

D R A F T

SUMMARY

Requires seller of property to include in disclosure statement whether property has been used for, or investigated or inspected for use of, manufacturing, distribution or disposal of illegal drugs.

A BILL FOR AN ACT

Relating to seller's property disclosure statement; 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.

1 Each seller of residential property described in ORS 105.465 must deliver this
2 form to each buyer who makes a written offer to purchase. Under ORS
3 105.475 (4), refusal to provide this form gives the buyer the right to revoke
4 their offer at any time prior to closing the transaction. Use only the
5 section(s) of the form that apply to the transaction for which the form is
6 used. If you are claiming an exclusion under ORS 105.470, fill out only Sec-
7 tion 1.

8

9 An exclusion may be claimed only if the seller qualifies for the exclusion
10 under the law. If not excluded, the seller must disclose the condition of the
11 property or the buyer may revoke their offer to purchase anytime prior to
12 closing the transaction. Questions regarding the legal consequences of the
13 seller's choice should be directed to a qualified attorney.

14

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

17

18 Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:

19

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

23

24 Initial only the exclusion you wish to claim.

25

26 _____ This is the first sale of a dwelling never occupied. The dwelling is
27 constructed or installed under building or installation permit(s) #_____, is-
28 sued by _____.

29

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

1 _____ The seller is a court appointed receiver, personal representative,
2 trustee, conservator or guardian.

3

4 _____ This sale or transfer is by a governmental agency.

5

6

Signature(s) of Seller claiming exclusion

7

Date _____

8

9

10

Buyer(s) to acknowledge Seller's claim

11

Date _____

12

13

14

15 (IF YOU DID NOT CLAIM AN EXCLUSION IN SECTION 1, YOU MUST
16 FILL OUT THIS SECTION.)

17

18 Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

19

(NOT A WARRANTY)

20

(ORS 105.464)

21

22

23 NOTICE TO THE BUYER: THE FOLLOWING REPRESENTATIONS ARE
24 MADE BY THE SELLER(S) CONCERNING THE CONDITION OF THE
25 PROPERTY LOCATED AT _____ ("THE PROPERTY").

26

27 DISCLOSURES CONTAINED IN THIS FORM ARE PROVIDED BY THE
28 SELLER ON THE BASIS OF SELLER'S ACTUAL KNOWLEDGE OF THE
29 PROPERTY AT THE TIME OF DISCLOSURE. BUYER HAS FIVE DAYS
30 FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE
31 STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S

1 SEPARATE SIGNED WRITTEN STATEMENT OF REVOCATION TO THE
2 SELLER DISAPPROVING THE SELLER'S DISCLOSURE STATEMENT,
3 UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTERING
4 INTO A SALE AGREEMENT.

5

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

24

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

27

28 1. TITLE

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

30 *B. Is title to the property subject to any of the

31 following: []Yes []No []Unknown

- 1 (1) First right of refusal
- 2 (2) Option
- 3 (3) Lease or rental agreement
- 4 (4) Other listing
- 5 (5) Life estate?
- 6 *C. Is the property being transferred an
7 unlawfully established unit of land? []Yes []No []Unknown
- 8 *D. Are there any encroachments, boundary
9 agreements, boundary disputes or recent
10 boundary changes? []Yes []No []Unknown
- 11 *E. Are there any rights of way, easements,
12 licenses, access limitations or claims that
13 may affect your interest in the property? []Yes []No []Unknown
- 14 *F. Are there any agreements for joint
15 maintenance of an easement or right of way? []Yes []No []Unknown
- 16 *G. Are there any governmental studies, designations,
17 zoning overlays, surveys or notices that would
18 affect the property? []Yes []No []Unknown
- 19 *H. Are there any pending or existing governmental
20 assessments against the property? []Yes []No []Unknown
- 21 *I. Are there any zoning violations or
22 nonconforming uses? []Yes []No []Unknown
- 23 *J. Is there a boundary survey for the
24 property? []Yes []No []Unknown
- 25 *K. Are there any covenants, conditions,
26 restrictions or private assessments that
27 affect the property? []Yes []No []Unknown
- 28 *L. Is the property subject to any special tax
29 assessment or tax treatment that may result
30 in levy of additional taxes if the property
31 is sold? []Yes []No []Unknown

1 2. WATER

2 A. Household water

3 (1) The source of the water is (check ALL that apply):

4 Public Community Private

5 Other _____

6 (2) Water source information:

7 *a. Does the water source require a water permit? Yes No Unknown

8 If yes, do you have a permit? Yes No

9 b. Is the water source located on the property? Yes No Unknown

10 *If not, are there any written agreements for

11 a shared water source? Yes No Unknown NA

12 *c. Is there an easement (recorded or unrecorded)

13 for your access to or maintenance of the water

14 source? Yes No Unknown

15 d. If the source of water is from a well or spring,

16 have you had any of the following in the past

17 12 months? Flow test Bacteria test

18 Chemical contents test Yes No Unknown NA

19 *e. Are there any water source plumbing problems

20 or needed repairs? Yes No Unknown

21 (3) Are there any water treatment systems for

22 the property? Yes No Unknown

23 Leased Owned

24 B. Irrigation

25 (1) Are there any water rights or other

26 irrigation rights for the property? Yes No Unknown

27 *(2) If any exist, has the irrigation water been

28 used during the last five-year period? Yes No Unknown NA

29 *(3) Is there a water rights certificate or other

30 written evidence available? Yes No Unknown NA

31 C. Outdoor sprinkler system

- 1 (1) Is there an outdoor sprinkler system for the
 2 property? []Yes []No []Unknown
- 3 (2) Has a back flow valve been installed? []Yes []No []Unknown []NA
- 4 (3) Is the outdoor sprinkler system operable? []Yes []No []Unknown []NA
- 5
- 6 3. SEWAGE SYSTEM
- 7 A. Is the property connected to a public or
 8 community sewage system? []Yes []No []Unknown
- 9 B. Are there any new public or community sewage
 10 systems proposed for the property? []Yes []No []Unknown
- 11 C. Is the property connected to an on-site septic
 12 system? []Yes []No []Unknown
- 13 (1) If yes, when was the system installed? _____ []Unknown []NA
- 14 (2) *If yes, was the system installed by permit? []Yes []No []Unknown []NA
- 15 (3) *Has the system been repaired or altered? []Yes []No []Unknown
- 16 (4) *Has the condition of the system been
 17 evaluated and a report issued? []Yes []No []Unknown
- 18 (5) Has the septic tank ever been pumped?
 19 If yes, when? _____ []NA
- 20 (6) Does the system have a pump? []Yes []No []Unknown
- 21 (7) Does the system have a treatment unit such
 22 as a sand filter or an aerobic unit? []Yes []No []Unknown
- 23 (8) *Is a service contract for routine
 24 maintenance required for the system? []Yes []No []Unknown
- 25 (9) Are all components of the system located on
 26 the property? []Yes []No []Unknown
- 27 D. *Are there any sewage system problems or
 28 needed repairs? []Yes []No []Unknown
- 29 E. Does your sewage system require on-site
 30 pumping to another level? []Yes []No []Unknown

31

- 1 4. DWELLING INSULATION
- 2 A. Is there insulation in the:
- 3 (1) Ceiling?]Yes]No]Unknown
- 4 (2) Exterior walls?]Yes]No]Unknown
- 5 (3) Floors?]Yes]No]Unknown
- 6 B. Are there any defective insulated doors or
- 7 windows?]Yes]No]Unknown
- 8
- 9 5. DWELLING STRUCTURE
- 10 *A. Has the roof leaked?]Yes]No]Unknown
- 11 If yes, has it been repaired?]Yes]No]Unknown]NA
- 12 B. Are there any additions, conversions or
- 13 remodeling?]Yes]No]Unknown
- 14 If yes, was a building permit required?]Yes]No]Unknown]NA
- 15 If yes, was a building permit obtained?]Yes]No]Unknown]NA
- 16 If yes, was final inspection obtained?]Yes]No]Unknown]NA
- 17 C. Are there smoke alarms or detectors?]Yes]No]Unknown
- 18 D. Are there carbon monoxide alarms?]Yes]No]Unknown
- 19 E. Is there a woodstove or fireplace
- 20 insert included in the sale?]Yes]No]Unknown
- 21 *If yes, what is the make? _____
- 22 *If yes, was it installed with a permit?]Yes]No]Unknown
- 23 *If yes, is a certification label issued by the
- 24 United States Environmental Protection
- 25 Agency (EPA) or the Department of
- 26 Environmental Quality (DEQ) affixed to it?]Yes]No]Unknown
- 27 *F. Has pest and dry rot, structural or
- 28 “whole house” inspection been done
- 29 within the last three years?]Yes]No]Unknown
- 30 *G. Are there any moisture problems, areas of water
- 31 penetration, mildew odors or other moisture

1 conditions (especially in the basement)?]Yes]No]Unknown
 2 *If yes, explain on attached sheet the frequency
 3 and extent of problem and any insurance claims,
 4 repairs or remediation done.

5 H. Is there a sump pump on the property?]Yes]No]Unknown

6 I. Are there any materials used in the
 7 construction of the structure that are or
 8 have been the subject of a recall, class
 9 action suit, settlement or litigation?]Yes]No]Unknown
 10 If yes, what are the materials? _____

11 (1) Are there problems with the materials?]Yes]No]Unknown]NA

12 (2) Are the materials covered by a warranty?]Yes]No]Unknown]NA

13 (3) Have the materials been inspected?]Yes]No]Unknown]NA

14 (4) Have there ever been claims filed for these
 15 materials by you or by previous owners?]Yes]No]Unknown]NA
 16 If yes, when? _____

17 (5) Was money received?]Yes]No]Unknown]NA

18 (6) Were any of the materials repaired or
 19 replaced?]Yes]No]Unknown]NA

20

21 6. DWELLING SYSTEMS AND FIXTURES

22 If the following systems or fixtures are included
 23 in the purchase price, are they in good working
 24 order on the date this form is signed?

25 A. Electrical system, including wiring, switches,
 26 outlets and service]Yes]No]Unknown

27 B. Plumbing system, including pipes, faucets,
 28 fixtures and toilets]Yes]No]Unknown

29 C. Water heater tank]Yes]No]Unknown

30 D. Garbage disposal]Yes]No]Unknown]NA

31 E. Built-in range and oven]Yes]No]Unknown]NA

- 1 F. Built-in dishwasher []Yes []No []Unknown []NA
2 G. Sump pump []Yes []No []Unknown []NA
3 H. Heating and cooling systems []Yes []No []Unknown []NA
4 I. Security system []Owned []Leased []Yes []No []Unknown []NA
5 J. Are there any materials or products used in
6 the systems and fixtures that are or have
7 been the subject of a recall, class action
8 suit settlement or litigation? []Yes []No []Unknown
9 If yes, what product? _____
10 (1) Are there problems with the product? []Yes []No []Unknown
11 (2) Is the product covered by a warranty? []Yes []No []Unknown
12 (3) Has the product been inspected? []Yes []No []Unknown
13 (4) Have claims been filed for this product
14 by you or by previous owners? []Yes []No []Unknown
15 If yes, when? _____
16 (5) Was money received? []Yes []No []Unknown
17 (6) Were any of the materials or products repaired
18 or replaced? []Yes []No []Unknown
19
20 7. COMMON INTEREST
21 A. Is there a Home Owners' Association
22 or other governing entity? []Yes []No []Unknown
23 Name of Association or Other Governing
24 Entity _____
25 Contact Person _____
26 Address _____
27 Phone Number _____
28 B. Regular periodic assessments: \$_____
29 per []Month []Year []Other _____
30 *C. Are there any pending or proposed special
31 assessments? []Yes []No []Unknown

- 1 D. Are there shared “common areas” or joint
2 maintenance agreements for facilities like
3 walls, fences, pools, tennis courts, walkways
4 or other areas co-owned in undivided interest
5 with others?]Yes]No]Unknown
- 6 E. Is the Home Owners’ Association or other
7 governing entity a party to pending litigation
8 or subject to an unsatisfied judgment?]Yes]No]Unknown]NA
- 9 F. Is the property in violation of recorded
10 covenants, conditions and restrictions or in
11 violation of other bylaws or governing rules,
12 whether recorded or not?]Yes]No]Unknown]NA
- 13
- 14 8. SEISMIC
- 15 Was the house constructed before 1974?]Yes]No]Unknown
- 16 If yes, has the house been bolted to its
17 foundation?]Yes]No]Unknown
- 18
- 19 9. GENERAL
- 20 A. Are there problems with settling, soil,
21 standing water or drainage on the property
22 or in the immediate area?]Yes]No]Unknown
- 23 B. Does the property contain fill?]Yes]No]Unknown
- 24 C. Is there any material damage to the property or
25 any of the structure(s) from fire, wind, floods,
26 beach movements, earthquake, expansive soils
27 or landslides?]Yes]No]Unknown
- 28 D. Is the property in a designated floodplain?]Yes]No]Unknown
- 29 Note: Flood insurance may be required for
30 homes in a floodplain.
- 31 E. Is the property in a designated slide or

1 other geologic hazard zone?]Yes]No]Unknown

2 *F. Has any portion of the property been tested
3 or treated for asbestos, formaldehyde, radon
4 gas, lead-based paint, mold, fuel or chemical
5 storage tanks, [or] contaminated soil or
6 water **or the manufacture or disposal of**
7 **illegal drugs?**]Yes]No]Unknown

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

11 H. Has the property ever been used **or investigated**
12 **by law enforcement for use** as an illegal
13 drug manufacturing, [or] distribution **or**
14 **disposal** site?]Yes]No]Unknown

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

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

18

19 10. FULL DISCLOSURE BY SELLERS

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

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

26 B. Verification:

27 The foregoing answers and attached explanations (if any) are complete and correct to
28 the best of my/our knowledge and I/we have received a copy of this disclosure statement.

29 I/we authorize my/our agents to deliver a copy of this disclosure statement to all
30 prospective buyers of the property or their agents.

31

1 Seller(s) signature:

2

3 SELLER _____ DATE _____

4

5 SELLER _____ DATE _____

6

7

8 **II. BUYER’S ACKNOWLEDGMENT**

9

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

13

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

24

25 C. Buyer (which term includes all persons signing the “buyer’s acknowledg-
26 ment” portion of this disclosure statement below) hereby acknowledges re-
27 ceipt of a copy of this disclosure statement (including attachments, if any)
28 bearing seller’s signature(s).

29

30 **DISCLOSURES, IF ANY, CONTAINED IN THIS FORM ARE PROVIDED**
31 **BY THE SELLER ON THE BASIS OF SELLER’S ACTUAL KNOWLEDGE**

1 OF THE PROPERTY AT THE TIME OF DISCLOSURE. IF THE SELLER
2 HAS FILLED OUT SECTION 2 OF THIS FORM, YOU, THE BUYER, HAVE
3 FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS DISCLOSURE
4 STATEMENT TO REVOKE YOUR OFFER BY DELIVERING YOUR SEP-
5 ARATE SIGNED WRITTEN STATEMENT OF REVOCATION TO THE
6 SELLER DISAPPROVING THE SELLER'S DISCLOSURE UNLESS YOU
7 WAIVE THIS RIGHT AT OR PRIOR TO ENTERING INTO A SALE
8 AGREEMENT.

9

10 BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS
11 SELLER'S PROPERTY DISCLOSURE STATEMENT.

12

13 BUYER _____ DATE _____

14

15 BUYER _____ DATE _____

16

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

18

19 _____ Real Estate Licensee

20

21 _____ Real Estate Firm

22

23 Date received by agent _____

24 _____

25 _____