

106TH CONGRESS  
2D SESSION

# S. 2331

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, South Carolina.

---

## IN THE SENATE OF THE UNITED STATES

MARCH 30, 2000

Mr. HOLLINGS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## 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, South Carolina.

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”  
6       means Fort Sumter Tours, Inc., a concessioner pro-  
7       viding service to Fort Sumter National Monument,  
8       South Carolina.

1           (2) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

3           (b) RECALCULATION OF FRANCHISE FEE.—Not later  
4           than 30 days after the date of enactment of this Act, the  
5           Secretary shall—

6                 (1) recalculate the amount (if any) of the fran-  
7                 chise fee owed by the franchisee; and

8                 (2) notify the franchisee of the recalculated  
9                 amount.

10          (c) ARBITRATION.—

11                 (1) IN GENERAL.—If the amount of the fran-  
12                 chise fee as recalculated under subsection (a) is not  
13                 acceptable to the franchisee—

14                         (A) the franchisee, not later than 5 days  
15                         after receipt of notification under subsection  
16                         (b)(2), shall so notify the Secretary; and

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

20                                 (i) includes the opportunity to call  
21                                 and cross-examine witnesses; and

22                                 (ii) is subject to supervision by the  
23                                 United States District Court for the Dis-  
24                                 trict of Columbia in accordance with the  
25                                 title 9, United States Code.

1           (2) SELECTION OF ARBITRATOR OR ARBITRA-  
2           TION PANEL.—

3           (A) AGREEMENT ON ARBITRATOR.—For a  
4           period of not more than 30 days after the  
5           franchisee gives notification under paragraph  
6           (1)(A), the Secretary and the franchisee shall  
7           attempt to agree on the selection of an arbi-  
8           trator to conduct the arbitration.

9           (B) PANEL.—If at any time the Secretary  
10          or the franchisee declares that the parties are  
11          unable to agree on an arbitrator—

12               (i) the Secretary and the franchisee  
13               shall each select an arbitrator;

14               (ii) not later than 10 days after 2 ar-  
15               bitrators are selected under clause (i), the  
16               2 arbitrators shall select a third arbitrator;  
17               and

18               (iii) the 3 arbitrators shall conduct  
19               the arbitration.

20          (3) COMMENCEMENT AND COMPLETION.—An  
21          arbitration proceeding under paragraph (1)—

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

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

3 (4) APPLICABLE LAW.—

4 (A) RELEVANT TIME PERIOD.—The law  
 5 applicable to the recalculation of the franchise  
 6 fee under this subsection shall be the law appli-  
 7 cable to franchise fee determinations in effect  
 8 at the beginning of the period for which the  
 9 franchise fee is payable.

10 (B) PREVIOUS DECISIONS.—No previous  
 11 judicial decision regarding the franchise fee dis-  
 12 pute that is the subject of arbitration under  
 13 this subsection may be introduced in evidence  
 14 or considered by the arbitrator or arbitration  
 15 panel for any purpose.

16 (5) FEES AND COSTS.—If the franchisee is the  
 17 prevailing party in binding arbitration, the arbi-  
 18 trator or arbitration panel shall award the franchisee  
 19 reasonable attorney's fees and costs for all pro-  
 20 ceedings involving the disputed franchise fee con-  
 21 sistent with—

22 (A) section 504 of title 5, United States  
 23 Code; and

24 (B) section 2412 of title 28, United States  
 25 Code.

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

4           (1) shall not solicit or accept a bid or proposal  
5 for any contract for passenger service to Fort Sum-  
6 ter National Monument; and

7           (2) shall offer to the franchisee annual exten-  
8 sions of the concessions contract in effect on the  
9 date of enactment of this Act.

○