

A-Engrossed
Senate Bill 353

Ordered by the Senate April 11
Including Senate Amendments dated April 11

Sponsored by COMMITTEE ON ENVIRONMENT AND LAND USE

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.

Modifies disclosure statement required in instruments transferring or contracting to transfer fee title to real property.

A BILL FOR AN ACT

1
2 Relating to disclosure required in instruments transferring fee title to real property; amending ORS
3 93.040.

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

5 **SECTION 1.** ORS 93.040 is amended to read:

6 93.040. (1) The following statement shall be included in the body of an instrument transferring
7 or contracting to transfer fee title to real property except for owner's sale agreements or earnest
8 money receipts, or both, as provided in subsection (2) of this section: "**BEFORE SIGNING OR**
9 **ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD**
10 **INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS**
11 **2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT [WILL] DOES NOT ALLOW USE OF**
12 **THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND**
13 **USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE**
14 **PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPRO-**
15 **PRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES [AND],**
16 **TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES**
17 **AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING**
18 **PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT**
19 **MEASURE 37 (2004))."**

20 (2) In all owner's sale agreements and earnest money receipts, there shall be included in the
21 body of the instrument the following statement: "THE PROPERTY DESCRIBED IN THIS INSTRU-
22 MENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES.
23 THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS[*WHICH*] **THAT**, IN
24 FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESI-
25 DENCE AND [*WHICH*] **THAT** LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES
26 AS DEFINED IN ORS 30.930 IN ALL ZONES. **BEFORE SIGNING OR ACCEPTING THIS IN-**
27 **STRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE**
28 **PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEAS-**

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 **URE 37 (2004)**). BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON AC-
2 QUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY
3 OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES [AND], **THE** EXIST-
4 ENCE OF FIRE PROTECTION FOR STRUCTURES **AND THE RIGHTS OF NEIGHBORING**
5 **PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT**
6 **MEASURE 37 (2004)).**”

7 (3) In all owners’ sale agreements and earnest money receipts subject to ORS 358.505, there
8 shall be included in the body of the instrument or by addendum the following statement: “THE
9 PROPERTY DESCRIBED IN THIS INSTRUMENT IS SUBJECT TO SPECIAL ASSESSMENT UN-
10 DER ORS 358.505. ORS 358.515 REQUIRES NOTIFICATION TO THE STATE HISTORIC PRESER-
11 VATION OFFICER OF SALE OR TRANSFER OF THIS PROPERTY.”

12 (4) [No] **An** action may **not** be maintained against the county recording officer for recording an
13 instrument that does not contain the statement required in subsection (1) or (2) of this section.

14 (5) [No] **An** action may **not** be maintained against any person for failure to include in the in-
15 strument **the statement required in subsection (1) or (2) of this section**, or for recording an
16 instrument that does not contain the statement required in subsection (1) or (2) of this section, un-
17 less the person acquiring or agreeing to acquire fee title to the real property would not have exe-
18 cuted or accepted the instrument but for the absence in the instrument of the statement required
19 by subsection (1) or (2) of this section. [No] **An** action may **not** be maintained by the person ac-
20 quiring or agreeing to acquire **fee** title to the real property against any person other than the per-
21 son transferring or contracting to transfer fee title to the real property.

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