

Union Calendar No. 437

112TH CONGRESS
2^D SESSION

H. R. 3397

[Report No. 112-602]

To modify the Forest Service Recreation Residence Program by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2011

Mr. HASTINGS of Washington (for himself and Mr. SIMPSON) introduced the following bill; which was referred to the Committee on Natural Resources

JULY 17, 2012

Additional sponsors: Mr. REHBERG and Mr. HUNTER

JULY 17, 2012

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To modify the Forest Service Recreation Residence Program 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 2011”.

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

8 **SEC. 2. DEFINITIONS.**

9 In this Act:

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

15 (2) CABIN.—The term “cabin” means a pri-
 16 vately built and owned recreation residence and re-
 17 lated improvements on National Forest System land
 18 that—

19 (A) is authorized for private use and occu-
 20 pancy; and

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

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

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

5 (B) a trust, heir, or assign of a person de-
6 scribed in subparagraph (A).

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

12 (5) CABIN USER FEE.—The term “cabin user
13 fee” means an annual fee paid to the United States
14 by a cabin owner in accordance with an authoriza-
15 tion for the use and occupancy of a cabin.

16 (6) CURRENT APPRAISAL CYCLE.—The term
17 “current appraisal cycle” means the completion of
18 Forest Service review and acceptance of—

19 (A) initial typical lot appraisals; or

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

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

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

5 (9) NATIONAL FOREST SYSTEM.—The term
6 “National Forest System” has the meaning given
7 that term in section 11 of the Forest and Rangeland
8 Renewable Resources Planning Act of 1974 (16
9 U.S.C. 1609).

10 (10) RECREATION RESIDENCE PROGRAM.—The
11 term “Recreation Residence Program” means the
12 Recreation Residence Program established under the
13 last paragraph under the heading “FOREST SERV-
14 ICE” in the Act of March 4, 1915 (16 U.S.C. 497).

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

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

1 **SEC. 3. CABIN USER FEES.**

2 (a) PAYMENT OF CABIN USER FEES.—Cabin owners
3 shall pay an annual cabin user fee established by the Sec-
4 retary in accordance with this section.

5 (b) INITIAL CABIN USER FEES.—

6 (1) ESTABLISHMENT.—The Secretary shall es-
7 tablish initial cabin user fees in accordance with this
8 subsection.

9 (2) ASSIGNMENT TO VALUE TIERS.—On com-
10 pletion of the current appraisal cycle, as required by
11 paragraph (4), the Secretary shall assign each per-
12 mitted lot on National Forest System land to 1 of
13 9 tiers based on the following considerations:

14 (A) Before assigning the lots to tiers, all
15 appraised lot values shall be adjusted, or nor-
16 malized, for price changes occurring after the
17 appraisal, in accordance with the National As-
18 sociation of Homebuilders/Wells Fargo Housing
19 Opportunity Index.

20 (B) Second appraisal values that meet
21 Forest Service standards for approval shall su-
22 persede initial lot appraisal values for the nor-
23 malization and ranking process under subpara-
24 graph (A).

25 (C) The tiers shall be established, on a na-
26 tional basis, according to relative lot value, with

1 lots having the lowest adjusted appraised value
2 assigned to tier 1 and lots having the highest
3 adjusted appraised value assigned to tier 9.

4 (D) The number of lots (by percentage) as-
5 signed to each tier is contained in the table set
6 forth in paragraph (3).

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

10 (F) Until assigned to a tier under this
11 paragraph, the Secretary shall assess (and may
12 adjust annually subject to clause (ii)) an in-
13 terim fee for permitted cabin lots (including lots
14 with incomplete appraisals) in an amount equal
15 to the lesser of—

16 (i) \$4,500; or

17 (ii) the amount of the current cabin
18 user fee, as determined under the Cabin
19 User Fee Fairness Act of 2000 (16 U.S.C.
20 6201 et seq.), which amount the Secretary
21 may increase annually by not more than
22 25 percent, except that the increased fee
23 shall not exceed the otherwise scheduled
24 fee determined under the Cabin User Fee
25 Fairness Act of 2000.

1 (3) AMOUNT OF INITIAL CABIN USER FEES.—

2 The initial cabin user fees, based on the assignments
3 under paragraph (2), are as follows:

Fee Tier	Approximate Percent of Permits Nationally	Fee Amount
Tier 1	8 percent	\$500
Tier 2	16 percent	\$1,000
Tier 3	20 percent	\$1,500
Tier 4	20 percent	\$2,000
Tier 5	12 percent	\$2,500
Tier 6	8 percent	\$3,000
Tier 7	6 percent	\$3,500
Tier 8	6 percent	\$4,000
Tier 9	4 percent	\$4,500

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

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

12 (c) ANNUAL ADJUSTMENTS OF CABIN USER FEE.—
13 Once initial cabin user fees have been assessed, based on
14 the tier assignments under subsection (b)(2), the Sec-
15 retary shall use changes in the Implicit Price Deflator for

1 the Gross Domestic Product published by the Bureau of
2 Economic Analysis of the Department of Commerce, ap-
3 plied on a 5-year rolling average, to assess an annual ad-
4 justment to cabin user fees.

5 (d) EFFECT OF DESTRUCTION, SUBSTANTIAL DAM-
6 AGE, OR LOSS OF ACCESS.—

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

9 (A) the cabin is destroyed or suffers sub-
10 stantial damage in an amount that is greater
11 than 50 percent of replacement cost of the
12 cabin; or

13 (B) access to the cabin is significantly im-
14 paired, whether by catastrophic events, natural
15 causes, or governmental actions, which results
16 in the cabin being rendered unsafe or unable to
17 be occupied.

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

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

23 (B) the date on which the cabin may be
24 lawfully reoccupied and normal access has been
25 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 cabin owner transferring
 5 the cabin shall file with the Secretary a sworn statement
 6 declaring the amount of money or other value received,
 7 if any, for the transfer of the cabin.

8 (b) AMOUNT.—As a condition of the issuance by the
 9 Secretary of a new authorization for the use and occu-
 10 pancy of the cabin, the cabin owner transferring the cabin
 11 shall pay to the Secretary a cabin transfer fee in an
 12 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.

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

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

2 (a) **RIGHT OF APPEAL.**—

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

10 (2) **APPLICABLE LAW.**—An appeal under para-
11 graph (1) shall be pursuant to the appeal process
12 provided under subpart C of part 251 of title 36,
13 Code of Federal Regulations (or a successor regula-
14 tion).

15 (b) **JUDICIAL REVIEW.**—

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

19 (2) **VENUE.**—The venue for an action brought
20 before the United States district court under this
21 subsection shall be in the Federal judicial district in
22 which the cabin is located or the permit holder re-
23 sides.

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

1 **SEC. 6. EFFECT.**

2 (a) IN GENERAL.—Nothing in this Act limits or re-
3 stricts any right, title, or interest of the United States in
4 or to any land or resource.

5 (b) SPECIAL RULE FOR ALASKA.—In determining a
6 cabin user fee in the State of Alaska, the Secretary shall
7 not establish or impose a cabin user fee or a condition
8 affecting a cabin user fee that is inconsistent with 1303(d)
9 of the Alaska National Interest Lands Conservation Act
10 (16 U.S.C. 3193(d)).

11 **SEC. 7. REGULATIONS.**

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

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