

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

# H. R. 5802

To amend the National Park Service Concessions Management Improvement Act of 1998, to extend to additional small businesses the preferential right to renew a concessions contract entered into under such Act, to facilitate the renewal of a commercial use authorization granted under such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2006

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

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## A BILL

To amend the National Park Service Concessions Management Improvement Act of 1998, to extend to additional small businesses the preferential right to renew a concessions contract entered into under such Act, to facilitate the renewal of a commercial use authorization granted under such Act, 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.**

4       This Act may be cited as the “NPS Concessions Re-  
5       form Act of 2006”.

1 **SEC. 2. ANNUAL GROSS RECEIPTS.**

2 Section 403(8) of the National Park Service Conces-  
3 sions Management Improvement Act of 1998 (16 U.S.C.  
4 5952(8)) is amended—

5 (1) by amending subparagraph (A)(ii) to read  
6 as follows:

7 “(ii) Subject to subparagraph (C),  
8 concessions contracts with anticipated an-  
9 nual gross receipts under \$1,500,000, such  
10 amount to be adjusted annually to reflect  
11 changes in the Consumer Price Index. An  
12 incumbent concessions contract holder with  
13 another concessions contract with annual  
14 gross receipts of \$1,500,000 or more, not  
15 including an outfitting and guide conces-  
16 sion contract, is not eligible for the right  
17 authorized by paragraph (7).”; and

18 (2) in subparagraph (C), by striking “500,000”  
19 and inserting “\$1,500,000, such amount to be ad-  
20 justed annually to reflect changes in the Consumer  
21 Price Index”.

22 **SEC. 3. DEBRIEFING.**

23 Section 403(5) of the Act (16 U.S.C. 5952(5)) is  
24 amended by adding at the end the following:

25 “(D) DEBRIEFING.—The Secretary shall  
26 provide to any person, corporation, and other

1           entity that submitted a proposal and who was  
2           not awarded a proposed concessions contract a  
3           debriefing as to why they were not selected as  
4           submitting the best proposal for that conces-  
5           sions contract. Such debriefing must be re-  
6           quested and must be made within 90 days of  
7           the award of the concessions contract. The Sec-  
8           retary shall not be required to disclose any pro-  
9           prietary information of the person, corporation,  
10          or other entity that was selected as submitting  
11          the best proposal and awarded the concessions  
12          contract.”.

13 **SEC. 4. LEASEHOLD SURRENDER INTEREST AND SOURCE**  
14 **OF FUNDS.**

15          (a) IN GENERAL.—Section 405(a) of the National  
16 Park Service Concessions Management Improvement Act  
17 of 1998 (16 U.S.C. 5954(a)) is amended—

18           (1) in paragraph (2)(A), by inserting after  
19           “pursuant to this title” the following: “and may be  
20           pledged as security for other National Park Service  
21           contracts using a combination of leasehold surrender  
22           interests if holding one or more contracts with the  
23           National Park Service, and the proceeds resulting  
24           from such pledged security shall not be restricted for

1 use in the park or parks for which the leasehold sur-  
2 render interest was pledged”; and

3 (2) by adding at the end the following:

4 “(6) In the event of a dispute between the con-  
5 cessioner and the Secretary regarding leasehold sur-  
6 render interest valuations, leasehold surrender inter-  
7 est allocations, or the amount of physical deprecia-  
8 tion, the matter shall be resolved through binding  
9 arbitration.”.

10 (b) TRANSITION TO SUCCESSOR CONCESSIONER.—

11 Section 405(c) of the Act (16 U.S.C. 5954(c)) is amended  
12 by inserting at the end of the last sentence the following:

13 “The Secretary shall advise the successor concessioner of  
14 the established value of the leasehold surrender interest  
15 for each facility and the established amount of physical  
16 depreciation of each facility before the successor conces-  
17 sioner pays the prior concessioner for its possessory inter-  
18 est or its leasehold surrender interest.”.

19 (c) DEFINITIONS.—Section 405(e) of the Act (16  
20 U.S.C. 5954(e)) is amended—

21 (1) in paragraph (2)—

22 (A) by inserting “or other fixed physical  
23 improvements” after “nonremovable equip-  
24 ment”; and

1 (B) by adding at the end the following: “A  
2 capital improvement shall also include a compo-  
3 nent, replacement, modification, alteration, or  
4 other improvement of another capital improve-  
5 ment.”; and

6 (2) by adding at the end the following:

7 “(3) CONSTRUCT, CONSTRUCTION, CON-  
8 STRUCTS.—The term ‘construct’, ‘construction’, or  
9 ‘constructs’ means to build, make, erect, assemble,  
10 or affix.

11 “(4) COST.—The term ‘cost’ means all amounts  
12 paid by the concessioner with respect to a capital  
13 improvement so long as such cost is capitalized in  
14 the concessioner’s financial statements using consist-  
15 ently applied generally accepted accounting prin-  
16 ciples.”.

17 **SEC. 5. COMMERCIAL USE AUTHORIZATION.**

18 Section 418 of the National Park Service Concessions  
19 Management Improvement Act of 1998 (16 U.S.C. 5966)  
20 is amended—

21 (1) in subparagraph (b)(2)(D), by adding at the  
22 end the following: “No action to limit the number of  
23 authorizations may occur until the Secretary con-  
24 ducts a visitor use capacity study that demonstrates

1 that limits are necessary for the preservation and  
2 proper management of park resources and values.”;

3 (2) in paragraph (c)(3), by adding after “au-  
4 thorized use.” the following: “Such uses shall be  
5 subject to limitations and fees comparable to those  
6 that may be imposed on other authorization holders  
7 for the same or similar activities.”;

8 (3) by amending subsection (e), to read as fol-  
9 lows:

10 “(e) DURATION.—The term of any authorization, not  
11 subject to limited numbers pursuant to (b)(2)(D), shall  
12 not exceed 5 years. Where it is determined that only lim-  
13 ited numbers of authorizations shall be issued, the term  
14 of such authorizations shall not exceed 5 years. Such au-  
15 thorizations shall be issued to those applicants that have—

16 “(1) demonstrated the capability to provide  
17 quality visitor services; and

18 “(2) experience with the resources and values in  
19 the park unit for which the authorization is issued.”;  
20 and

21 (4) by adding at the end the following:

22 “(g) COST RECOVERY.—The Secretary shall not seek  
23 to recover costs from applicants or authorized holders re-

- 1 lated to capacity studies and recreation activities and mon-
- 2 itoring not associated with authorizations.”.

