

# Senate Bill 898

Sponsored by Senator GELSER BLOUIN

## 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 reseller that purchases residential property for subsequent resale to provide buyer with supplemental property disclosure statement concerning improvements to residential real estate and related information. Specifies contents of supplemental property disclosure statement and date by which reseller must deliver supplemental property disclosure statement to buyer.

Provides that failure to provide supplemental property disclosure statement to buyer entitles buyer to rescind offer to buy residential real estate.

Specifies that buyer may presume that person that sells residential property is reseller and must provide supplemental property disclosure statement if person purchased residential property not more than one year before listing residential property for sale and did not occupy or rent residential property to another person before listing residential property for sale or vacated residential property while work occurred on improvement and did not reoccupy or rent residential property to another person before listing residential property for sale.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to resales of residential property; creating new provisions; amending ORS 105.465, 105.475,  
3 105.480 and 105.485; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 105.462 to**  
6 **105.490.**

7 **SECTION 2. (1) As used in this section and in ORS 105.465, 105.475, 105.480 and 105.485:**

8 (a) **“Improvement” means a reconstruction, renovation, remodeling, repair, upgrade or**  
9 **other amelioration of residential property that results in an increase in the market price of**  
10 **the real property over the price a reseller paid to purchase the residential property.**

11 (b) **“Real estate licensee” has the meaning given that term in ORS 696.010.**

12 (c) **“Reseller” means an individual or a business entity that sells residential property that**  
13 **the individual or entity previously purchased with the intent to subsequently resell the resi-**  
14 **dential property, including an intent to subsequently resell the residential property after**  
15 **causing or effecting an improvement.**

16 (d) **“Residential property” means the real property described in ORS 105.465 (1)(a).**

17 (e) **“Supplemental property disclosure statement” means the written disclosure described**  
18 **in subsection (2) of this section.**

19 (f) **“Written description” means a written narrative summary, table or other presenta-**  
20 **tion that identifies the major components of an improvement and lists the costs associated**  
21 **with each major component.**

22 (2) **Except as provided in subsection (3) of this section, a reseller that sells residential**  
23 **property to another person shall deliver to the other person on the same date on which the**  
24 **reseller provides the property disclosure statement required under ORS 105.465 a complete,**  
25 **signed and dated supplemental property disclosure statement that includes all of the follow-**

**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 ing items that apply to the reseller, to the sale or to the residential property:

2 (a) A statement of the reseller's purpose in previously purchasing the residential prop-  
3 erty if the reseller purchased the residential property as a reseller.

4 (b) A written description of any improvement that:

5 (A) Occurred within two years before the date of the supplemental property disclosure  
6 statement if the improvement cost \$20,000 or more and the reseller owned or controlled the  
7 residential property during the time in which the improvement occurred.

8 (B) Occurred within two years before the date of the supplemental property disclosure  
9 statement if the improvement cost \$10,000 or more and the reseller owned or controlled, but  
10 did not occupy, the residential property during the time in which the improvement occurred.

11 (C) Occurred within five years before the date of the supplemental property disclosure  
12 statement if the improvement cost \$5,000 or more, the improvement occurred at the  
13 reseller's direction and the reseller knew or should have known that the improvement:

14 (i) Cost \$5,000 or more;

15 (ii) Involved electrical work or plumbing work;

16 (iii) Required a permit;

17 (iv) Was completed without a permit;

18 (v) Was completed by an unlicensed contractor; or

19 (vi) Was completed by the reseller or an employee of the reseller and, if so, whether the  
20 reseller or employee was a contractor licensed under ORS chapter 701 at the time the re-  
21 seller or employee undertook and completed the improvement.

22 (c) A statement that, for each improvement described in paragraph (b) of this subsection,  
23 specifies:

24 (A) The name or assumed business name of each contractor that performed or partic-  
25 ipated in performing the improvement, including the reseller if the reseller performed or  
26 participated in performing the improvement, and the number of the license the contractor  
27 obtained from the Construction Contractors Board under ORS chapter 701;

28 (B) The date on which each permit that applied to the improvement was issued and the  
29 date of the final inspection of the improvement;

30 (C) The number of square feet by which the improvement increased the floor area of the  
31 residential property, if any;

32 (D) Whether the improvement added a bedroom, bathroom or kitchen to the residential  
33 property; and

34 (E) Whether the reseller or contractor notified the Department of Consumer and Busi-  
35 ness Services, and the assessor of the county in which the residential property is located,  
36 of the improvement.

37 (d) A disclosure for each real estate licensee, home inspector or home inspection business  
38 that, in the course of offering or preparing the residential property for sale, the reseller  
39 worked with or employed in any of the following capacities:

40 (A) For a real estate licensee that the reseller worked with for the purposes of listing  
41 the residential property for sale or brokering the transaction, a disclosure that states:

42 (i) Whether within five years before the date of the supplemental property disclosure  
43 statement the real estate licensee acted as the reseller's listing agent, or the listing agent  
44 for an affiliate of the reseller, for two or more properties the reseller or affiliate sold or of-  
45 fered for sale during any 18-month period;

1 (ii) Whether the real estate licensee has a business arrangement, contract, agreement  
2 or affiliation with the reseller or with another affiliate of the reseller the terms of which  
3 relate to purchasing, developing, selling or improving residential property; or

4 (iii) Whether the real estate licensee received or will receive compensation in connection  
5 with the sale of residential property to the buyer other than a commission disclosed in the  
6 sale agreement;

7 (B) For a real estate licensee who is acting as the buyer's agent, a disclosure that states:

8 (i) Whether within one year before the date of the supplemental property disclosure  
9 statement the real estate licensee acted as the reseller's listing agent, or the listing agent  
10 for an affiliate of the reseller, for any other property the reseller or affiliate sold or offered  
11 for sale;

12 (ii) Whether the real estate licensee has a business arrangement, contract, agreement  
13 or affiliation with the reseller or with another affiliate of the reseller the terms of which  
14 relate to purchasing, developing, selling or improving residential property; or

15 (iii) Whether the real estate licensee received or will receive compensation in connection  
16 with the sale of residential property to the buyer other than a commission disclosed in the  
17 sale agreement; or

18 (C) For a home inspector certified under ORS 701.445, or a home inspection business the  
19 Construction Contractors Board has licensed, a disclosure that states:

20 (i) Whether the home inspector or home inspection business completed home inspections  
21 for more than two residential properties the reseller or an affiliate of the reseller offered for  
22 sale during any 18-month period;

23 (ii) Whether the home inspector or home inspection business has a business arrange-  
24 ment, contract, agreement or affiliation with the reseller, with another affiliate of the re-  
25 seller or with a real estate licensee who served as a listing agent for the reseller or the  
26 reseller's other affiliate the terms of which relate to purchasing, developing, selling or im-  
27 proving residential property; or

28 (iii) Whether the home inspector or home inspection business received or will receive  
29 compensation in connection with the sale of residential property to the buyer other than the  
30 home inspection fee disclosed in the sale agreement.

31 (3) The requirement to deliver a supplemental property disclosure statement under sub-  
32 section (2) of this section does not apply to any improvement that consists solely of:

33 (a) Replacing existing carpeting within residential property;

34 (b) Painting the exterior, or the interior walls, doors or windows, of residential property  
35 unless the repainting covers or replaces paint that contains lead; or

36 (c) Staining or painting an exterior patio or deck attached to the residential property.

37 (4)(a) Except as provided in paragraph (b) of this subsection, a buyer may presume that  
38 a person that sells residential property to the buyer is a reseller, and may require as a con-  
39 dition of closing a sale of the residential property that the person deliver to the buyer a  
40 supplemental property disclosure statement under subsection (2) of this section, if the person  
41 purchased the residential property not more than one year before listing the residential  
42 property for sale and:

43 (A) Did not occupy the residential property as a residence and did not lease or rent the  
44 residential property to another person at any time before listing the residential property for  
45 sale; or

1 (B) Vacated the residential property for the period of time during which work on an im-  
 2 provement to the residential property occurred and did not reoccupy the residential property  
 3 or lease or rent the residential property to another person before listing the residential  
 4 property for sale.

5 (b) A person may rebut the buyer's presumption by providing a notarized affidavit to the  
 6 buyer that states that the reason the person listed the residential property for sale within  
 7 one year after the person's initial purchase was because of a financial hardship or an ina-  
 8 bility to occupy the residential property because the person transferred the person's domicile  
 9 to a location that is more than 100 miles from the site of the residential property.

10 (c) A buyer may require as a condition of closing a sale of residential property that the  
 11 person that sells the residential property to the buyer must provide suitable documentation  
 12 or other evidence to substantiate an assertion the person makes under paragraph (a) or (b)  
 13 of this subsection.

14 **SECTION 3.** ORS 105.465 is amended to read:

15 105.465. (1) The provisions of ORS 105.462 to 105.490, 696.301 and 696.870 **and section 2 of this**  
 16 **2023 Act:**

17 (a) Apply to the real property described in subparagraphs (A) to (D) of this paragraph unless the  
 18 buyer indicates to the seller, which indication [*shall be*] is conclusive, that the buyer will use the  
 19 real property for purposes other than a residence for the buyer or the buyer's spouse, parent or  
 20 child:

21 (A) Real property consisting of or improved by one to four dwelling units;

22 (B) A condominium unit as defined in ORS 100.005 and not subject to disclosure under ORS  
 23 100.705;

24 (C) A timeshare property as defined in ORS 94.803 and not subject to disclosure under ORS  
 25 94.829; and

26 (D) A manufactured dwelling, as defined in ORS 446.003, that is owned by the same person who  
 27 owns the land upon which the manufactured dwelling is situated.

28 (b) Do not apply to a leasehold in real property.

29 (2)(a) Except as provided in ORS 105.475 (4), a seller shall complete, sign and deliver a seller's  
 30 property disclosure statement as set forth in ORS 105.464 to each buyer who makes a written offer  
 31 to purchase real property in this state.

32 (b) **If the seller is a reseller, in addition to and not in lieu of the seller's property dis-**  
 33 **closure statement required under ORS 105.465, the reseller shall complete, sign and deliver**  
 34 **a supplemental property disclosure statement to each buyer who makes a written offer to**  
 35 **purchase any of the real property described in subsection (1)(a) of this section that is located**  
 36 **in this state.**

37 **SECTION 4.** ORS 105.475 is amended to read:

38 105.475. (1) If a seller issues a seller's property disclosure statement, **or a reseller has deliv-**  
 39 **ered a supplemental property disclosure statement in accordance with section 2 of this 2023**  
 40 **Act,** and a buyer has not then delivered to the seller **or reseller** a written statement waiving the  
 41 buyer's right to revoke the buyer's offer, the buyer shall have five business days after delivery of  
 42 the seller's property disclosure statement **or the reseller's supplemental property disclosure**  
 43 **statement** to revoke the buyer's offer by delivering to the seller **or reseller** a separate signed  
 44 written statement of revocation disapproving the seller's **or reseller's** disclosure.

45 (2) If a buyer fails to timely deliver to a seller **or reseller** a written statement revoking the

1 buyer's offer, the buyer's right to revoke the buyer's offer expires.

2 (3) If a buyer closes the transaction, the buyer's right to revoke based on ORS 105.462 to  
 3 105.490, 696.301 and 696.870 is terminated.

4 (4) If the seller fails or refuses to provide a seller's property disclosure statement as required  
 5 under this section **or a reseller fails to provide a supplemental property disclosure statement**  
 6 **as required under section 2 of this 2023 Act**, the buyer [*shall have*] **has** a right of revocation until  
 7 the right is terminated pursuant to subsection (3) of this section.

8 (5) If the buyer revokes the offer [*pursuant to*] **under** this section, notwithstanding ORS 696.581,  
 9 the buyer is entitled to immediate return of all deposits and other considerations delivered to any  
 10 party or escrow agent with respect to the buyer's offer, and the buyer's offer is void.

11 (6) When the deposits and other considerations have been returned to the buyer, upon the  
 12 buyer's signed, written release and indemnification of the holders of the deposits and other consid-  
 13 erations, the holders are released from all liability for the deposits and other considerations.

14 (7) Any seller's property disclosure statement issued by the seller **or supplemental property**  
 15 **disclosure statement issued by a reseller** is part of and incorporated into the offer and the ac-  
 16 ceptance.

17 **SECTION 5.** ORS 105.480 is amended to read:

18 105.480. (1) The representations contained in a seller's property disclosure statement **or a**  
 19 **reseller's supplemental property disclosure statement** and in any amendment to the disclosure  
 20 statement **or supplemental property disclosure statement** are the representations of the seller  
 21 **or the reseller** only. The representations of the seller **or reseller** are not representations of:

22 (a) A financial institution that may have made or that may make a loan pertaining to the  
 23 property covered by a seller's property disclosure statement **or a reseller's supplemental property**  
 24 **disclosure statement**, or that may have or take a security interest in the property covered by a  
 25 seller's property disclosure statement **or reseller's supplemental property disclosure statement**.

26 (b) A real estate licensee engaged by the seller or buyer.

27 (2) Neither a financial institution nor a real estate licensee is bound by or has any liability with  
 28 respect to any representation, misrepresentation, omission, error or inaccuracy contained in the  
 29 seller's property disclosure statement required by ORS 105.465, **a reseller's supplemental property**  
 30 **disclosure statement required by section 2 of this 2023 Act** or any amendment to the disclosure  
 31 statement **or supplemental property disclosure statement**.

32 **SECTION 6.** ORS 105.485 is amended to read:

33 105.485. The burden of proof of lawful delivery of a seller's property disclosure statement **or**  
 34 **reseller's supplemental property disclosure statement** and any amendment [*thereto*] **to the**  
 35 **property disclosure statement or supplemental property disclosure statement** is on the seller.  
 36 The burden of proof of lawful delivery of a notice of revocation of a buyer's offer is on the buyer.

37 **SECTION 7. Section 2 of this 2023 Act and the amendments to ORS 105.465, 105.475,**  
 38 **105.480 and 105.485 by sections 3 to 6 of this 2023 Act apply to sales or offers to sell residen-**  
 39 **tial property that occur on and after the effective date of this 2023 Act.**

40 **SECTION 8. This 2023 Act takes effect on the 91st day after the date on which the 2023**  
 41 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**