

Union Calendar No. 349

111TH CONGRESS
2^D SESSION

H. R. 4888

[Report No. 111-604]

To revise the Forest Service Recreation Residence Program as it applies to units of the National Forest System derived from the public domain by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2010

Mr. HASTINGS of Washington (for himself, Mr. COSTA, Mr. BISHOP of Utah, Mr. McCLINTOCK, Mrs. LUMMIS, Mr. RADANOVICH, Mrs. McMORRIS RODGERS, Mr. SIMPSON, Mr. NUNES, Mr. CHAFFETZ, Mr. REHBERG, and Mr. HERGER) introduced the following bill; which was referred to the Committee on Natural Resources

SEPTEMBER 16, 2010

Additional sponsors: Mr. THOMPSON of California, Mr. PAULSEN, Mr. HUNTER, Mr. WALDEN, Ms. GIFFORDS, Ms. BORDALLO, Mr. McNERNEY, Ms. ZOE LOFGREN of California, Ms. BALDWIN, Mr. FARR, Ms. SPEIER, Ms. ESHOO, Ms. WOOLSEY, Mr. WU, Mr. KILDEE, Mr. DANIEL E. LUNGREN of California, and Mr. HELLER

SEPTEMBER 16, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 19, 2010]

A BILL

To revise the Forest Service Recreation Residence Program as it applies to units of the National Forest System derived from the public domain by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Cabin Fee Act of 2010”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Cabin user fees.

Sec. 4. Cabin transfer fees.

Sec. 5. Allocation of cabin user fee and cabin transfer fee revenue.

Sec. 6. Right of appeal and judicial review.

Sec. 7. Consistency with other law and rights.

Sec. 8. Regulations.

8 **SEC. 2. DEFINITIONS.**

9 *In this Act:*

10 (1) *AUTHORIZATION.*—*The terms “authorized”*
 11 *and “authorization” refer to the issuance of a special*
 12 *use permit for the use and occupancy of National*
 13 *Forest System land derived from the public domain*
 14 *by a cabin owner under the Recreation Residence*
 15 *Program.*

16 (2) *CABIN.*—*The term “cabin” means a pri-*
 17 *vately built and owned recreation residence and re-*
 18 *lated improvements on National Forest System land*
 19 *derived from the public domain that is authorized for*
 20 *private use and occupancy and may be sold or trans-*
 21 *ferred between private parties.*

1 (3) *CABIN OWNER.*—*The term “cabin owner”*
2 *means—*

3 (A) *a person authorized by the Secretary to*
4 *use and to occupy a cabin on National Forest*
5 *System land derived from the public domain;*
6 *and*

7 (B) *a trust or an heir or assigns of such a*
8 *person.*

9 (4) *CABIN TRANSFER FEE.*—*The term “cabin*
10 *transfer fee” means a fee paid to the United States*
11 *upon the transfer of a cabin between private parties*
12 *for money or other consideration that also includes*
13 *issuance of a new permit.*

14 (5) *CABIN USER FEE.*—*The term “cabin user*
15 *fee” means an annual fee paid to the United States*
16 *by a cabin owner pursuant to an authorization for*
17 *the use and occupancy of a cabin on National Forest*
18 *System land derived from the public domain.*

19 (6) *CURRENT CABIN USER FEE.*—*The term “cur-*
20 *rent cabin user fee” means the most recent cabin user*
21 *fee, which results from an annual adjustment to the*
22 *prior cabin user fee under section 3(d).*

23 (7) *LOT.*—*The term “lot” means a parcel of Na-*
24 *tional Forest System land derived from the public do-*

1 *main on which a person is authorized to build, use,*
2 *occupy, and maintain a cabin.*

3 (8) *NATIONAL FOREST SYSTEM LAND.*—*The term*
4 *“National Forest System land” is limited to National*
5 *Forest System land derived from the public domain.*

6 (9) *RECREATION RESIDENCE PROGRAM.*—*The*
7 *term “Recreation Residence Program” means the*
8 *Recreation Residence Program established pursuant*
9 *to the last paragraph under the heading “FOREST*
10 *SERVICE” in the Act of March 4, 1915 (38 Stat.*
11 *1101, chapter 144; 16 U.S.C. 497).*

12 (10) *SECRETARY.*—*The term “Secretary” means*
13 *the Secretary of Agriculture, acting through the Chief*
14 *of the Forest Service.*

15 (11) *TYPICAL LOT.*—*The term “typical lot”*
16 *means a cabin lot, or group of cabin lots, in a tract*
17 *that is selected for use in an appraisal as being rep-*
18 *resentative of, and that has similar value characteris-*
19 *tics as, other lots or groups of lots within the tract.*

20 **SEC. 3. CABIN USER FEES.**

21 (a) *PAYMENT OF CABIN USER FEES.*—

22 (1) *ANNUAL PAYMENT.*—*A cabin user fee shall be*
23 *paid annually by the cabin owner.*

24 (2) *INSTALLMENTS.*—*Payment of the cabin user*
25 *fee for a year may be made in two installments.*

1 **(b) INITIAL CABIN USER FEES.—**

2 **(1) ESTABLISHMENT.—***The Secretary shall estab-*
3 *lish initial cabin user fees in the manner required by*
4 *this subsection.*

5 **(2) ASSIGNMENT TO VALUE TIERS.—***Upon com-*
6 *pletion of the current appraisal cycle, as required by*
7 *paragraph (4), the Secretary shall assign each per-*
8 *mitted lot on National Forest System land to one of*
9 *five tiers based on the following:*

10 **(A)** *All appraised lot values shall be ad-*
11 *justed, or normalized, for price changes from its*
12 *date of value according to the national NAHB/*
13 *Wells Fargo Housing Opportunity Index prior to*
14 *tier assignment.*

15 **(B)** *The tiers shall be established according*
16 *to relative lot value, using all fully completed*
17 *appraisal data with lots having the lowest ad-*
18 *justed appraised value assigned to Tier 1 and*
19 *lots having the highest adjusted appraised value*
20 *assigned to Tier 5.*

21 **(C)** *The number of lots (by percentage) as-*
22 *signed to each tier is specified in the table con-*
23 *tained in paragraph (3).*

24 **(D)** *Data from incomplete appraisals may*
25 *not be used to establish the fee tiers.*

1 (E) Until assigned to a tier, permitted
 2 cabin lots, including lots with incomplete ap-
 3 praisals, are assigned an interim fee of \$4000 or
 4 their current annual fee, indexed in accordance
 5 with subsection (d), whichever is less.

6 (3) *TABLE OF INITIAL CABIN USER FEES.*—The
 7 initial cabin user fees, based on the assignments made
 8 by the Secretary under paragraph (2) are as follows:

<i>Fee Tier</i>	<i>Approximate Percent of Permits Nationally</i>	<i>Fee Amount</i>
<i>Tier 1</i>	<i>10%</i>	<i>\$500</i>
<i>Tier 2</i>	<i>35%</i>	<i>\$1,000</i>
<i>Tier 3</i>	<i>40%</i>	<i>\$2,000</i>
<i>Tier 4</i>	<i>10%</i>	<i>\$3,000</i>
<i>Tier 5</i>	<i>5%</i>	<i>\$4,000.</i>

9 (4) *DEADLINE FOR COMPLETION OF CURRENT*
 10 *APPRAISAL CYCLE.*—The Secretary shall complete the
 11 current appraisal cycle within three years after the
 12 date of the enactment of this Act.

13 (5) *EFFECTIVE DATE.*—The initial cabin user
 14 fees required by this subsection shall take effect begin-
 15 ning with the first calendar year beginning after the
 16 completion of the current appraisal cycle.

17 (c) *OVERPAYMENTS OR UNDERPAYMENTS.*—If, upon
 18 assignment to a tier under subsection (b), the Secretary de-
 19 termines that the fee charged to a cabin owner during the

1 preceding three years resulted in an overpayment or under-
2 payment totaling more than \$500, the fee for the next three
3 years shall be adjusted, if such a fee adjustment is requested
4 by the Secretary or by the affected cabin owner, as necessary
5 to correct the overpayment or underpayment.

6 (d) ANNUAL ADJUSTMENTS OF CABIN USER FEE.—
7 The Secretary shall use changes in the Implicit Price
8 Deflator for the Gross Domestic Product published by the
9 Bureau of Economic Analysis of the Department of Com-
10 merce, applied on a five-year rolling average, to determine
11 and apply an annual adjustment to cabin user fees.

12 (e) EFFECT OF DESTRUCTION, SUBSTANTIAL DAMAGE,
13 OR LOSS OF ACCESS.—If a cabin is destroyed or suffers
14 substantial damage amounting to greater than 50 percent
15 of replacement cost, or if access to a cabin is significantly
16 impaired, whether by catastrophic events, natural causes or
17 governmental actions, such that the cabin is rendered unsafe
18 or unable to be occupied as a result, the Secretary shall
19 reduce the cabin user fee for the affected lot to \$100 per
20 year. This fee shall be in effect for the remainder of the
21 year in which the destruction occurs and until such time
22 as the cabin may be lawfully reoccupied and normal access
23 has been restored.

1 **SEC. 4. CABIN TRANSFER FEES.**

2 (a) *PAYMENT OF CABIN TRANSFER FEES.*—*In con-*
 3 *junction with the transfer of ownership of any cabin and*
 4 *the issuance of a new permit, the transferor shall file with*
 5 *the Secretary a sworn statement declaring the amount of*
 6 *money or other value received, if any, for the transfer of*
 7 *the cabin. As a condition of the issuance by the Secretary*
 8 *of a new authorization for the use and occupancy of the*
 9 *cabin, the transferor shall pay, or cause to be paid, to the*
 10 *Secretary a cabin transfer fee in an amount determined as*
 11 *follows:*

<i>Consideration Received by Transfer</i>	<i>Transfer Fee Amount</i>
<i>\$0 to \$250,000</i>	<i>\$1,000</i>
<i>\$250,000.01 to \$500,000.00</i>	<i>\$1,000 plus 5% of consideration in excess of \$250,000 up to \$500,000</i>
<i>\$500,000.01 and above</i>	<i>\$1,000 plus 5% of consideration in excess of \$250,000 up to \$500,000 plus 10% of consideration in excess of \$500,000.</i>

12 (b) *INDEX.*—*The Secretary shall use changes in the*
 13 *Implicit Price Deflator for the Gross Domestic Product pub-*
 14 *lished by the Bureau of Economic Analysis of the Depart-*
 15 *ment of Commerce, applied on a five-year rolling average,*
 16 *to determine and apply an annual adjustment to the cabin*
 17 *transfer fee threshold amounts (\$250,000.01 and*
 18 *\$500,000.01) set forth in the table contained in subsection*
 19 *(a).*

1 **SEC. 5. ALLOCATION OF CABIN USER FEE AND CABIN**
2 **TRANSFER FEE REVENUE.**

3 (a) *RETAINED FEES TO COVER COSTS.*—Subject to
4 subsection (b), the Secretary shall retain the amount of rev-
5 enue from cabin user fees and cabin transfer fees necessary
6 to fully cover the costs incurred by the Forest Service to
7 administer the Recreation Residence Program. Revenue col-
8 lected in excess of that amount shall be deposited in the
9 Treasury.

10 (b) *LIMITATION.*—The total retained by the Secretary
11 under subsection (a) for a fiscal year may not exceed \$500
12 per cabin. The Secretary shall use changes in the Implicit
13 Price Deflator for the Gross Domestic Product published by
14 the Bureau of Economic Analysis of the Department of
15 Commerce, applied on a five-year rolling average, to deter-
16 mine and apply an annual adjustment to this limitation.
17 Revenue collected from cabin user fees and cabin transfer
18 fees in excess of this limitation shall be deposited in the
19 Treasury.

20 **SEC. 6. RIGHT OF APPEAL AND JUDICIAL REVIEW.**

21 (a) *RIGHT OF APPEAL.*—Notwithstanding any action
22 of a cabin owner to exercise rights in accordance with sec-
23 tion 7, the Secretary shall by regulation grant the cabin
24 owner the right to an administrative appeal of the deter-
25 mination of a new cabin user fee, fee tier, transfer fee, or
26 whether or not to reduce a cabin user fee under section 3(e).

1 *Such appeal shall be pursuant to the appeal process pro-*
2 *vided under subpart C (Appeal of Decisions Relating to Oc-*
3 *cupancy and Use of National Forest System Lands) of part*
4 *251 of title 36, Code of Federal Regulations (section 251.80*
5 *et seq.).*

6 (b) *JUDICIAL REVIEW.*—*A cabin owner that contests*
7 *a final decision of the Secretary under this Act may bring*
8 *a civil action in United States district court. The venue*
9 *for actions brought before the United States District Court*
10 *shall be in the United States Judicial District where the*
11 *cabin is located or the permit holder resides. Nothing in*
12 *this Act precludes the parties from seeking mediation.*

13 **SEC. 7. CONSISTENCY WITH OTHER LAW AND RIGHTS.**

14 (a) *CONSISTENCY WITH RIGHTS OF THE UNITED*
15 *STATES.*—*Nothing in this Act limits or restricts any right,*
16 *title, or interest of the United States in or to any land or*
17 *resource.*

18 (b) *SPECIAL RULE FOR ALASKA.*—*In determining a*
19 *cabin user fee in the State of Alaska, the Secretary shall*
20 *not establish or impose a cabin user fee or a condition af-*
21 *fecting a cabin user fee that is inconsistent with 1303(d)*
22 *of the Alaska National Interest Lands Conservation Act (16*
23 *U.S.C. 3193(d)).*

1 **SEC. 8. REGULATIONS.**

2 *The Secretary shall promulgate regulations to carry*
3 *out this Act not later than the December 31, 2012.*

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