

## Union Calendar No. 564

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3241

[Report No. 106-937]

To direct the Secretary of the Interior to recalculate the franchise fee owed by Fort Sumter Tours, Inc., a concessioner providing service to Fort Sumter National Monument in South Carolina, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 5, 1999

Mr. SANFORD introduced the following bill; which was referred to the Committee on Resources

OCTOBER 5, 2000

Additional sponsors: Mr. SPENCE, Mr. SPRATT, Mr. CLYBURN, Mr. DEMINT, and Mr. GRAHAM

OCTOBER 5, 2000

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 November 5, 1999]

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## A BILL

To direct the Secretary of the Interior to recalculate the franchise fee owed by Fort Sumter Tours, Inc., a concessioner providing service to Fort Sumter National Monument in South Carolina, 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. RECALCULATION OF FRANCHISE FEE.**

4       *(a) DEFINITIONS.—In this section:*

5               *(1) FRANCHISEE.—The term “franchisee” means*  
 6       *Fort Sumter Tours, Inc., a concessioner providing*  
 7       *service to Fort Sumter National Monument, South*  
 8       *Carolina.*

9               *(2) SECRETARY.—The term “Secretary” means*  
 10       *the Secretary of the Interior.*

11       *(b) RECALCULATION OF FRANCHISE FEE.—Not later*  
 12       *than 30 days after the date of enactment of this Act, the*  
 13       *Secretary shall—*

14               *(1) recalculate the amount (if any) of the fran-*  
 15       *chise fee owed by the franchisee; and*

16               *(2) notify the franchisee of the recalculated*  
 17       *amount.*

18       *(c) ARBITRATION.—*

19               *(1) IN GENERAL.—If the amount of the franchise*  
 20       *fee as recalculated under subsection (a) is not accept-*  
 21       *able to the franchisee—*

22               *(A) the franchisee, not later than 5 days*  
 23       *after receipt of notification under subsection*  
 24       *(b)(2), shall so notify the Secretary; and*

1           (B) the amount of the franchise fee owed  
 2 shall be determined through binding arbitration  
 3 that provides for a trial-type hearing that—

4                   (i) includes the opportunity to call and  
 5 cross-examine witnesses; and

6                   (ii) is subject to supervision by the  
 7 United States District Court for the District  
 8 of Columbia in accordance with the title 9,  
 9 United States Code.

10           (2) SELECTION OF ARBITRATOR OR ARBITRATION

11 PANEL.—

12           (A) AGREEMENT ON ARBITRATOR.—For a  
 13 period of not more than 30 days after the  
 14 franchisee gives notification under paragraph  
 15 (1)(A), the Secretary and the franchisee shall at-  
 16 tempt to agree on the selection of an arbitrator  
 17 to conduct the arbitration.

18           (B) PANEL.—If at any time the Secretary  
 19 or the franchisee declares that the parties are un-  
 20 able to agree on an arbitrator—

21                   (i) the Secretary and the franchisee  
 22 shall each select an arbitrator;

23                   (ii) not later than 10 days after 2 ar-  
 24 bitrators are selected under clause (i), the 2

1                    *arbitrators shall select a third arbitrator;*  
2                    *and*  
3                    *(iii) the 3 arbitrators shall conduct the*  
4                    *arbitration.*

5                    *(3) COMMENCEMENT AND COMPLETION.—An ar-*  
6                    *bitration proceeding under paragraph (1)—*

7                    *(A) shall commence not later than 30 days*  
8                    *after the date on which an arbitrator or arbitra-*  
9                    *tion panel is selected under paragraph (2); and*

10                   *(B) shall be completed with a decision ren-*  
11                   *dered not later than 240 days after that date.*

12                   *(4) APPLICABLE LAW.—*

13                   *(A) RELEVANT TIME PERIOD.—The law ap-*  
14                   *plicable to the recalculation of the franchise fee*  
15                   *under this subsection shall be the law applicable*  
16                   *to franchise fee determinations in effect at the be-*  
17                   *ginning of the period for which the franchise fee*  
18                   *is payable.*

19                   *(B) PREVIOUS DECISIONS.—No previous ju-*  
20                   *dicial decision regarding the franchise fee dis-*  
21                   *pute that is the subject of arbitration under this*  
22                   *subsection may be introduced in evidence or con-*  
23                   *sidered by the arbitrator or arbitration panel for*  
24                   *any purpose.*

1           (5) *FEEES AND COSTS.*—*If the franchisee is the*  
2           *prevailing party in binding arbitration, the arbi-*  
3           *trator or arbitration panel shall award the franchisee*  
4           *reasonable attorney’s fees and costs for all proceedings*  
5           *involving the disputed franchise fee consistent with—*

6                     *(A) section 504 of title 5, United States*  
7           *Code; and*

8                     *(B) section 2412 of title 28, United States*  
9           *Code.*

10          *(d) BIDS AND PROPOSALS.*—*Until such date as any*  
11          *arbitration under this Act is completed and is no longer*  
12          *subject to appeal, the Secretary—*

13                 *(1) shall not solicit or accept a bid or proposal*  
14                 *for any contract for passenger service to Fort Sumter*  
15                 *National Monument; and*

16                 *(2) shall offer to the franchisee annual extensions*  
17                 *of the concessions contract in effect on the date of en-*  
18                 *actment of this Act.*

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