

Enrolled House Bill 3450

Sponsored by Representative TOMEI; Representatives BARKER, BUCKLEY, DEMBROW, GALIZIO, HOLVEY, KAHL, RILEY, SHIELDS, WITT (at the request of Deborah Kafoury)

CHAPTER

AN ACT

Relating to carbon monoxide; creating new provisions; amending ORS 90.302, 90.320, 90.325 and 105.464; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 6 of this 2009 Act, unless the context requires otherwise:

(1) “Carbon monoxide alarm” means a device that:

(a) Detects carbon monoxide;

(b) Produces a distinctive audible alert when carbon monoxide is detected;

(c) Conforms to State Fire Marshal rules;

(d) Is listed by Underwriters Laboratories or any other nationally recognized testing laboratory or an equivalent organization; and

(e) Operates as a distinct unit or as two or more single station units wired to operate in conjunction with each other.

(2) “Carbon monoxide source” means:

(a) A heater, fireplace, appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or

(b) An attached garage with an opening that communicates directly with a living space.

(3) “Multifamily housing” means a building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.

(4) “One and two family dwelling” means a residential building that is regulated under the state building code as a one and two family dwelling.

SECTION 2. (1) A person may not convey fee title to a one and two family dwelling or multifamily housing that contains a carbon monoxide source, or transfer possession under a land sale contract of a one and two family dwelling or multifamily housing that contains a carbon monoxide source, unless one or more properly functioning carbon monoxide alarms are installed in the dwelling or housing at locations that provide carbon monoxide detection for all sleeping areas of the dwelling or housing.

(2) A carbon monoxide alarm in a one and two family dwelling or multifamily housing described in subsection (1) of this section must be installed in conformance with applicable rules of the State Fire Marshal and in conformance with any applicable requirements of the state building code.

(3) Violation of this section or a rule adopted by the State Fire Marshal does not invalidate any sale or transfer of possession of a one and two family dwelling or multifamily housing.

SECTION 3. A purchaser or transferee of a one and two family dwelling or multifamily housing who is aggrieved by a violation of section 2 of this 2009 Act or of a rule adopted under section 4 of this 2009 Act may bring an individual action in an appropriate court to recover the greater of actual damages or \$250 per residential unit. In any action brought under this section, the court may award to a prevailing party, in addition to the relief provided in this section, reasonable attorney fees at trial and on appeal, and costs. Actions brought under this section must be commenced within one year after the date of sale or transfer.

SECTION 4. (1) The State Fire Marshal shall adopt rules establishing minimum standards for carbon monoxide alarms in one and two family dwellings and multifamily housing. The rules adopted by the State Fire Marshal may include, but need not be limited to, rules establishing minimum standards for the design, inspection, testing and maintenance of carbon monoxide alarms.

(2) The State Fire Marshal shall adopt rules establishing standards for the placement and location of carbon monoxide alarms in one and two family dwellings and multifamily housing that were not subject to state building code requirements for carbon monoxide alarm placement or location at the time of construction.

(3) In adopting rules under this section, the State Fire Marshal shall give consideration to state building code requirements and any standards adopted by national safety organizations.

(4) Notwithstanding ORS 476.030, State Fire Marshal rules adopted under this section shall apply for all governmental subdivisions in the state. A governmental subdivision, as defined in ORS 476.005 may not enact or enforce any local ordinance, rule or regulation regarding the design, inspection, testing, maintenance, placement or location of carbon monoxide alarms.

SECTION 5. (1) If a rental dwelling unit that is subject to ORS chapter 90 has a carbon monoxide source or is located within a structure having a carbon monoxide source, the landlord shall ensure that the dwelling unit has one or more carbon monoxide alarms installed in compliance with State Fire Marshal rules and the state building code. The landlord shall provide the tenant of the dwelling unit with a written notice containing instructions for testing of the alarms. The landlord shall provide the written notice to the tenant no later than at the time that the tenant first takes possession of the premises.

(2) If the landlord receives written notice from the tenant of a deficiency in a carbon monoxide alarm, other than dead batteries, the landlord shall repair or replace the alarm. Supplying and maintaining a carbon monoxide alarm required under this section is a habitable condition requirement under ORS 90.320.

SECTION 6. (1) As used in this section, "tamper" includes, but is not limited to, the removal of working batteries.

(2) Except as otherwise provided in this section, a person may not remove or tamper with a carbon monoxide alarm installed in a one and two family dwelling or multifamily housing. This section does not prohibit the removal of, or tampering with, a carbon monoxide alarm:

(a) For the purpose of replacing a defective alarm or conforming the installation of the alarm with State Fire Marshal rules;

(b) In a dwelling or housing that is being demolished or converted to nonresidential use; or

(c) For the period that the removal or tampering is necessary for an active process of remodeling or renovating the installation location.

SECTION 7. Section 8 of this 2009 Act is added to and made a part of ORS chapter 455.

SECTION 8. (1) As used in this section, “carbon monoxide alarm” has the meaning given that term in section 1 of this 2009 Act.

(2) A carbon monoxide alarm is required in a structure that:

(a) Is new construction or that undergoes reconstruction, alteration or repair for which a building permit is required; and

(b) Is identified under the structural specialty code as a residential Group R structure.

(3) A carbon monoxide alarm required by this section must be installed in accordance with the manufacturer’s instructions and any applicable requirements of the state building code.

SECTION 9. Section 10 of this 2009 Act is added to and made a part of ORS 90.100 to 90.465.

SECTION 10. (1) As used in this section, “carbon monoxide alarm” and “carbon monoxide source” have the meanings given those terms in section 1 of this 2009 Act.

(2) A landlord may not enter into a rental agreement creating a new tenancy in a dwelling unit that contains a carbon monoxide source or that is within a structure that contains a carbon monoxide source unless, at the time the tenant takes possession of the dwelling unit, the dwelling unit contains one or more properly functioning carbon monoxide alarms installed in compliance with State Fire Marshal rules and with any applicable requirements of the state building code. The landlord shall provide a new tenant with alarm testing instructions as described in section 5 of this 2009 Act.

(3) If a carbon monoxide alarm is battery-operated or has a battery-operated backup system, the landlord shall supply working batteries for the alarm at the beginning of a new tenancy.

SECTION 11. ORS 90.302 is amended to read:

90.302. (1) Except as specifically provided otherwise in this chapter, a landlord may require the payment of a fee, if the fee is related to and designated as being charged for a specific reasonably anticipated landlord expense. A landlord shall provide a receipt for the fee, and the receipt or a written rental agreement shall describe the anticipated landlord expense to be covered by the fee and describe the landlord’s duties under subsection (4) of this section.

(2) Except as provided in subsection (3) of this section, a landlord may not charge a fee more than once, at the beginning of or during the tenancy.

(3) A landlord may charge a fee more than once, at the beginning of or during the tenancy, for:

(a) A late rent payment, pursuant to ORS 90.260;

(b) A dishonored check, pursuant to ORS 30.701 (5);

(c) Removal or tampering with a properly functioning smoke alarm, [or] smoke detector **or carbon monoxide alarm**, as provided in ORS 90.325 [(7)] (2), if a written rental agreement provides for a fee for that removal or tampering; and

(d) Any other noncompliance by the tenant with a written rental agreement that provides for a fee for that noncompliance, provided that the fee may not be excessive.

(4) A landlord may not be required to account for or return to the tenant any fee. Upon termination of a tenancy and delivery of possession, a landlord shall first apply any fee to the related landlord expense as reasonably assessed against the tenant, before applying the tenant’s security deposit, if any, to that expense.

(5) Nonpayment of a fee is not grounds for termination of a rental agreement for nonpayment of rent under ORS 90.394, but is grounds for termination of a rental agreement for cause under ORS 90.392 or 90.630 (1).

(6) This section does not apply to attorney fees awarded pursuant to ORS 90.255 or to applicant screening charges paid pursuant to ORS 90.295.

SECTION 12. ORS 90.320 is amended to read:

90.320. (1) A landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition. For purposes of this section, a dwelling unit shall be considered uninhabitable if it substantially lacks:

(a) Effective waterproofing and weather protection of roof and exterior walls, including windows and doors;

(b) Plumbing facilities [*which*] **that** conform to applicable law in effect at the time of installation, and maintained in good working order;

(c) A water supply approved under applicable law[*, which*] **that** is:

(A) Under the control of the tenant or landlord and is capable of producing hot and cold running water;

(B) Furnished to appropriate fixtures;

(C) Connected to a sewage disposal system approved under applicable law; and

(D) Maintained so as to provide safe drinking water and to be in good working order to the extent that the system can be controlled by the landlord;

(d) Adequate heating facilities [*which*] **that** conform to applicable law at the time of installation and maintained in good working order;

(e) Electrical lighting with wiring and electrical equipment [*which*] **that** conform to applicable law at the time of installation and maintained in good working order;

(f) Buildings, grounds and appurtenances at the time of the commencement of the rental agreement in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, and all areas under control of the landlord kept in every part safe for normal and reasonably foreseeable uses, clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin;

(g) Except as otherwise provided by local ordinance or by written agreement between the landlord and the tenant, an adequate number of appropriate receptacles for garbage and rubbish in clean condition and good repair at the time of the commencement of the rental agreement, and the landlord shall provide and maintain appropriate serviceable receptacles thereafter and arrange for their removal;

(h) Floors, walls, ceilings, stairways and railings maintained in good repair;

(i) Ventilating, air conditioning and other facilities and appliances, including elevators, maintained in good repair if supplied or required to be supplied by the landlord;

(j) Safety from fire hazards, including a working smoke alarm or smoke detector, with working batteries if solely battery-operated, provided only at the beginning of any new tenancy when the tenant first takes possession of the premises, as provided in ORS 479.270, but not to include the tenant's testing of the smoke alarm or smoke detector as provided in ORS 90.325 [(6)] (1); [*or*]

(k) A carbon monoxide alarm, and the dwelling unit or the structure in which the dwelling unit is a part contains a carbon monoxide source as defined in section 1 of this 2009 Act; or

[(*k*)] **(L)** Working locks for all dwelling entrance doors, and, unless contrary to applicable law, latches for all windows, by which access may be had to that portion of the premises [*which*] **that** the tenant is entitled under the rental agreement to occupy to the exclusion of others and keys for [*such*] **those** locks [*which*] **that** require keys.

(2) The landlord and tenant may agree in writing that the tenant is to perform specified repairs, maintenance tasks and minor remodeling only if:

(a) The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord;

(b) The agreement does not diminish the obligations of the landlord to other tenants in the premises; and

(c) The terms and conditions of the agreement are clearly and fairly disclosed and adequate consideration for the agreement is specifically stated.

(3) Any provisions of this section that reasonably apply only to a structure that is used as a home, residence or sleeping place shall not apply to a manufactured dwelling, recreational vehicle or floating home where the tenant owns the manufactured dwelling, recreational vehicle or floating home, rents the space and, in the case of a dwelling or home, the space is not in a facility. Manu-

factured dwelling or floating home tenancies in which the tenant owns the dwelling or home and rents space in a facility shall be governed by ORS 90.730, not by this section.

SECTION 13. ORS 90.325 is amended to read:

90.325. (1) The tenant shall:

[(1)] (a) Use the parts of the premises including the living room, bedroom, kitchen, bathroom and dining room in a reasonable manner considering the purposes for which they were designed and intended.[;]

[(2)] (b) Keep all areas of the premises under control of the tenant in every part as clean, sanitary and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin, as the condition of the premises permits and to the extent that the tenant is responsible for causing the problem. The tenant shall cooperate to a reasonable extent in assisting the landlord in any reasonable effort to remedy the problem.[;]

[(3)] (c) Dispose from the dwelling unit all ashes, garbage, rubbish and other waste in a clean, safe and legal manner. With regard to needles, syringes and other infectious waste, as defined in ORS 459.386, the tenant may not dispose of these items by placing them in garbage receptacles or in any other place or manner except as authorized by state and local governmental agencies[;].

[(4)] (d) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits.[;]

[(5)] (e) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances including elevators in the premises.[;]

[(6)] (f) Test at least once every six months and replace batteries as needed in any smoke alarm, [or] smoke detector **or carbon monoxide alarm** provided by the landlord and notify the landlord in writing of any operating deficiencies. [as described in ORS 479.275;]

[(7) *Not remove or tamper with a properly functioning smoke alarm or smoke detector, including removing any working batteries, as provided in ORS 479.300;*]

[(8) *Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and*]

[(9)] (g) Behave and require other persons on the premises with the consent of the tenant to behave in a manner that will not disturb the peaceful enjoyment of the premises by neighbors.

(2) A tenant may not:

(a) Remove or tamper with a smoke alarm, smoke detector or carbon monoxide alarm as described in ORS 479.300 or section 6 of this 2009 Act.

(b) Deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so.

SECTION 14. 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.

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

Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:

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

Initial only the exclusion you wish to claim.

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

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

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

_____ This sale or transfer is by a governmental agency.

Signature(s) of Seller claiming exclusion
Date _____

Buyer(s) to acknowledge Seller's claim
Date _____

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

Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

**(NOT A WARRANTY)
(ORS 105.464)**

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

DISCLOSURES 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. BUYER HAS FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S SEPARATE SIGNED WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S DISCLOSURE STATEMENT, UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTERING INTO A SALE AGREEMENT.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY, BUYER IS ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF A QUALIFIED SPECIALIST TO INSPECT THE PROPERTY ON BUYER'S BEHALF INCLUDING, FOR EXAMPLE, ONE OR MORE OF THE FOLLOWING: ARCHITECTS, ENGINEERS, PLUMBERS, ELECTRICIANS, ROOFERS, ENVIRONMENTAL INSPECTORS, BUILDING INSPECTORS, CERTIFIED HOME INSPECTORS, OR PEST AND DRY ROT INSPECTORS.

Seller _____ is/ _____ is not occupying the property.

I. SELLER'S REPRESENTATIONS:

The following are representations made 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 any real estate licensee engaged by the seller or the buyer.

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

1. TITLE

- A. Do you have legal authority to sell the property? []Yes []No []Unknown
- *B. Is title to the property subject to any of the following: []Yes []No []Unknown
 - (1) First right of refusal
 - (2) Option
 - (3) Lease or rental agreement
 - (4) Other listing
 - (5) Life estate?
- *C. Is the property being transferred an unlawfully established unit of land? []Yes []No []Unknown
- *D. Are there any encroachments, boundary agreements, boundary disputes or recent boundary changes? []Yes []No []Unknown
- *E. Are there any rights of way, easements, licenses, access limitations or claims that may affect your interest in the property? []Yes []No []Unknown
- *F. Are there any agreements for joint maintenance of an easement or right of way? []Yes []No []Unknown
- *G. Are there any governmental studies, designations, zoning overlays, surveys or notices that would affect the property? []Yes []No []Unknown
- *H. Are there any pending or existing governmental assessments against the property? []Yes []No []Unknown
- *I. Are there any zoning violations or nonconforming uses? []Yes []No []Unknown

- *J. Is there a boundary survey for the property?]Yes]No]Unknown
- *K. Are there any covenants, conditions, restrictions or private assessments that affect the property?]Yes]No]Unknown
- *L. Is the property subject to any special tax assessment or tax treatment that may result in levy of additional taxes if the property is sold?]Yes]No]Unknown
2. WATER
- A. Household water
- (1) The source of the water is (check ALL that apply):
]Public]Community]Private
]Other _____
- (2) Water source information:
- *a. Does the water source require a water permit?]Yes]No]Unknown
If yes, do you have a permit?]Yes]No
- b. Is the water source located on the property?]Yes]No]Unknown
*If not, are there any written agreements for a shared water source?]Yes]No]Unknown]NA
- *c. Is there an easement (recorded or unrecorded) for your access to or maintenance of the water source?]Yes]No]Unknown
- d. If the source of water is from a well or spring, have you had any of the following in the past 12 months?]Flow test]Bacteria test]Chemical contents test]Yes]No]Unknown]NA
- *e. Are there any water source plumbing problems or needed repairs?]Yes]No]Unknown
- (3) Are there any water treatment systems for the property?]Yes]No]Unknown
]Leased]Owned
- B. Irrigation
- (1) Are there any] water rights or] other irrigation rights for the property?]Yes]No]Unknown
- *(2) If any exist, has the irrigation water been used during the last five-year period?]Yes]No]Unknown]NA
- *(3) Is there a water rights certificate or other written evidence available?]Yes]No]Unknown]NA
- C. Outdoor sprinkler system
- (1) Is there an outdoor sprinkler system for the property?]Yes]No]Unknown
- (2) Has a back flow valve been installed?]Yes]No]Unknown]NA
- (3) Is the outdoor sprinkler system operable?]Yes]No]Unknown]NA
3. SEWAGE SYSTEM
- A. Is the property connected to a public or community sewage system?]Yes]No]Unknown
- B. Are there any new public or community sewage systems proposed for the property?]Yes]No]Unknown
- C. Is the property connected to an on-site septic

- system? []Yes []No []Unknown
 If yes, was it installed by permit? []Yes []No []Unknown []NA
 *Has the system been repaired or altered? []Yes []No []Unknown
 Has the condition of the system been
 evaluated and a report issued? []Yes []No []Unknown
 Has it ever been pumped? []Yes []No []Unknown []NA
 If yes, when? _____
- *D. Are there any sewage system problems or
 needed repairs? []Yes []No []Unknown
- E. Does your sewage system require on-site
 pumping to another level? []Yes []No []Unknown
4. DWELLING INSULATION
- A. Is there insulation in the:
- (1) Ceiling? []Yes []No []Unknown
 (2) Exterior walls? []Yes []No []Unknown
 (3) Floors? []Yes []No []Unknown
- B. Are there any defective insulated doors or
 windows? []Yes []No []Unknown
5. DWELLING STRUCTURE
- *A. Has the roof leaked? []Yes []No []Unknown
 If yes, has it been repaired? []Yes []No []Unknown []NA
- B. Are there any additions, conversions or
 remodeling? []Yes []No []Unknown
 If yes, was a building permit required? []Yes []No []Unknown []NA
 If yes, was a building permit obtained? []Yes []No []Unknown []NA
 If yes, was final inspection obtained? []Yes []No []Unknown []NA
- C. Are there smoke alarms or detectors? []Yes []No []Unknown
- [D. *Is there a woodstove included in the sale?*
Make _____ []Yes []No []Unknown
- *E. *Has pest and dry rot, structural or*
'whole house' inspection been done
within the last three years? []Yes []No []Unknown
- *F. *Are there any moisture problems, areas of*
water penetration, mildew odors or other
moisture conditions (especially in the
basement)? []Yes []No []Unknown
**If yes, explain on attached sheet the frequency and*
extent of problem and any insurance claims,
repairs or remediation done.
- G. *Is there a sump pump on the property?* []Yes []No []Unknown
- H. *Are there any materials used in the*
construction of the structure that are or
have been the subject of a recall, class
action suit, settlement or litigation? []Yes []No []Unknown
If yes, what are the materials? _____]
- D. Are there carbon monoxide alarms?** []Yes []No []Unknown
- E. Is there a woodstove included in the sale?** []Yes []No []Unknown
Make _____
- *F. Has pest and dry rot, structural or**
'whole house' inspection been done

- within the last three years?]Yes]No]Unknown
- *G. Are there any moisture problems, areas of water penetration, mildew odors or other moisture conditions (especially in the basement)?**]Yes]No]Unknown
- *If yes, explain on attached sheet the frequency and extent of problem and any insurance claims, repairs or remediation done.**
- H. Is there a sump pump on the property?**]Yes]No]Unknown
- I. Are there any materials used in the construction of the structure that are or have been the subject of a recall, class action suit, settlement or litigation?**]Yes]No]Unknown
- If yes, what are the materials? _____**
- (1) Are there problems with the materials?]Yes]No]Unknown]NA
- (2) Are the materials covered by a warranty?]Yes]No]Unknown]NA
- (3) Have the materials been inspected?]Yes]No]Unknown]NA
- (4) Have there ever been claims filed for these materials by you or by previous owners?]Yes]No]Unknown]NA
- If yes, when? _____
- (5) Was money received?]Yes]No]Unknown]NA
- (6) Were any of the materials repaired or replaced?]Yes]No]Unknown]NA
- 6. DWELLING SYSTEMS AND FIXTURES**
- If the following systems or fixtures are included in the purchase price, are they in good working order on the date this form is signed?
- A. Electrical system, including wiring, switches, outlets and service]Yes]No]Unknown
- B. Plumbing system, including pipes, faucets, fixtures and toilets]Yes]No]Unknown
- C. Water heater tank]Yes]No]Unknown
- D. Garbage disposal]Yes]No]Unknown]NA
- E. Built-in range and oven]Yes]No]Unknown]NA
- F. Built-in dishwasher]Yes]No]Unknown]NA
- G. Sump pump]Yes]No]Unknown]NA
- H. Heating and cooling systems]Yes]No]Unknown]NA
- I. Security system]Owned]Leased]Yes]No]Unknown]NA
- J. Are there any materials or products used in the systems and fixtures that are or have been the subject of a recall, class action settlement or other litigations?**]Yes]No]Unknown
- If yes, what product? _____**
- (1) Are there problems with the product?]Yes]No]Unknown
- (2) Is the product covered by a warranty?]Yes]No]Unknown
- (3) Has the product been inspected?]Yes]No]Unknown
- (4) Have claims been filed for this product by you or by previous owners?]Yes]No]Unknown
- If yes, when? _____
- (5) Was money received?]Yes]No]Unknown
- (6) Were any of the materials or products repaired

or replaced?]Yes]No]Unknown

7. COMMON INTEREST

- A. Is there a Home Owners' Association or other governing entity?]Yes]No]Unknown
Name of Association or Other Governing Entity _____
Contact Person _____
Address _____
Phone Number _____
- B. Regular periodic assessments: \$_____ per]Month]Year]Other _____
- *C. Are there any pending or proposed special assessments?]Yes]No]Unknown
- D. Are there shared 'common areas' or joint maintenance agreements for facilities like walls, fences, pools, tennis courts, walkways or other areas co-owned in undivided interest with others?]Yes]No]Unknown
- E. Is the Home Owners' Association or other governing entity a party to pending litigation or subject to an unsatisfied judgment?]Yes]No]Unknown]NA
- F. Is the property in violation of recorded covenants, conditions and restrictions or in violation of other bylaws or governing rules, whether recorded or not?]Yes]No]Unknown]NA

8. GENERAL

- A. Are there problems with settling, soil, standing water or drainage on the property or in the immediate area?]Yes]No]Unknown
- B. Does the property contain fill?]Yes]No]Unknown
- C. Is there any material damage to the property or any of the structure(s) from fire, wind, floods, beach movements, earthquake, expansive soils or landslides?]Yes]No]Unknown
- D. Is the property in a designated floodplain?]Yes]No]Unknown
- E. Is the property in a designated slide or other geologic hazard zone?]Yes]No]Unknown
- *F. Has any portion of the property been tested or treated for asbestos, formaldehyde, radon gas, lead-based paint, mold, fuel or chemical storage tanks or contaminated soil or water?]Yes]No]Unknown
- G. Are there any tanks or underground storage tanks (e.g., septic, chemical, fuel, etc.) on the property?]Yes]No]Unknown
- H. Has the property ever been used as an illegal drug manufacturing or distribution site?]Yes]No]Unknown
*If yes, was a Certificate of Fitness issued?]Yes]No]Unknown
- *I. Has the property been classified as forestland-urban interface?]Yes]No]Unknown

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

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

BUYER _____ DATE _____

BUYER _____ DATE _____

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

_____ Real Estate Licensee

_____ Real Estate Firm

Date received by agent _____

SECTION 14a. If Senate Bill 102 becomes law, section 14 of this 2009 Act (amending ORS 105.464) is repealed and ORS 105.464, as amended by section 18, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 102), 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.

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

Section 1. EXCLUSION FROM ORS 105.462 TO 105.490:

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

Initial only the exclusion you wish to claim.

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

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

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

_____ This sale or transfer is by a governmental agency.

Signature(s) of Seller claiming exclusion
Date _____

Buyer(s) to acknowledge Seller's claim
Date _____

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

Section 2. SELLER'S PROPERTY DISCLOSURE STATEMENT

(NOT A WARRANTY)
(ORS 105.464)

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

DISCLOSURES 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. BUYER HAS FIVE DAYS FROM THE SELLER'S DELIVERY OF THIS SELLER'S DISCLOSURE STATEMENT TO REVOKE BUYER'S OFFER BY DELIVERING BUYER'S SEPARATE SIGNED WRITTEN STATEMENT OF REVOCATION TO THE SELLER DISAPPROVING THE SELLER'S DISCLOSURE STATEMENT, UNLESS BUYER WAIVES THIS RIGHT AT OR PRIOR TO ENTERING INTO A SALE AGREEMENT.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY, BUYER IS ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF A QUALIFIED SPECIALIST TO INSPECT THE PROPERTY ON BUYER'S BEHALF INCLUDING, FOR EXAMPLE, ONE OR MORE OF THE FOLLOWING: ARCHITECTS, ENGINEERS, PLUMBERS, ELECTRICIANS, ROOFERS, ENVIRONMENTAL INSPECTORS, BUILDING INSPECTORS, CERTIFIED HOME INSPECTORS, OR PEST AND DRY ROT INSPECTORS.

Seller _____ is/ _____ is not occupying the property.

I. SELLER'S REPRESENTATIONS:

The following are representations made 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 any real estate licensee engaged by the seller or the buyer.

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

1. TITLE

- A. Do you have legal authority to sell the property? []Yes []No []Unknown
- *B. Is title to the property subject to any of the following: []Yes []No []Unknown
 - (1) First right of refusal
 - (2) Option
 - (3) Lease or rental agreement
 - (4) Other listing
 - (5) Life estate?
- *C. Is the property being transferred an unlawfully established unit of land? []Yes []No []Unknown
- *D. Are there any encroachments, boundary agreements, boundary disputes or recent boundary changes? []Yes []No []Unknown
- *E. Are there any rights of way, easements, licenses, access limitations or claims that may affect your interest in the property? []Yes []No []Unknown
- *F. Are there any agreements for joint maintenance of an easement or right of way? []Yes []No []Unknown
- *G. Are there any governmental studies, designations, zoning overlays, surveys or notices that would affect the property? []Yes []No []Unknown
- *H. Are there any pending or existing governmental assessments against the property? []Yes []No []Unknown
- *I. Are there any zoning violations or nonconforming uses? []Yes []No []Unknown
- *J. Is there a boundary survey for the property? []Yes []No []Unknown
- *K. Are there any covenants, conditions, restrictions or private assessments that affect the property? []Yes []No []Unknown
- *L. Is the property subject to any special tax assessment or tax treatment that may result in levy of additional taxes if the property is sold? []Yes []No []Unknown

2. WATER

- A. Household water
 - (1) The source of the water is (check ALL that apply):
 - []Public []Community []Private
 - []Other _____
 - (2) Water source information:
 - *a. Does the water source require a water permit? []Yes []No []Unknown
 - If yes, do you have a permit? []Yes []No
 - b. Is the water source located on the property? []Yes []No []Unknown

- *If not, are there any written agreements for a shared water source? []Yes []No []Unknown []NA
- *c. Is there an easement (recorded or unrecorded) for your access to or maintenance of the water source? []Yes []No []Unknown
- d. If the source of water is from a well or spring, have you had any of the following in the past 12 months? []Flow test []Bacteria test []Chemical contents test []Yes []No []Unknown []NA
- *e. Are there any water source plumbing problems or needed repairs? []Yes []No []Unknown
- (3) Are there any water treatment systems for the property? []Yes []No []Unknown
[]Leased []Owned
- B. Irrigation
- (1) Are there any [] water rights or [] other irrigation rights for the property? []Yes []No []Unknown
- * (2) If any exist, has the irrigation water been used during the last five-year period? []Yes []No []Unknown []NA
- * (3) Is there a water rights certificate or other written evidence available? []Yes []No []Unknown []NA
- C. Outdoor sprinkler system
- (1) Is there an outdoor sprinkler system for the property? []Yes []No []Unknown
- (2) Has a back flow valve been installed? []Yes []No []Unknown []NA
- (3) Is the outdoor sprinkler system operable? []Yes []No []Unknown []NA
3. SEWAGE SYSTEM
- A. Is the property connected to a public or community sewage system? []Yes []No []Unknown
- B. Are there any new public or community sewage systems proposed for the property? []Yes []No []Unknown
- C. Is the property connected to an on-site septic system? []Yes []No []Unknown
If yes, was it installed by permit? []Yes []No []Unknown []NA
*Has the system been repaired or altered? []Yes []No []Unknown
Has the condition of the system been evaluated and a report issued? []Yes []No []Unknown
Has it ever been pumped? []Yes []No []Unknown []NA
If yes, when? _____
- *D. Are there any sewage system problems or needed repairs? []Yes []No []Unknown
- E. Does your sewage system require on-site pumping to another level? []Yes []No []Unknown
4. DWELLING INSULATION
- A. Is there insulation in the:
- (1) Ceiling? []Yes []No []Unknown
- (2) Exterior walls? []Yes []No []Unknown
- (3) Floors? []Yes []No []Unknown
- B. Are there any defective insulated doors or windows? []Yes []No []Unknown

5. DWELLING STRUCTURE
- *A. Has the roof leaked?]Yes]No]Unknown
 If yes, has it been repaired?]Yes]No]Unknown]NA
- B. Are there any additions, conversions or remodeling?]Yes]No]Unknown
 If yes, was a building permit required?]Yes]No]Unknown]NA
 If yes, was a building permit obtained?]Yes]No]Unknown]NA
 If yes, was final inspection obtained?]Yes]No]Unknown]NA
- C. Are there smoke alarms or detectors?]Yes]No]Unknown
- [D. *Is there a woodstove or fireplace insert included in the sale?*]Yes]No]Unknown
**If yes, what is the make?*
-
- *If yes, was it installed with a permit?*]Yes]No]Unknown
**If yes, is a certification label issued by the United States Environmental Protection Agency (EPA) or the Department of Environmental Quality (DEQ) affixed to it?*]Yes]No]Unknown
- *E. *Has pest and dry rot, structural or 'whole house' inspection been done within the last three years?*]Yes]No]Unknown
- *F. *Are there any moisture problems, areas of water penetration, mildew odors or other moisture conditions (especially in the basement)?*]Yes]No]Unknown
**If yes, explain on attached sheet the frequency and extent of problem and any insurance claims, repairs or remediation done.*
- G. *Is there a sump pump on the property?*]Yes]No]Unknown
- H. *Are there any materials used in the construction of the structure that are or have been the subject of a recall, class action suit, settlement or litigation?*]Yes]No]Unknown
If yes, what are the materials? _____]
- D. Are there carbon monoxide alarms?**]Yes]No]Unknown
- E. Is there a woodstove or fireplace insert included in the sale?**]Yes]No]Unknown
***If yes, what is the make?**
-
- *If yes, was it installed with a permit?**]Yes]No]Unknown
***If yes, is a certification label issued by the United States Environmental Protection Agency (EPA) or the Department of Environmental Quality (DEQ) affixed to it?**]Yes]No]Unknown
- *F. **Has pest and dry rot, structural or 'whole house' inspection been done within the last three years?**]Yes]No]Unknown
- *G. **Are there any moisture problems, areas of water penetration, mildew odors or other moisture conditions (especially in the basement)?**]Yes]No]Unknown
***If yes, explain on attached sheet the frequency**

and extent of problem and any insurance claims, repairs or remediation done.

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

I. Are there any materials used in the construction of the structure that are or have been the subject of a recall, class action suit, settlement or litigation?]Yes]No]Unknown

If yes, what are the materials? _____

- (1) Are there problems with the materials?]Yes]No]Unknown]NA
- (2) Are the materials covered by a warranty?]Yes]No]Unknown]NA
- (3) Have the materials been inspected?]Yes]No]Unknown]NA
- (4) Have there ever been claims filed for these materials by you or by previous owners?]Yes]No]Unknown]NA
If yes, when? _____
- (5) Was money received?]Yes]No]Unknown]NA
- (6) Were any of the materials repaired or replaced?]Yes]No]Unknown]NA

6. DWELLING SYSTEMS AND FIXTURES

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

- A. Electrical system, including wiring, switches, outlets and service]Yes]No]Unknown
- B. Plumbing system, including pipes, faucets, fixtures and toilets]Yes]No]Unknown
- C. Water heater tank]Yes]No]Unknown
- D. Garbage disposal]Yes]No]Unknown]NA
- E. Built-in range and oven]Yes]No]Unknown]NA
- F. Built-in dishwasher]Yes]No]Unknown]NA
- G. Sump pump]Yes]No]Unknown]NA
- H. Heating and cooling systems]Yes]No]Unknown]NA
- I. Security system]Owned]Leased]Yes]No]Unknown]NA

J. Are there any materials or products used in the systems and fixtures that are or have been the subject of a recall, class action settlement or other litigations?]Yes]No]Unknown

If yes, what product? _____

- (1) Are there problems with the product?]Yes]No]Unknown
- (2) Is the product covered by a warranty?]Yes]No]Unknown
- (3) Has the product been inspected?]Yes]No]Unknown
- (4) Have claims been filed for this product by you or by previous owners?]Yes]No]Unknown
If yes, when? _____
- (5) Was money received?]Yes]No]Unknown
- (6) Were any of the materials or products repaired or replaced?]Yes]No]Unknown

7. COMMON INTEREST

A. Is there a Home Owners' Association or other governing entity?]Yes]No]Unknown
Name of Association or Other Governing _____

Entity _____
 Contact Person _____
 Address _____
 Phone Number _____

- B. Regular periodic assessments: \$_____ per Month Year Other _____
- *C. Are there any pending or proposed special assessments? Yes No Unknown
- D. Are there shared 'common areas' or joint maintenance agreements for facilities like walls, fences, pools, tennis courts, walkways or other areas co-owned in undivided interest with others? Yes No Unknown
- E. Is the Home Owners' Association or other governing entity a party to pending litigation or subject to an unsatisfied judgment? Yes No Unknown N/A
- F. Is the property in violation of recorded covenants, conditions and restrictions or in violation of other bylaws or governing rules, whether recorded or not? Yes No Unknown N/A

8. GENERAL

- A. Are there problems with settling, soil, standing water or drainage on the property or in the immediate area? Yes No Unknown
- B. Does the property contain fill? Yes No Unknown
- C. Is there any material damage to the property or any of the structure(s) from fire, wind, floods, beach movements, earthquake, expansive soils or landslides? Yes No Unknown
- D. Is the property in a designated floodplain? Yes No Unknown
- E. Is the property in a designated slide or other geologic hazard zone? Yes No Unknown
- *F. Has any portion of the property been tested or treated for asbestos, formaldehyde, radon gas, lead-based paint, mold, fuel or chemical storage tanks or contaminated soil or water? Yes No Unknown
- G. Are there any tanks or underground storage tanks (e.g., septic, chemical, fuel, etc.) on the property? Yes No Unknown
- H. Has the property ever been used as an illegal drug manufacturing or distribution site?
 *If yes, was a Certificate of Fitness issued? Yes No Unknown
- *I. Has the property been classified as forestland-urban interface? Yes No Unknown

9. 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.

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

BUYER _____ DATE _____

BUYER _____ DATE _____

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

_____ Real Estate Licensee

_____ Real Estate Firm

Date received by agent _____

SECTION 15. Sections 1 to 6, 8 and 10 of this 2009 Act shall be known and may be cited as the Lofgren and Zander Memorial Act.

SECTION 16. (1) Sections 2, 3, 5 and 8 of this 2009 Act and the amendments to ORS 105.464 by sections 14 and 14a of this 2009 Act become operative on April 1, 2011.

(2) Section 10 of this 2009 Act and the amendments to ORS 90.320 by section 12 of this 2009 Act become operative on July 1, 2010.

SECTION 17. (1) Sections 2 and 3 of this 2009 Act apply to a conveyance of fee title that is recorded on or after April 1, 2011.

(2) Section 10 of this 2009 Act and the amendments to ORS 90.320 by section 12 of this 2009 Act apply to rental agreements that a landlord enters into on or after July 1, 2010.

(3) The amendments to ORS 105.464 by sections 14 and 14a of this 2009 Act apply to property disclosures made by a seller on or after April 1, 2011, to a buyer making a written offer.

SECTION 18. The State Fire Marshal shall complete the adoption of rules under section 4 of this 2009 Act in time for the rules to become effective July 1, 2010.

SECTION 19. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House May 22, 2009

Received by Governor:

Repassed by House June 15, 2009

.....M.,....., 2009

Approved:

.....
Chief Clerk of House

.....M.,....., 2009

.....
Speaker of House

.....
Governor

Passed by Senate June 11, 2009

Filed in Office of Secretary of State:

.....M.,....., 2009

.....
President of Senate

.....
Secretary of State