

111TH CONGRESS
2D SESSION

S. 3929

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 SENATE OF THE UNITED STATES

SEPTEMBER 29, 2010

Mr. TESTER (for himself, Mr. BARRASSO, Mr. RISCH, and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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. Right of appeal and judicial review.
 Sec. 6. Consistency with other law and rights.
 Sec. 7. Regulations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) AUTHORIZATION.—The terms “authorized”
 4 and “authorization” refer to the issuance of a spe-
 5 cial use permit for the use and occupancy of Na-
 6 tional Forest System land derived from the public
 7 domain by a cabin owner under the Recreation Resi-
 8 dence Program.

9 (2) CABIN.—The term “cabin” means a pri-
 10 vately built and owned recreation residence and re-
 11 lated improvements on National Forest System land
 12 derived from the public domain that is authorized
 13 for private use and occupancy and may be sold or
 14 transferred between private parties.

15 (3) CABIN OWNER.—The term “cabin owner”
 16 means—

17 (A) a person authorized by the Secretary
 18 to use and to occupy a cabin on National For-
 19 est System land derived from the public do-
 20 main; and

21 (B) a trust or an heir or assigns of such
 22 a person.

1 (4) CABIN TRANSFER FEE.—The term “cabin
2 transfer fee” means a fee paid to the United States
3 upon the transfer of a cabin between private parties
4 for money or other consideration that also includes
5 issuance of a new permit.

6 (5) CABIN USER FEE.—The term “cabin user
7 fee” means an annual fee paid to the United States
8 by a cabin owner pursuant to an authorization for
9 the use and occupancy of a cabin on National Forest
10 System land derived from the public domain.

11 (6) CURRENT APPRAISAL CYCLE.—The term
12 “current appraisal cycle” means the completion of
13 Forest Service review and acceptance of initial typ-
14 ical lot appraisals or second appraisals if ordered by
15 cabin owners and approved by the Forest Service.

16 (7) CURRENT CABIN USER FEE.—The term
17 “current cabin user fee” means the most recent
18 cabin user fee, which results from an annual adjust-
19 ment to the prior cabin user fee under section 3(d).

20 (8) LOT.—The term “lot” means a parcel of
21 National Forest System land derived from the public
22 domain on which a person is authorized to build,
23 use, occupy, and maintain a cabin.

24 (9) NATIONAL FOREST SYSTEM LAND.—The
25 term “National Forest System land” is limited to

1 National Forest System land derived from the public
2 domain.

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

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

12 (12) TYPICAL LOT.—The term “typical lot”
13 means a cabin lot, or group of cabin lots, in a tract
14 that is selected for use in an appraisal as being rep-
15 resentative of, and that has similar value character-
16 istics as, other lots or groups of lots within the tract.

17 **SEC. 3. CABIN USER FEES.**

18 (a) PAYMENT OF CABIN USER FEES.—A cabin user
19 fee shall be paid annually by the cabin owner.

20 (b) INITIAL CABIN USER FEES.—

21 (1) ESTABLISHMENT.—The Secretary shall es-
22 tablish initial cabin user fees in the manner required
23 by this subsection.

24 (2) ASSIGNMENT TO VALUE TIERS.—Upon com-
25 pletion of the current appraisal cycle, as required by

1 paragraph (4), the Secretary shall assign each per-
2 mitted lot on National Forest System land to 1 of
3 9 tiers based on the following:

4 (A) All appraised lot values shall be ad-
5 justed, or normalized, for price changes from its
6 date of value according to the national NAHB/
7 Wells Fargo Housing Opportunity Index prior
8 to tier assignment.

9 (B) Second appraisal values approved by
10 the Forest Service shall supersede initial lot ap-
11 praisal values for the normalization and rank-
12 ing process under subparagraph (A).

13 (C) The tiers shall be established, on a na-
14 tional basis, according to relative lot value, with
15 lots having the lowest adjusted appraised value
16 assigned to Tier 1 and lots having the highest
17 adjusted appraised value assigned to Tier 9.

18 (D) The number of lots (by percentage) as-
19 signed to each tier is specified in the table con-
20 tained in paragraph (3).

21 (E) Data from incomplete appraisals may
22 not be used to establish the fee tiers.

23 (F) Until assigned to a tier, permitted
24 cabin lots, including lots with incomplete ap-
25 praisals, are assigned an interim fee of \$4,500

1 or their current annual fee, indexed in accord-
 2 ance with subsection (d), whichever is less.

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

Fee Tier	Approximate Percent of Permits Nationally	Fee Amount
Tier 1	not to exceed 8%	\$500
Tier 2	not to exceed 12%	\$1,000
Tier 3	not to exceed 12%	\$1,500
Tier 4	not to exceed 14%	\$2,000
Tier 5	at least 14%	\$2,500
Tier 6	not to exceed 14%	\$3,000
Tier 7	not to exceed 12%	\$3,500
Tier 8	not to exceed 8%	\$4,000
Tier 9	not to exceed 6%	\$4,500.

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

11 (5) EFFECTIVE DATE.—The initial cabin user
 12 fees required by this subsection shall take effect be-
 13 ginning with the first calendar year beginning after
 14 the completion of the current appraisal cycle.

1 (c) OVERPAYMENTS OR UNDERPAYMENTS.—If, upon
2 assignment to a tier under subsection (b), the Secretary
3 determines that the fee charged to a cabin owner during
4 the preceding 3 years resulted in an overpayment or un-
5 derpayment of the fee due under the tier system totaling
6 more than \$500, the fee for the next three years shall be
7 adjusted, if such a fee adjustment is requested by the Sec-
8 retary or by the affected cabin owner, as necessary to cor-
9 rect the overpayment or underpayment.

10 (d) ANNUAL ADJUSTMENTS OF CABIN USER FEE.—
11 The Secretary shall use changes in the Implicit Price
12 Deflator for the Gross Domestic Product published by the
13 Bureau of Economic Analysis of the Department of Com-
14 merce, applied on a 5-year rolling average, to determine
15 and apply an annual adjustment to cabin user fees.

16 (e) EFFECT OF DESTRUCTION, SUBSTANTIAL DAM-
17 AGE, OR LOSS OF ACCESS.—If a cabin is destroyed or suf-
18 fers substantial damage amounting to greater than 50
19 percent of replacement cost, or if access to a cabin is sig-
20 nificantly impaired, whether by catastrophic events, nat-
21 ural causes or governmental actions, such that the cabin
22 is rendered unsafe or unable to be occupied as a result,
23 the Secretary shall reduce the cabin user fee for the af-
24 fected lot to \$100 per year. This fee shall be in effect for
25 the remainder of the year in which the destruction occurs

1 and until such time as the cabin may be lawfully reoccu-
 2 pied and normal access has been restored.

3 **SEC. 4. CABIN TRANSFER FEES.**

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

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

14 (b) INDEX.—The Secretary shall use changes in the
 15 Implicit Price Deflator for the Gross Domestic Product
 16 published by the Bureau of Economic Analysis of the De-
 17 partment of Commerce, applied on a 5-year rolling aver-
 18 age, to determine and apply an annual adjustment to the
 19 cabin transfer fee threshold amounts (\$250,000.01 and

1 \$500,000.01) set forth in the table contained in subsection
2 (a).

3 **SEC. 5. RIGHT OF APPEAL AND JUDICIAL REVIEW.**

4 (a) RIGHT OF APPEAL.—Notwithstanding any action
5 of a cabin owner to exercise rights in accordance with sec-
6 tion 6, the Secretary shall by regulation grant the cabin
7 owner the right to an administrative appeal of the deter-
8 mination of a new cabin user fee, fee tier, transfer fee,
9 or whether or not to reduce a cabin user fee under section
10 3(e). Such appeal shall be pursuant to the appeal process
11 provided under subpart C (Appeal of Decisions Relating
12 to Occupancy and Use of National Forest System Lands)
13 of part 251 of title 36, Code of Federal Regulations (sec-
14 tion 251.80 et seq.).

15 (b) JUDICIAL REVIEW.—A cabin owner that contests
16 a final decision of the Secretary under this Act may bring
17 a civil action in United States district court. The venue
18 for actions brought before the United States District
19 Court shall be in the United States Judicial District where
20 the cabin is located or the permit holder resides. Nothing
21 in this Act precludes the parties from seeking mediation.

22 **SEC. 6. CONSISTENCY WITH OTHER LAW AND RIGHTS.**

23 (a) CONSISTENCY WITH RIGHTS OF THE UNITED
24 STATES.—Nothing in this Act limits or restricts any right,

1 title, or interest of the United States in or to any land
2 or resource.

3 (b) SPECIAL RULE FOR ALASKA.—In determining a
4 cabin user fee in the State of Alaska, the Secretary shall
5 not establish or impose a cabin user fee or a condition
6 affecting a cabin user fee that is inconsistent with 1303(d)
7 of the Alaska National Interest Lands Conservation Act
8 (16 U.S.C. 3193(d)).

9 **SEC. 7. REGULATIONS.**

10 The Secretary shall promulgate regulations to carry
11 out this Act not later than December 31, 2012.

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