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SENATE

{ REPORT
113-171

CABIN FEES

MAY 22, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 1341]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1341) to modify the Forest Service Recreation Residence Program as the program 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, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, line 14, strike “Until” and insert “During the period beginning on January 1, 2014, and ending on”.
2. Amend the title so as to read: “A bill to modify the Forest Service recreation residence program to implement a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.”.

PURPOSE

The purpose of S. 1341 is to establish new rates for recreation residence permits on National Forest System lands.

BACKGROUND AND NEED

In 1915 the Forest Service began issuing permits for individuals to build cabins on National Forest System lands under a Recreation Residence program. This program generally authorized permits for terms of up to 20 years at a nominal fee. Although there was initially relatively little recreational use on national forests, over the years use of forest lands for recreation residences became

highly prized, and by the 1950s the Forest Service was directed to charge permit fees approaching fair market value.

With increasing development of similar lands for ski resorts and forest and lake communities, the comparable values for these permits increased dramatically, occasionally resulting in large fee increases for recreation residence permits. In response to the controversy resulting from large proposed fee increases, Congress several times included fee moratoriums as part of the Forest Service's annual appropriations bill.

In an effort to resolve the permit fee valuation issue, in 2000 Congress enacted the Cabin User Fee Fairness Act (CUFFA) as an amendment to the Interior and Related Agencies Appropriations Act (title VI of Public Law 106–291). The provisions of CUFFA were in large part developed based on input from recreation residence permit holders. The law's purpose was to ensure that the National Forest System Residence Program continued to preserve recreational opportunities for cabin owners and users.

CUFFA established guidelines for the appraisal process, based on a percentage of the fair market value of the public land. Although the Act was enacted in response to complaints by cabin owners of unreasonably high and unpredictable permit fees, the controversy over appropriate fee levels has continued. Some public lands have a significantly higher market value due to their proximity to the recreational opportunities available on public lands, so the value of those cabin permits increased significantly. Other permit holders faced large fee increase when out-of-date appraisals were finally updated reflecting new and often times much higher values. According to the Forest Service, of the 14,000 cabins that are currently permitted, only 8,000 have had a recent appraisal.

S. 1341 would establish a new fee system for recreation residence permits, comprised of an eleven-tier fee system with a specified permit fee for each tier, indexed for inflation. Each permit would be allocated to a specific tier based on the value of the underlying land relative to other permits.

LEGISLATIVE HISTORY

S. 1341 was introduced by Senator Tester and others on July 23, 2013. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 1341 on November 20, 2013. At its business meeting on December 19, 2013, the Committee ordered the measure favorably reported.

Representative Hastings introduced similar legislation, H.R. 1159, in the House of Representatives on March 14, 2013. The House Committee on Natural Resources ordered the bill reported on March 20, 2013.

Senator Tester introduced similar legislation in the 112th Congress, S. 1906. The Subcommittee on Public Lands and Forests held a hearing on March 22, 2012 (S. Hrg. 112–642).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on December 19, 2013, by a voice vote of a quorum present, recommends that the Senate pass S. 1341, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of S. 1341, the Committee adopted an amendment and an amendment to the title. The amendment concerns the interim fee established under section 2. That section provides that the interim fee shall be charged until the current appraisal cycle for recreational residences is completed. The amendment makes the interim fee effective January 1, 2014, and staying in effect until the appraisal cycle is completed.

The Committee also adopted an amendment to the title to clarify that the bill applies to the entire Forest Service recreation residence program, and not just on National Forests derived from the public domain.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title, the “Cabin Fee Act of 2013.”

Section 2(a) directs the Secretary of Agriculture (Secretary) to establish a fee in accordance with this section for the issuance of a special use permit for the use and occupancy of recreational residences on National Forest lands.

Subsection (b) requires the Secretary to complete the current appraisal cycle for recreational residences required under the Cabin User Fees Fairness Act of 2000 (CUFFA) no later than 2 years after the date of enactment of this Act.

Subsection (c) provides that the Secretary shall assess an interim fee for recreational residences on National Forest lands beginning on January 1, 2014 and ending on the date on which the current appraisal cycle is completed under subsection (b). The interim fee is to be equal to the lesser of the determined under CUFFA (with any annual fee increase limited to not more than 25 percent), or \$5,500.

Subsection (d)(1) requires the Secretary to make a one-time adjustment to the value of each appraised recreational residence lot to reflect any change in value occurring after the date of the most recent appraisal. The adjustment is to take place upon the completion of the current appraisal cycle and shall be adjusted in accordance with the 4th quarter 2012 National Association of Homebuilders/Wells Fargo Housing Opportunity Index.

Paragraph (2) authorizes a recreational residence permittee to arrange for a second appraisal of a recreational residence lot, so long as the appraisal is conducted in accordance with applicable Federal standards. The value established by a second appraisal shall be the value assigned to the lot for purposes of fee calculation.

Subsection (e)(1) contains the table establishing fees for recreational residences on National Forest lands which will become effective after the lot values have been adjusted in accordance with subsection (d). The table contains 11 fee tiers, with annual fees ranging between \$500 and \$5,500. Each fee tier includes a specified percentage of recreational residence permits, as identified in the table.

Paragraph (2) provides that annual increases or decreases in the fee shall be determined in accordance with changes in the Implicit Price Deflator for the Gross Domestic Product published by the Bureau of Economic Analysis, applied on a 5-year rolling average.

Paragraph (3) states that the Secretary may suspend or reduce the annual fee if access to, or occupancy of a recreational residence is significantly restricted, and that a decision by the Secretary to suspend or reduce the fee may be appealed.

Subsection (f) requires the Secretary to submit to the Senate and House authorizing committees a report analyzing the annual fees to ensure that they reflect fair value for the use of the land for recreational residence purposes, taking into account all use limitations and restrictions. The report is to be submitted 10 years after the date of enactment of this Act, and shall include any recommendations of the Secretary with respect to modifying the fee system.

Section 3 establishes a new \$1,200 fee for the issuance of a new recreational residence permit due to a change of ownership. The Secretary shall adjust the fee annually in the same manner as the annual recreation residence fees are adjusted.

Section 4(a) clarifies that nothing in this Act limits or restricts and right, title, or interest of the United States in or to any land or resource in the National Forest System.

Subsection (b) prohibits the Secretary from establishing or imposing a fee or condition under this Act for permits in Alaska that is inconsistent with section 1303(d) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3193(d)). That provision provides for the renewal or continuation of valid leases or permits in effect on December 2, 1980, for cabins, homesites, or similar structures on Federal lands in Alaska.

Section 5 authorizes the Forest Service to retain any fees collected under this Act beginning on October 1, 2023, and to expend them, without further appropriation, to administer the recreational residence program and other recreation programs carried out on National Forest System land.

Section 6 repeals CUFFA effective on the date of the assessment of annual permit fees in accordance with section 2(e), as certified to Congress by the Secretary.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 1341—Cabin Fee Act of 2013

Summary: S. 1341 would establish a new schedule for the fees paid to the federal government by individuals who own cabins located on Forest Service lands. The bill also would authorize the Forest Service to spend, without further appropriations, receipts from cabin fees after 2023. Finally, the bill would establish a fee that would be assessed on individuals who transfer ownership of their cabins. Based on information provided by the Forest Service, CBO estimates that enacting the legislation would increase net direct spending by \$71 million over the 2015–2024 period; therefore, pay-as-you-go procedures apply. Enacting S. 1341 would not affect revenues.

S. 1341 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1341 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—											
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2015–2019	2015–2024
CHANGES IN DIRECT SPENDING												
Reduction in Cabin Fees:												
Estimated Budget Authority ^a	7	4	4	4	4	4	4	5	5	5	23	46
Estimated Outlays	7	4	4	4	4	4	4	5	5	5	23	46
Administrative Costs:												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	31	0	31
Estimated Outlays	0	0	0	0	0	0	0	0	0	31	0	31
Cabin Transfer Fee:												
Estimated Budget Authority	*	*	*	-1	-1	-1	-1	-1	-1	-1	-2	-5
Estimated Outlays	*	*	*	-1	-1	-1	-1	-1	-1	-1	-2	-5
Total Changes:												
Estimated Budget Authority	7	3	4	4	4	4	4	4	4	35	20	71
Estimated Outlays	7	3	4	4	4	4	4	4	4	35	20	71

Notes: Amounts may not sum to totals because of rounding; *= between \$0 and -\$500,000.

^a Because the fees already paid by some cabin owners for 2014 would exceed the amounts that would be owed in that year under the bill, CBO expects that the Forest Service would provide refunds to those cabin owners in 2015.

Basis of Estimate: For this estimate, CBO assumes that the legislation will be enacted in 2014.

CBO estimates that enacting S. 1341 would increase net direct spending by \$71 million over the 2015–2024 period. Over that period, fees collected from cabin owners by the Forest Service would total \$46 million less than would be collected under current law (such losses are shown as an increase in direct spending). In addition, direct spending for administrative costs would increase by about \$31 million in 2024. Finally, proceeds from the cabin transfer fee required under S. 1341 would increase receipts (thus reducing direct spending) by \$5 million over the 2015–2024 period.

Reduction in Cabin Fees

S. 1341 would establish a new schedule for fees assessed on cabins located on Forest Service lands. Under current law, owners of the roughly 14,000 affected cabins pay an annual fee to the federal government equal to 5 percent of the appraised value of the occupied land. Based on information provided by the agency, CBO estimates that fee collections from those cabins will total \$29 million in 2014 and that those collections will increase to about \$36 million a year by 2024. Collections will increase over that period as the agency completes appraisals of the affected Forest Service lands, implements new fees based on those appraisals, and annually adjusts fees on all cabins to account for inflation.

Under the new fee schedule that would be established by the bill, cabin owners would pay an annual fee per cabin of at least \$500 plus an additional amount that would depend on the appraised value of the occupied land and the maximum fee set by the Forest Service (which could not exceed \$5,500). CBO expects that those fees would go into effect in 2017, after the Forest Service has completed all of the appraisals required under the bill. Once implemented, CBO estimates that new cabin fee collections would total \$27 million in 2017 and would reach \$31 million by 2024.

Under S. 1341, the fees paid by cabin owners would increase more slowly over the 2014–2016 period than they would under current law. In addition, CBO expects that under the legislation, the Forest Service would set a maximum fee of less than \$5,500 per cabin beginning in 2017. As a result, CBO estimates that, on average, cabin owners would pay about \$400 less in fees per cabin under the bill than they would under current law over the 2014–2024 period. That estimate incorporates an adjustment for inflation and CBO’s estimate that some cabins would be abandoned under current law because of higher cabin fees. In total, CBO estimates that implementing this provision would reduce offsetting receipts by \$46 million over the 2015–2024 period.

Administrative Costs

The bill would authorize the Forest Service to spend, without further appropriations, receipts from cabin fees collected after 2023. The agency would use those amounts to cover the costs of administering recreation programs in National Forests. Because receipts from cabin fees cannot be spent without further appropriation under current law, CBO estimates that enacting this provision would increase direct spending by \$31 million in 2024.

Cabin Transfer Fees

S. 1341 would require the Forest Service to collect a fee of \$1,200 from cabin owners who transfer ownership of their cabins. That fee would be adjusted annually to account for inflation. CBO estimates that enacting this provision would increase offsetting receipts, which are treated as reductions in direct spending, by \$5 million over the 2015–2024 period, based on information provided by the Forest Service regarding the number of permits issued to new owners each year.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 1341 AS ORDERED REPORTED BY THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON DECEMBER 19, 2013

	By fiscal year, in millions of dollars—														2014– 2019	2014– 2024
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024					
	NET INCREASE OR DECREASE (–) IN THE DEFICIT															
Statutory Pay-As-You-Go Impact ..	0	7	3	4	4	4	4	4	4	4	4	35	20	71		

Intergovernmental and private-sector impact: S. 1341 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimates: On April 5, 2013, CBO transmitted a cost estimate for H.R. 1159, the Cabin Fee Act of 2013, as ordered reported by the House Committee on Natural Resources on March 20, 2013. The Senate bill would require additional appraisals to be conducted following the completion of the ongoing appraisal cycle and would allow the Forest Service flexibility in establishing a new

maximum fee for cabins. In addition, under S. 1341, the cabin transfer fee would be adjusted for inflation and affect more cabin owners. Finally, the cost estimate for S. 1341 incorporates new information provided by the agency regarding the appraised values of all cabins located on Forest Service lands. Those differences are reflected in the cost estimates for the two bills.

Estimate prepared by: Federal Costs: Jeff LaFave, Impact on State, Local, and Tribal Governments: Melissa Merrell, Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1341.

The bill would directly affect approximately 14,000 holders of recreation residence permits on National Forest System lands. However, the bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. The Department of Agriculture has identified the cost of administering the recreation residence program, and the cost of conducting appraisals of cabin lots required under current law in particular, as a significant financial burden on the agency. S. 1341 will significantly reduce that burden by eliminating the need for periodic appraisals.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1341, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1341, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by Forest Service at the November 20, 2013, Subcommittee on Public Lands, Forests, and Mining hearing on S. 1341 follows:

STATEMENT OF LESLIE A. C. WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Chairman Manchin, Ranking Member Barrasso and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's views on S. 1341, the Cabin Fee Act of 2013.

The Department supports S. 1341.

In the early part of the twentieth century, the Forest Service began introducing Americans to the beauty and

grandeur of their National Forests. One way to accomplish this objective was to permit individuals to build cabins for summertime occupancy and use within the National Forests. Cabin owners were permitted to occupy and use National Forest System (NFS) lands during the summer months in exchange for a fee. In 1915, the agency began to issue permits of up to twenty years for occupancy and use of NFS land. At that time, there was relatively little recreational use of the National Forests. Today, the National Forests host over 175 million visitors per year. When this recreational cabin program began, there was limited interest in building and owning a remote cabin on NFS land. In the early years, fees were nominal, but since the 1950s, the Forest Service has been mandated to obtain fees approximating market value for the occupancy and use of NFS land. Increasing fees have led to controversy and have resulted in enactment of multiple fee moratoriums and caps over the years. The current law (Public Law 106-291, the Cabin Use Fee Fairness Act of 2000 (CUFFA)) was the last attempt to achieve an equitable fee for the use of National Forest System land.

CUFFA prescribes parameters for the appraisal process and the fees are based on five percent of the appraised market value of the lot under permit adjusted annually for inflation. The agency began the appraisal process pursuant to CUFFA in 2007, and is continuing that effort presently. As cabin lot permittees received notice of the new fees, some have experienced substantial increases because the old fees were based on appraisals completed ten to thirty years ago. In response, Congress included appropriations language for calendar year (CY) 2010 which limited fee increases to no more than 25% of the fee paid in calendar year 2009. For CY 2011 Recreation Residences fees were held at the fee paid the previous year (CY 2010) however, the 2011 fee was adjusted for inflation. For CY 2012 Recreation Residence fees that were subject to a new base fee resulting from an appraisal in either CY 2011 or CY 2012 were implemented and limited to a 25% increase over the amount billed in CY 2011. If the new base fee to be implemented did not exceed 125% of the fee paid in CY 2011, the fee was fully implemented. Recreation residence fees that were not subject to first year implementation of a new base fee were subject to the annual index. For CY 2013, the Agency issued bills pursuant to the annual fee determined under CUFFA for those recreation residence lots that had current appraisals implemented after an administrative appeal review. If the appraisal for a recreation residence lot was not completed or the subject of an administrative appeal for CY 2013, then the CY 13 annual fee was based upon the previous year's fee adjusted for inflation.

S. 1341 the Cabin Fee Act of 2013 would replace CUFFA on National Forest System lands and revise the procedures for determining the amount the holder of a Special Use Permit for a private cabin on the National Forests must

pay to occupy and use the underlying public property. The bill would require the agency to place cabin lot values in eleven categories based on an appraisal and complete remaining appraisals within two years of enactment. It would create eleven tiers or categories ranging from \$500.00 to \$5,500.00 annually and provide for an additional payment on the sale or transfer of the cabin. The Department appreciates the addition of the tenth and eleventh tiers which helps to close the gap between annual fees and market value. However, to further close the gap between annual fees and market value, the Department would like to discuss with the Committee a graduated transfer fee that better reflects the value of the fee tiers.

During the transition from CUFFA to the Cabin Fee Act the Secretary would be required to assess an interim annual fee for recreational residences on National Forest System lands. The interim fee amount must be equal to the lesser of the fee determined under CUFFA, subject to the requirement that any increase over the fee assessed during the previous year shall be limited to not more than 25% or \$5,500.00, which is the scheduled amount for tier 11. This provision of the Cabin Fee Act would ensure that Recreational Residence permit holders would have some protection from steeply escalating annual permit fees.

The Bill would require an annually adjustable transfer fee of \$1,200.00 for the issuance of a new recreational residence lot permit due to a change of ownership of the recreational residence. The Bill requires the Secretary to annually increase or decrease the transfer fee, based on the Implicit Price Deflator of the Gross Domestic Product, applied on a rolling 5-year average. This provision would ensure that the United States would be able to collect a flat fee for transferring a Recreational Residence lot permit.

The cost of administration for the Recreational Residence Program pursuant to CUFFA is a significant financial burden for the agency. Based on a recent study in California (US Forest Service, Region 5), the Agency estimates the cost of administration is from \$500 to \$700 per cabin lot, along with recurring appraisal costs that can approach \$1 million per year. The study showed that the administration of this program accounts for some fifteen percent of this Region's total recreation budget. While there are some 14,000 cabin lot permittees, there are 175 million visitors to the National Forests each year. S. 1341 would reduce the administrative burden by eliminating the requirements for reappraisals not less than every 10 years while applying the savings to provide for a quality recreational experience with continued protection of the environment for all who use the National Forests.

The Department wishes to clarify the purpose of the bill which refers to lands "derived from the public domain," and the bill text refers to National Forest System lands. We would request that the bill purpose be changed to reflect the bill text so that it is clear that this legislation ap-

plies to all National Forest System land; that is acquired lands and lands reserved from the public domain.

The Forest Service recognizes that there are helpful reforms in this bill over the current Public Law (106–291). From an administrative perspective, this bill would reduce the agency’s re-appraisal costs while providing resources to manage the program in the long term. For the Recreational Residence permit holders, it would provide certainty for cabin fees.

In closing, the Department supports S. 1341 and appreciates the opportunity to work with the bill’s sponsor and the Committee’s staff to develop legislation that will benefit taxpayers, cabin owners, and other users of the National Forests and Grasslands, and which can be administered without undue burden on the agency.

This concludes my statement and I would be happy to answer any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1341, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CABIN USER FEES FAIRNESS ACT OF 2000

Title VI of the Department of the Interior and Related Agencies
Appropriations Act, 2001

Public Law 106–291

[TITLE VI—USER FEES UNDER FOREST SYSTEM RECREATION RESIDENCE PROGRAM

[SEC. 601. SHORT TITLE.

[This title may be cited as the “Cabin User Fee Fairness Act of 2000”.

[SEC. 602. FINDINGS.

[Congress finds that—

[(1) cabins located on forest land have provided a unique recreation experience to a large number of cabin owners, their families, and guests each year since Congress authorized the recreation residence program in 1915; and

[(2) the fact that current appraisal procedures have, in certain circumstances, been inconsistently applied in determining fair market values for residential lots demonstrates that problems exist in accurately reflecting market values.

[SEC. 603. PURPOSES.

[The purposes of this title are—

[(1) to ensure, to the maximum extent practicable, that the National Forest System recreation residence program is man-

aged to preserve the opportunity for individual and family-oriented recreation; and

[(2) to develop and implement a more consistent procedure for determining cabin user fees, taking into consideration the limitations of an authorization and other relevant market factors.

[SEC. 604. DEFINITIONS.

[In this title:

[(1) AGENCY.—The term “agency” means the Forest Service.

[(2) AUTHORIZATION.—The term “authorization” means a special use permit for the use and occupancy of National Forest System land by a cabin owner under the authority of the program.

[(3) BASE CABIN USER FEE.—The term “base cabin user fee” means the fee for an authorization that results from the appraisal of a lot as determined in accordance with sections 606 and 607.

[(4) CABIN.—The term “cabin” means a privately built and owned recreation residence that is authorized for use and occupancy on National Forest System land.

[(5) CABIN OWNER.—The term “cabin owner” means—

[(A) a person authorized by the agency to use and to occupy a cabin on National Forest System land; and

[(B) an heir or assign of such a person.

[(6) CABIN USER FEE.—The term “cabin user fee” means a special use fee paid annually by a cabin owner to the Secretary in accordance with this title.

[(7) CARETAKER CABIN.—The term “caretaker cabin” means a caretaker residence occupied in limited cases in which caretaker services are necessary to maintain the security of a tract.

[(8) CURRENT CABIN USER FEE.—The term “current cabin user fee” means the most recent cabin user fee that results from an annual adjustment to the base cabin user fee in accordance with section 608.

[(9) LOT.—The term “lot” means a parcel of land in the National Forest System—

[(A) on which a cabin owner is authorized to build, use, occupy, and maintain a cabin and related improvements; and

[(B) that is considered to be in its natural, native state at the time at which a use of the lot described in subparagraph (A) is first permitted by the Secretary.

[(10) NATURAL, NATIVE STATE.—The term “natural, native state” means the condition of a lot or site, free of any improvements, at the time at which the lot or site is first authorized for recreation residence use by the agency.

[(11) PROGRAM.—The term “program” means the recreation residence program established under the authority of the last paragraph under the heading “FOREST SERVICE” in the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497).

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

[(13) TRACT.—The term “tract” means an established location within a National Forest containing 1 or more cabins authorized in accordance with the program.

[(14) TRACT ASSOCIATION.—The term “tract association” means a cabin owner association in which all cabin owners within a tract are eligible for membership.

[(15) TYPICAL LOT.—The term “typical lot” means a cabin lot, or a group of cabin lots, in a tract that is selected for use in an appraisal as being representative of, and that has similar value characteristics as, other lots or groups of lots within the tract.

[SEC. 605. ADMINISTRATION OF RECREATION RESIDENCE PROGRAM.

[The Secretary shall ensure, to the maximum extent practicable, that the basis and procedure for calculating cabin user fees results in a fee for an authorization that reflects, in accordance with this title—

- [(1) the market value of a lot; and
- [(2) regional and local economic influences.

[SEC. 606. APPRAISALS.

[(a) REQUIREMENTS FOR CONDUCTING APPRAISALS.—In implementing and conducting an appraisal process for determining cabin user fees, the Secretary shall—

[(1) complete an inventory of improvements that were paid for by—

- [(A) the agency;
- [(B) third parties; or
- [(C) cabin owners (or predecessors of cabin owners),

during the completion of which the Secretary shall presume that a cabin owner, or a predecessor of the owner, has paid for the capital costs of any utility, access, or facility serving the lot being appraised, unless the Forest Service produces evidence that the agency or a third party has paid for the capital costs;

[(2) establish an appraisal process to determine the market value of the fee simple estate of a typical lot or lots considered to be in a natural, native state, subject to subsection (b)(4)(A);

[(3) enter into a contract with an appropriate professional appraisal organization to manage the development of specific appraisal guidelines in accordance with subsection (b), subject to public comment and congressional review;

[(4) require that an appraisal be performed by a State-certified general real estate appraiser, selected by the Secretary and licensed to practice in the State in which the lot is located;

[(5) provide the appraiser with appraisal guidelines developed in accordance with this title;

[(6) notwithstanding any other provision of law, require the appraiser to coordinate the appraisal closely with affected parties by seeking information, cooperation, and advice from cabin owners and tract associations;

[(7) require that the appraiser perform the appraisal in compliance with—

- [(A) the most current edition of the Uniform Standards of Professional Appraisal Practice in effect on the date of the appraisal;

- [(B) the most current edition of the Uniform Appraisal Standards for Federal Land Acquisitions that is in effect on the date of the appraisal; and
- [(C) the specific appraisal guidelines developed in accordance with this title;
- [(8) require that the appraisal report—
- [(A) be a full narrative report, in compliance with the reporting standards of the Uniform Standards of Professional Appraisal Practice; and
- [(B) comply with the reporting guidelines established by the Uniform Appraisal Standards for Federal Land Acquisitions; and
- [(9) before accepting any appraisal, conduct a review of the appraisal to ensure that the guidelines made available to the appraiser have been followed and that the appraised values are properly supported.
- [(b) SPECIFIC APPRAISAL GUIDELINES.—In the development of specific appraisal guidelines in accordance with subsection (a)(3), the instructions to an appraiser shall require, at a minimum, the following:
- [(1) APPRAISAL OF A TYPICAL LOT.—
- [(A) IN GENERAL.—In conducting an appraisal under this section, the appraiser—
- [(i) shall not appraise each individual lot;
- [(ii) shall appraise a typical lot or lots, selected by the cabin owners and the agency in a manner consistent with the policy of the program; and
- [(iii) shall be provided, and give appropriate consideration to, any information contained in the inventory of improvements relating to the lot being appraised.
- [(B) ESTIMATE OF MARKET VALUE OF TYPICAL LOT.—
- [(i) IN GENERAL.—The appraiser shall estimate the market value of a typical lot in accordance with this title.
- [(ii) EQUIVALENCE TO LEGALLY SUBDIVIDED LOT.—In selecting a comparable sale under this title, the appraiser shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot.
- [(2) EXCEPTION FOR CERTAIN SALES OF LAND.—In conducting an appraisal under this title, the appraiser—
- [(A) shall not select sales of comparable land that are sales of land within developed urban areas; and
- [(B) should not, in most circumstances, select a sale of comparable land that includes land that is encumbered by a conservation or recreational easement that is held by a government or institution, except land that is limited to use as a site for 1 home.
- [(3) ADJUSTMENTS FOR TYPICAL VALUE INFLUENCES.—
- [(A) IN GENERAL.—The appraiser shall consider, and adjust as appropriate, the price of sales of comparable land for all typical value influences described in subparagraph (B).
- [(B) VALUE INFLUENCES.—The typical value influences referred to in subparagraph (A) include—
- [(i) differences in the locations of the parcels;

[(ii) accessibility, including limitations on access attributable to—

- [(I) weather;
- [(II) the condition of roads or trails;
- [(III) restrictions imposed by the agency; or
- [(IV) other factors;

[(iii) the presence of marketable timber;

[(iv) limitations on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing;

[(v) the condition and regulatory compliance of any site improvements; and

[(vi) any other typical value influences described in standard appraisal literature.

[(4) ADJUSTMENTS TO SALES OF COMPARABLE PARCELS.—

[(A) UTILITIES, ACCESS, OR FACILITIES.—

[(i) AGENCY.—Utilities, access, or facilities serving a lot that are provided by the agency shall be included as features of the lot being appraised.

[(ii) CABIN OWNERS.—Utilities, access, or facilities serving a lot that are provided by the cabin owner (or a predecessor of the cabin owner) shall not be included as a feature of the lot being appraised.

[(iii) THIRD PARTIES.—Utilities, access, or facilities serving a lot that are provided by a third party shall not be included as a feature of the lot being appraised unless, in accordance with subsection (a)(1), the agency determines that the capital costs have not been or are not being paid by the cabin owner (or a predecessor of the cabin owner).

[(iv) WITHDRAWAL OF UTILITY OR ACCESS BY AGENCY.—If, during the term of an authorization, the agency or an act of God creates a substantial and materially adverse change in—

[(I) the provision or maintenance of any utility or access; or

[(II) a qualitative feature of the lot or immediate surroundings,

[(the cabin owner shall have the right to request, and, at the discretion of the Secretary, obtain a new determination of the base cabin user fee at the expense of the agency.

[(B) ADJUSTMENT FOR EXCLUSION.—In a case in which any comparable sale includes utilities, access, or facilities that are to be excluded in the appraisal of the subject lot, the price of the comparable sale shall be adjusted, as appropriate.

[(C) ADJUSTMENT PROCESS.—

[(i) IN GENERAL.—The appraiser shall consider and adjust, as appropriate, the price of each sale of a comparable parcel for all nonnatural features referred to in subparagraph (A)(ii) that—

[(I)(aa) are present at, or add value to, the comparable parcel; but

[(bb) are not present at the lot being appraised;
or

[(II) are not included in the appraisal as described in subparagraph (A).

[(ii) ADJUSTMENTS.—

[(I) IN GENERAL.—In a case in which the price of a parcel sold is to be adjusted in accordance with subparagraph (B), the adjustment may be based on an analysis of market or cost information or both.

[(II) COST INFORMATION.—If cost information is used as the basis of an adjustment under subclause (I), the cost information shall be supported by direct market evidence.

[(iii) ANALYSIS OF COST INFORMATION.—An analysis of cost information under clause (ii)(I) should include allowances, as appropriate, if the allowances are consistent with—

[(I) the Uniform Standards of Professional Appraisal Practice in effect on the date of the analysis; and

[(II) the Uniform Appraisal Standards for Federal Land Acquisition.

[(D) REAPPRAISAL FOR AND RECALCULATION OF BASE CABIN USER FEE.—Periodically, but not less often than once every 10 years, the Secretary shall recalculate the base cabin user fee (including conducting any reappraisal required to recalculate the base cabin user fee).

[SEC. 607. CABIN USER FEES.

[(a) IN GENERAL.—The Secretary shall establish the cabin user fee as the amount that is equal to 5 percent of the market value of the lot, as determined in accordance with section 606, reflecting an adjustment to the typical market rate of return due to restrictions imposed by the permit, including—

[(1) the limited term of the authorization;

[(2) the absence of significant property rights normally attached to fee simple ownership; and

[(3) the public right of access to, and use of, any open portion of the lot on which the cabin or other enclosed improvements are not located.

[(b) FEE FOR CARETAKER CABIN.—The base cabin user fee for a lot on which a caretaker cabin is located shall not be greater than the base cabin user fee charged for the authorized use of a similar typical lot in the tract.

[(c) ANNUAL CABIN USER FEE IN THE EVENT OF DETERMINATION NOT TO REISSUE AUTHORIZATION.—If the Secretary determines that an authorization should not be reissued at the end of a term, the Secretary shall—

[(1) establish as the new base cabin user fee for the remaining term of the authorization the amount charged as the cabin user fee in the year that was 10 years before the year in which the authorization expires; and

[(2) calculate the current cabin user fee for each of the remaining 9 years of the term of the authorization by multiplying—

[(A) $\frac{1}{10}$ of the new base cabin user fee; by

[(B) the number of years remaining in the term of the authorization after the year for which the cabin user fee is being calculated.

[(d) ANNUAL CABIN USER FEE IN EVENT OF CHANGED CONDITIONS.—If a review of a decision to convert a lot to an alternative public use indicates that the continuation of the authorization for use and occupancy of the cabin by the cabin owner is warranted, and the decision is subsequently reversed, the Secretary may require the cabin owner to pay any portion of annual cabin user fees that were forgone as a result of the expectation of termination of use and occupancy of the cabin by the cabin owner.

[(e) TERMINATION OF FEE OBLIGATION IN LOSS RESULTING FROM ACTS OF GOD OR CATASTROPHIC EVENTS.—On a determination by the agency that, because of an act of God or a catastrophic event, a lot cannot be safely occupied and the authorization for the lot should accordingly be terminated, the fee obligation of the cabin owner shall terminate effective on the date of the occurrence of the act or event.

[SEC. 608. ANNUAL ADJUSTMENT OF CABIN USER FEE.

[(a) IN GENERAL.—The Secretary shall adjust the cabin user fee annually, using a rolling 5-year average of a published price index in accordance with subsection (b) or (c) that reports changes in rural or similar land values in the State, county, or market area in which the lot is located.

[(b) INITIAL INDEX.—

[(I) IN GENERAL.—For the period of 10 years beginning on the date of enactment of this title, the Secretary shall use changes in agricultural land prices in the appropriate State or county, as reported in the Index of Agricultural Land Prices published by the Department of Agriculture, to determine the annual adjustment to the cabin user fee in accordance with subsections (a) and (d).

[(2) STATEWIDE CHANGES.—In determining the annual adjustment to the cabin user fee for an authorization located in a county in which agricultural land prices are influenced by the value influences described in section 606(b)(3), the Secretary shall use average statewide changes in the State in which the lot is located.

[(c) NEW INDEX.—

[(1) IN GENERAL.—Not later than 10 years after the date of enactment of this title, the Secretary may select and use an index other than the method of adjustment of a cabin user fee described in subsection (b)(2) to adjust a cabin user fee if the Secretary determines that a different index better reflects change in the value of a lot over time.

[(2) SELECTION PROCESS.—Before selecting a new index, the Secretary shall—

[(A) solicit and consider comments from the public; and

[(B) not later than 60 days before the date on which the Secretary makes a final index selection, submit any proposed selection of a new index to—

[(i) the Committee on Resources of the House of Representatives; and

[(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

[(d) LIMITATION.—In calculating an annual adjustment to the base cabin user fee as determined by the initial index described in section (b), the Secretary shall—

[(1) limit any annual fee adjustment to an amount that is not more than 5 percent per year when the change in agricultural land values exceeds 5 percent in any 1 year; and

[(2) apply the amount of any adjustment that exceeds 5 percent to the annual fee payment for the next year in which the change in the index factor is less than 5 percent.

[SEC. 609. PAYMENT OF CABIN USER FEES.

[(a) DUE DATE FOR PAYMENT OF FEES.—A cabin user fee shall be prepaid annually by the cabin owner.

[(b) PAYMENT OF EQUAL OR LESSER FEE.—If, in accordance with section 607, the Secretary determines that the amount of a new base cabin user fee is equal to or less than the amount of the current base cabin user fee, the Secretary shall require payment of the new base cabin user fee by the cabin owner in accordance with subsection (a).

[(c) PAYMENT OF GREATER FEE.—If, in accordance with section 607, the Secretary determines that the amount of a new base cabin user fee is greater than the amount of the current base cabin user fee, the Secretary shall—

[(1) require full payment of the new base cabin user fee in the first year following completion of the fee determination procedure if the increase in the amount of the new base cabin user fee is not more than 100 percent of the current base cabin user fee; or

[(2) phase in the increase over the current base cabin user fee in approximately equal increments over 3 years if the increase in the amount of the new base cabin user fee is more than 100 percent of the current base cabin user fee.

[SEC. 610. RIGHT OF SECOND APPRAISAL.

[(a) RIGHT OF SECOND APPRAISAL.—On receipt of notice from the Secretary of the determination of a new base cabin user fee, the cabin owner—

[(1) not later than 60 days after the date on which the notice is received, may notify the Secretary of the intent of the cabin owner to obtain a second appraisal; and

[(2) may obtain, within 1 year following the date of receipt of the notice under this subsection, at the expense of the cabin owner, a second appraisal of the typical lot on which the initial appraisal was conducted.

[(b) CONDUCT OF SECOND APPRAISAL.—In conducting a second appraisal, the appraiser selected by the cabin owner shall—

[(1) have qualifications equivalent to the appraiser that conducted the initial appraisal in accordance with section 606(a)(4);

[(2) use the appraisal guidelines used in the initial appraisal in accordance with section 606(a)(5);

[(3) consider all relevant factors in accordance with this title (including guidelines developed under section 606(a)(3)); and

[(4) notify the Secretary of any material differences of fact or opinion between the initial appraisal conducted by the agency and the second appraisal.

[(c) REQUEST FOR RECONSIDERATION OF BASE CABIN USER FEE.—A cabin owner shall submit to the Secretary any request for reconsideration of the base cabin user fee, based on the results of the second appraisal, not later than 60 days after the receipt of the report for the second appraisal.

[(d) RECONSIDERATION OF BASE CABIN USER FEE.—On receipt of a request from the cabin owner under subsection (c) for reconsideration of a base cabin user fee, not later than 60 days after the date of receipt of the request, the Secretary shall—

[(1) review the initial appraisal of the agency;

[(2) review the results and commentary from the second appraisal;

[(3) determine a new base cabin user fee in an amount that is—

[(A) equal to the base cabin user fee determined by the initial or the second appraisal; or

[(B) within the range of values, if any, between the initial and second appraisals; and

[(4) notify the cabin owner of the amount of the new base cabin user fee.

[SEC. 611. RIGHT OF APPEAL AND JUDICIAL REVIEW.

[(a) RIGHT OF APPEAL.—Notwithstanding any action of a cabin owner to exercise rights in accordance with section 610, the Secretary shall by regulation grant the cabin owner the right to an administrative appeal of the determination of a new base cabin user fee.

[(b) JUDICIAL REVIEW.—A cabin owner that is adversely affected by a final decision of the Secretary under this title may bring a civil action in United States district court.

[SEC. 612. CONSISTENCY WITH OTHER LAW AND RIGHTS.

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

[(b) SPECIAL RULE FOR ALASKA.—In determining a cabin user fee in the State of Alaska, the Secretary shall not establish or impose a cabin user fee or a condition affecting a cabin user fee that is inconsistent with 1303(d) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3193(d)).

[SEC. 613. REGULATIONS.

[Not later than 2 years after the date of enactment of this title, the Secretary shall promulgate regulations to carry out this title.

[SEC. 614. TRANSITION PROVISIONS.

[(a) ASSESSMENT OF ANNUAL FEES.—For the period of time determined under subsection (b), the Secretary shall charge each cabin owner an annual fee as follows:

[(1) LOTS NOT APPRAISED SINCE SEPTEMBER 30, 1995.—For a lot that has not been appraised since September 30, 1995, the annual fee shall be equal to the amount of the annual fee in effect on the date of enactment of this title, adjusted annually

to reflect changes in the Implicit Price Deflator-Gross National Product Index.

[(2) LOTS APPRAISED ON OR AFTER SEPTEMBER 30, 1995.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), for a lot that has been appraised on or after September 30, 1995, the annual fee shall be equal to the amount of the fee in effect on the date of enactment of this title, adjusted annually to reflect changes in the Implicit Price Deflator-Gross National Product Index.

[(B) APPRAISALS RESULTING IN BASE FEE INCREASE.—

[(i) IN GENERAL.—Except as provided in clause (ii), for a lot that has been appraised on or after September 30, 1995, for which the appraisal resulted in an increase of the base fee by an amount greater than \$3,000, the annual fee shall be equal to the sum of \$3,000 plus the amount of the annual fee in effect on October 1, 1996, adjusted annually to reflect the percentage change in the Implicit Price Deflator-Gross National Product Index.

[(ii) FEES PAID AFTER REQUEST OF NEW APPRAISAL OR PEER REVIEW.—If—

[(I) the cabin owner of a lot described in clause (i) requests a new appraisal or peer review under subsection (c); and

[(II) the base cabin user fee established as a result of the appraisal or peer review is determined to be an amount that is 90 percent or more of the fee in effect for the lot as determined by an appraisal conducted on or after September 30, 1995, the Secretary shall charge the cabin owner, in addition to the annual fee that would otherwise have been due under section 609, the difference between the base cabin user fee determined through the conduct of the new appraisal or peer review and the annual fee that would otherwise have been due under section 609, to be assessed retroactively for each year beginning with the year in which the previous appraisal was conducted, and to be paid in 3 equal annual installments.

[(b) TERM.—

[(1) LOTS NOT APPRAISED SINCE SEPTEMBER 30, 1995.—For a lot that has not been appraised since September 30, 1995, the Secretary shall charge fees in accordance with subsection (a)(2)(A) until—

[(A) a base cabin user fee is determined in accordance with—

[(i) this title; or

[(ii) regulations and policies in effect on the date of enactment of this title; and

[(B) the right of the cabin owner to a second appraisal under section 610 is exhausted.

[(2) LOTS APPRAISED ON OR AFTER SEPTEMBER 30, 1995.—For a lot that has been appraised on or after September 30, 1995, the Secretary shall charge fees under subsection (a)(2) until—

[(A) the cabin owner requests a new appraisal or peer review, and a base cabin user fee is established, under subsection (c); or

[(B) in the absence of a request for a peer review or a new appraisal under subsection (c), the date that is 2 years after the date on which the Forest Service promulgates regulations and policies and develops appraisal guidelines under this title.

[(c) REQUEST FOR NEW APPRAISAL UNDER NEW LAW.—

[(1) IN GENERAL.—Not later than 2 years after the promulgation of final regulations and policies and the development of appraisal guidelines in accordance with section 606(a)(5), cabin owners that are subject to appraisals completed after September 30, 1995, but before the date of promulgation of final regulations under section 613, may request, in accordance with paragraph (2), that the Secretary—

[(A) conduct a new appraisal and determine a new base cabin user fee in accordance with this title; or

[(B) commission a peer review of the existing appraisals in accordance with paragraph (4).

[(2) APPRAISAL GROUPINGS BY TYPICAL LOT.—A request for a new appraisal or for a peer review of existing appraisals under paragraph (1) shall be made by a majority of the cabin owners in a group of cabins represented in the appraisal process by a typical lot.

[(3) CONDUCT OF NEW APPRAISAL.—On receipt of a request for an appraisal and fee determination in accordance with paragraph (2), the Secretary shall conduct the new appraisal and fee determination in accordance with this title.

[(4) PEER REVIEW OF EXISTING APPRAISALS.—

[(A) IN GENERAL.—On receipt of a request for peer review in accordance with paragraph (2), the Secretary shall obtain from an independent professional appraisal organization a review of the appraisal (including any report on the appraisal) that was used to establish the estimated fee simple value of the lots within the subject grouping.

[(B) INCONSISTENCY.—If peer review described in subparagraph (A) results in a determination that an appraisal or appraisal report includes provisions or procedures that were implemented or conducted in a manner inconsistent with this title, the Secretary shall, as appropriate and in accordance with this title—

[(i) revise an existing base cabin user fee; or

[(ii) subject to an agreement with the cabin owners, conduct a new appraisal and fee determination.

[(5) PAYMENT OF COSTS.—Cabin owners and the Secretary shall share, in equal proportion, the payment of all reasonable costs of any new appraisal or peer review.

[(d) ASSUMPTION OF NEW BASE CABIN USER FEE.—In the absence of a request under subsection (c) for a new appraisal and fee determination from a cabin owner whose cabin user fee was determined as a result of an appraisal conducted after September 30, 1995, but before the date of promulgation of final regulations under section 613, the Secretary may consider the base cabin user fee resulting from the appraisal conducted between September 30, 1995

and the date of promulgation of the final regulations under section 613 to be the base cabin user fee that complies with this section.】

