

# House Bill 2190

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy and Environment)

## 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 real property to obtain septic system evaluation report in form determined by Department of Environmental Quality and provide copy to each buyer that makes written offer to purchase. Allows buyer to withdraw buyer's offer within seven days after receiving septic system evaluation report or to revoke offer anytime before closing for failure or refusal of seller to provide septic system evaluation report with seller's disclosure document.

## A BILL FOR AN ACT

1  
2 Relating to evaluation of residential septic system; creating new provisions; and amending ORS  
3 105.462, 105.475 and 105.485.

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

5 **SECTION 1.** ORS 105.462 is amended to read:

6 105.462. For purposes of ORS 105.462 to 105.490:

7 (1) "Financial institution" [*has the meaning given that term in ORS 706.008. "Financial*  
8 *institution" includes a*] **means the persons and institutions specified in the definition of "fi-**  
9 **nanancial institution" in ORS 706.008 and the following persons and institutions:**

10 (a) Trust company, as that term is defined in ORS 706.008;

11 (b) Mortgage banker, as that term is defined in ORS 86A.100;

12 (c) Mortgage broker, as that term is defined in ORS 86A.100; and

13 (d) Consumer finance company that is licensed under ORS chapter 725.

14 (2) "Real estate licensee" has the meaning given that term in ORS 696.010.

15 (3) **"Seller's disclosure document" means:**

16 (a) **A seller's property disclosure statement required by ORS 105.464; and**

17 (b) **A septic system evaluation report required by section 3 of this 2015 Act.**

18 (4) **"Septic system" means a domestic septage treatment component or system, as de-**  
19 **scribed in ORS 454.782 (3), or a component or system that is similar to components or sys-**  
20 **tems described in ORS 454.782 (3).**

21 **SECTION 2.** Section 3 of this 2015 Act is added to and made a part of ORS 105.462 to  
22 105.490.

23 **SECTION 3.** (1) **Except as provided in ORS 105.475 (4), when real property described in**  
24 **ORS 105.465 (1) has a septic system, the seller shall have a septic system evaluation per-**  
25 **formed.**

26 (2) **The septic system evaluation specified in subsection (1) of this section must be per-**  
27 **formed by a person that:**

28 (a) **Has a certificate of registration issued pursuant to ORS 672.002 to 672.325;**

29 (b) **Has a registration issued pursuant to ORS 700.030 or 700.053;**

**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 (c) Is accredited as an NSF International wastewater system inspector; or

2 (d) Has any other accreditation or certification for septic system evaluation that is ap-  
3 proved by the Department of Environmental Quality.

4 (3) The septic system evaluation specified in subsection (1) of this section must include:

5 (a) An examination of all records related to the septic system, including but not limited  
6 to permit records, pumping records and other maintenance records; and

7 (b) A field evaluation of all components of the septic system.

8 (4) After the septic system evaluation is performed pursuant to this section, the person  
9 who evaluates the septic system shall prepare a written report, on a form approved by the  
10 department, that describes the findings of the septic system evaluation, including but not  
11 limited to findings regarding:

12 (a) Performance of the septic system;

13 (b) Any need for maintenance and repairs;

14 (c) The type, size, capacity and condition of the components of the septic system;

15 (d) The complete sketch of the septic system, which must show the location of and dis-  
16 tances between major components; and

17 (e) Evidence of septic system failures.

18 (5) The seller shall provide a potential buyer that has made a written offer to purchase  
19 with a copy of the written report described in subsection (4) of this section, and a buyer may  
20 withdraw the buyer's offer to purchase the real property up to seven days after receiving the  
21 copy of the written report.

22 (6) A septic system evaluation performed under this section is valid for two years after  
23 the date of the written report described in subsection (4) of this section.

24 (7) The department shall adopt by rule the form of a septic system evaluation required  
25 by this section.

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

27 105.475. (1) If a seller issues a seller's [*property disclosure statement*] **disclosure document** and  
28 a buyer has not then delivered to the seller a written statement waiving the buyer's right to revoke  
29 the buyer's offer, the buyer shall have five business days after delivery of the seller's [*property dis-*  
30 *closure statement*] **disclosure document** to revoke the buyer's offer by delivering to the seller a  
31 separate signed written statement of revocation disapproving the seller's disclosure.

32 (2) If a buyer fails to timely deliver to a seller a written statement revoking the buyer's offer,  
33 the buyer's right to revoke the buyer's offer expires.

34 (3) If a buyer closes the transaction, the buyer's right to revoke based on ORS 105.462 to  
35 105.490, 696.301 and 696.870 is terminated.

36 (4) If the seller fails or refuses to provide a seller's [*property disclosure statement*] **disclosure**  
37 **document** as required under this section, the buyer shall have a right of revocation until the right  
38 is terminated pursuant to subsection (3) of this section.

39 (5) If the buyer revokes the offer pursuant to this section, notwithstanding ORS 696.581, the  
40 buyer is entitled to immediate return of all deposits and other considerations delivered to any party  
41 or escrow agent with respect to the buyer's offer, and the buyer's offer is void.

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

45 (7) Any seller's [*property disclosure statement*] **disclosure document** issued by the seller is part

1 of and incorporated into the offer and the acceptance.

2 **SECTION 5.** ORS 105.485 is amended to read:

3 105.485. The burden of proof of lawful delivery of a seller's [*property disclosure statement*] **dis-**  
4 **closure document** and any amendment [*thereto*] **to the seller's disclosure document** is on the  
5 seller. The burden of proof of lawful delivery of a notice of revocation of a buyer's offer is on the  
6 buyer.

7 **SECTION 6.** Section 3 of this 2015 Act and the amendments to ORS 105.475 and 105.485  
8 by sections 4 and 5 of this 2015 Act apply to written offers to purchase real property tendered  
9 on or after the effective date of this 2015 Act.

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