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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.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2011

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

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A BILL

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Cabin Fee Act of 2011".

(b) TABLE OF CONTENTS.—The table of contents of 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.

SEC. 2. DEFINITIONS.

In this Act:

(1) AUTHORIZATION; AUTHORIZE.—The terms ''authorization'' and ''authorize'' mean the issuance of a special use permit for the use and occupancy of National Forest System land by a cabin owner under the Recreation Residence Program.

(2) CABIN.—The term ''cabin'' means a privately built and owned recreation residence and related improvements on National Forest System land that—

(A) is authorized for private use and occupancy; and

(B) may be sold or transferred between private parties.

(3) CABIN OWNER.—The term ''cabin owner'' means—

(A) a person authorized by the Secretary to use and to occupy a cabin; and

(B) a trust, heir, or assign of a person described in subparagraph (A).

(4) CABIN TRANSFER FEE.—The term ''cabin transfer fee'' means a fee that is paid to the United States on the transfer of a cabin between private parties for money or other consideration that results in the issuance of a new permit.

(5) CABIN USER FEE.—The term ''cabin user fee'' means an annual fee paid to the United States by a cabin owner in accordance with an authorization for the use and occupancy of a cabin.

(6) CURRENT APPRAISAL CYCLE.—The term ''current appraisal cycle'' means the completion of Forest Service review and acceptance of—

(A) initial typical lot appraisals; or

(B) second appraisals, if ordered by cabin owners and approved by the Forest Service.

(7) CURRENT CABIN USER FEE.—The term ''current cabin user fee'' means the most recent cabin user fee, as adjusted under section 3(c).

(8) LOT.—The term ''lot'' means a parcel of National Forest System land on which a person is authorized to build, use, occupy, and maintain a cabin.

(9) NATIONAL FOREST SYSTEM LAND.—The term ''National Forest System land'' means Na-

tional Forest System land derived from the public domain.

(10) RECREATION RESIDENCE PROGRAM.—The term ''Recreation Residence Program'' means the Recreation Residence Program established under the last paragraph under the heading ''FOREST SERVICE'' in the Act of March 4, 1915 (16 U.S.C. 497).

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(12) TYPICAL LOT.—The term ''typical lot'' means a cabin lot, or 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. 3. CABIN USER FEES.

(a) PAYMENT OF CABIN USER FEES.—Cabin owners shall pay an annual cabin user fee established by the Secretary in accordance with this section.

(b) INITIAL CABIN USER FEES.—

(1) ESTABLISHMENT.—The Secretary shall establish initial cabin user fees in accordance with this subsection.

(2) ASSIGNMENT TO VALUE TIERS.—On completion of the current appraisal cycle, as required by

paragraph (4), the Secretary shall assign each permitted lot on National Forest System land to 1 of 9 tiers based on the following considerations:

(A) Before assigning the lots to tiers, all appraised lot values shall be adjusted, or normalized, for price changes occurring after the appraisal, in accordance with the National Association of Homebuilders/Wells Fargo Housing Opportunity Index.

(B) Second appraisal values that are not rejected by the Forest Service shall supersede initial lot appraisal values for the normalization and ranking process under subparagraph (A).

(C) The tiers shall be established, on a national basis, according to relative lot value, with lots having the lowest adjusted appraised value assigned to tier 1 and lots having the highest adjusted appraised value assigned to tier 9.

(D) The number of lots (by percentage) assigned to each tier is contained in the table set forth in paragraph (3).

(E) Data from incomplete appraisals may not be used to establish the fee tiers under this subsection.

(F) Until assigned to a tier under this subsection, the Secretary shall assess an interim fee for permitted cabin lots (including lots with incomplete appraisals), which shall be an amount equal to the lesser of—

(i) $4,500; or

(ii) the amount of the current cabin user fee, increased by 25 percent.

(3) AMOUNT OF INITIAL CABIN USER FEES.—The initial cabin user fees, based on the assignments under paragraph (2), are as follows:

Fee Tier	Approximate Percent of Permits Nationally	Fee Amount
Tier 1	8 percent	$500
Tier 2	12 percent	$1,000
Tier 3	12 percent	$1,500
Tier 4	14 percent	$2,000
Tier 5	14 percent	$2,500
Tier 6	14 percent	$3,000
Tier 7	11 percent	$3,500
Tier 8	8 percent	$4,000
Tier 9	7 percent	$4,500.

(4) DEADLINE FOR COMPLETION OF CURRENT APPRAISAL CYCLE.—Not later than 3 years after the date of enactment of this Act, the Secretary shall complete the current appraisal cycle.

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

(c) ANNUAL ADJUSTMENTS OF CABIN USER FEE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall use changes in the Implicit Price Deflator for the Gross Domestic Product published by the Bureau of Economic Analysis of the Department of Commerce, applied on a 5-year rolling average, to assess an annual adjustment to cabin user fees.

(2) LIMITATIONS.—Notwithstanding paragraph (1), cabin user fees established under this section shall be increased by not more than 25 percent in an annual adjustment under paragraph (a).

(d) EFFECT OF DESTRUCTION, SUBSTANTIAL DAMAGE, OR LOSS OF ACCESS.—

(1) IN GENERAL.—The Secretary shall reduce the cabin user fee to $100 per year for a cabin if—

(A) the cabin is destroyed or suffers substantial damage in an amount that is greater than 50 percent of replacement cost of the cabin; or

(B) access to the cabin is significantly impaired, whether by catastrophic events, natural causes, or governmental actions, which results in the cabin being rendered unsafe or unable to be occupied.

(2) TERM OF REDUCED FEE.—The reduced fee under paragraph (1) shall be in effect until the later of—

(A) the last day of the year in which the destruction or impairment occurs; or

(B) the date on which the cabin may be lawfully reoccupied and normal access has been restored.

SEC. 4. CABIN TRANSFER FEES.

(a) PAYMENT OF CABIN TRANSFER FEES.—In conjunction with the transfer of ownership of any cabin and the issuance of a new permit, the cabin owner transferring the cabin shall file with the Secretary a sworn statement declaring the amount of money or other value received, if any, for the transfer of the cabin.

(b) AMOUNT.—As a condition of the issuance by the Secretary of a new authorization for the use and occupancy of the cabin, the cabin owner transferring the cabin shall pay to the Secretary a cabin transfer fee in an amount determined 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 percent of consideration in excess of $250,000 up to $500,000
$500,000.01 and above	$1,000 plus 5 percent of consideration in excess of $250,000 up to $500,000 plus 10 percent of consideration in excess of $500,000.

(c) INDEX.—The Secretary shall use changes in the Implicit Price Deflator for the Gross Domestic Product published by the Bureau of Economic Analysis of the Department of Commerce, applied on a 5-year rolling average, to determine and apply an annual adjustment to the cabin transfer fee threshold amounts set forth in the table contained in subsection (b).

SEC. 5. RIGHT OF APPEAL AND JUDICIAL REVIEW.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—Notwithstanding any action of a cabin owner to exercise rights in accordance with section 6, the Secretary shall by regulation grant to the cabin owner the right to an administrative appeal of the determination of a new cabin user fee, fee tier, cabin transfer fee, or whether or not to reduce a cabin user fee under section 3(d).

(2) APPLICABLE LAW.—An appeal under paragraph (1) shall be pursuant to the appeal process provided under subpart C of part 251 of title 36,

Code of Federal Regulations (or a successor regulation).

(b) JUDICIAL REVIEW.—

(1) IN GENERAL.—A cabin owner that contests a final decision of the Secretary under this Act may bring a civil action in United States district court.

(2) VENUE.—The venue for an action brought before the United States district court under this subsection shall be in the Federal judicial district in which the cabin is located or the permit holder resides.

(3) EFFECT ON MEDIATION.—Nothing in this Act precludes a person from seeking mediation for an action under this Act.

SEC. 6. EFFECT.

(a) IN GENERAL.—Nothing in this Act 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. 7. REGULATIONS.

Not later than December 31, 2012, the Secretary shall issue regulations to carry out this Act.

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