any governmental studies, designations,

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

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

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

- 1 B. Plumbing system, including pipes, faucets,  
 2 fixtures and toilets  ]Yes  ]No  ]Unknown  
 3 C. Water heater tank  ]Yes  ]No  ]Unknown  
 4 D. Garbage disposal  ]Yes  ]No  ]Unknown  ]NA  
 5 E. Built-in range and oven  ]Yes  ]No  ]Unknown  ]NA  
 6 F. Built-in dishwasher  ]Yes  ]No  ]Unknown  ]NA  
 7 G. Sump pump  ]Yes  ]No  ]Unknown  ]NA  
 8 H. Heating and cooling systems  ]Yes  ]No  ]Unknown  ]NA  
 9 I. Security system  ]Owned  ]Leased  ]Yes  ]No  ]Unknown  ]NA  
 10 J. Are there any materials or products used in  
 11 the systems and fixtures that are or have  
 12 been the subject of a recall, class action  
 13 suit settlement or 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. SEISMIC  
 6 Was the house constructed before 1974?  ]Yes  ]No  ]Unknown  
 7 If yes, has the house been bolted to its  
 8 foundation?  ]Yes  ]No  ]Unknown  
 9  
 10 9. GENERAL  
 11 A. Are there problems with settling, soil,  
 12 standing water or drainage on the property  
 13 or in the immediate area?  ]Yes  ]No  ]Unknown  
 14 B. Does the property contain fill?  ]Yes  ]No  ]Unknown  
 15 C. Is there any material damage to the property or  
 16 any of the structure(s) from fire, wind, floods,  
 17 beach movements, earthquake, expansive soils  
 18 or landslides?  ]Yes  ]No  ]Unknown  
 19 D. Is the property in a designated floodplain **or**  
 20 **identified in a Flood Insurance Rate Map**  
 21 **as a Special Flood Hazard Area?**  ]Yes  ]No  ]Unknown  
 22 E. **Is the purchase of flood insurance for the**  
 23 **property required under a local ordinance or**  
 24 **to obtain a federally regulated loan under the**  
 25 **National Flood Insurance Reform Act of 1994?**  ]Yes  ]No  ]Unknown  
 26 [*E. Is the property in a designated slide or*]  
 27 F. **Is the property in a designated slide or**  
 28 **other geologic hazard zone?**  ]Yes  ]No  ]Unknown  
 29 [*\*F. Has any portion of the property been*]  
 30 \*G. **Has any portion of the property been** tested  
 31 **or treated for asbestos, formaldehyde, radon**  
 32 **gas, lead-based paint, mold, fuel or chemical**  
 33 **storage tanks or contaminated soil or water?**  ]Yes  ]No  ]Unknown  
 34 [*G. Are there any tanks or underground*]  
 35 H. **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*]  
 39 I. **Has the property ever been used as an** illegal  
 40 **drug manufacturing or distribution site?**  ]Yes  ]No  ]Unknown  
 41 **\*If yes, was a Certificate of Fitness issued?**  ]Yes  ]No  ]Unknown  
 42 [*\*I. Has the property been classified as*]  
 43 \*J. **Has the property been classified as**  
 44 **forestland-urban interface?**  ]Yes  ]No  ]Unknown  
 45



10. FULL DISCLOSURE BY SELLERS

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

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

B. Verification:

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

Seller(s) signature:

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

SELLER \_\_\_\_\_ DATE \_\_\_\_\_

II. BUYER'S ACKNOWLEDGMENT

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

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

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

DISCLOSURES, IF ANY, CONTAINED IN THIS FORM ARE PROVIDED BY THE SELLER ON THE BASIS OF SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME OF DISCLOSURE. IF THE SELLER HAS FILLED OUT SECTION 2 OF THIS FORM, YOU, THE BUYER, HAVE FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS DISCLOSURE STATEMENT TO REVOKE YOUR OFFER BY DELIVERING YOUR SEPARATE SIGNED WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S DISCLOSURE UNLESS

1 YOU WAIVE THIS RIGHT AT OR PRIOR TO ENTERING INTO A SALE AGREEMENT.

2

3 BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS SELLER'S PROPERTY  
4 DISCLOSURE STATEMENT.

5

6 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

7

8 BUYER \_\_\_\_\_ DATE \_\_\_\_\_

9

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

11

12 \_\_\_\_\_ Real Estate Licensee

13

14 \_\_\_\_\_ Real Estate Firm

15

16 Date received by agent \_\_\_\_\_

17 \_\_\_\_\_

18

19 \_\_\_\_\_