

112TH CONGRESS  
1ST SESSION

# S. 1906

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.

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## 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.

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.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

8 (2) CABIN.—The term “cabin” means a pri-  
 9 vately built and owned recreation residence and re-  
 10 lated improvements on National Forest System land  
 11 that—

12 (A) is authorized for private use and occu-  
 13 pancy; and

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

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

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

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

1           (4) CABIN TRANSFER FEE.—The term “cabin  
2       transfer fee” means a fee that is paid to the United  
3       States on the transfer of a cabin between private  
4       parties for money or other consideration that results  
5       in the 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 in accordance with an authoriza-  
9       tion for the use and occupancy of a cabin.

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

13               (A) initial typical lot appraisals; or

14               (B) second appraisals, if ordered by cabin  
15       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, as adjusted under section 3(c).

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

23          (9) NATIONAL FOREST SYSTEM LAND.—The  
24       term “National Forest System land” means Na-

1 tional 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 under the  
6 last paragraph under the heading “FOREST SERV-  
7 ICE” in the Act of March 4, 1915 (16 U.S.C. 497).

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

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

16 **SEC. 3. CABIN USER FEES.**

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

20 (b) INITIAL CABIN USER FEES.—

21 (1) ESTABLISHMENT.—The Secretary shall es-  
22 tablish initial cabin user fees in accordance with this  
23 subsection.

24 (2) ASSIGNMENT TO VALUE TIERS.—On 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 considerations:

4 (A) Before assigning the lots to tiers, all  
5 appraised lot values shall be adjusted, or nor-  
6 malized, for price changes occurring after the  
7 appraisal, in accordance with the National As-  
8 sociation of Homebuilders/Wells Fargo Housing  
9 Opportunity Index.

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

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

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

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

1 (F) Until assigned to a tier under this sub-  
2 section, the Secretary shall assess an interim  
3 fee for permitted cabin lots (including lots with  
4 incomplete appraisals), which shall be an  
5 amount equal to the lesser of—

6 (i) \$4,500; or

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

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

10 The initial cabin user fees, based on the assignments  
11 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.

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

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

5       (c) ANNUAL ADJUSTMENTS OF CABIN USER FEE.—

6           (1) IN GENERAL.—Subject to paragraph (2),  
 7       the Secretary shall use changes in the Implicit Price  
 8       Deflator for the Gross Domestic Product published  
 9       by the Bureau of Economic Analysis of the Depart-  
 10      ment of Commerce, applied on a 5-year rolling aver-  
 11      age, to assess an annual adjustment to cabin user  
 12      fees.

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

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

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

21              (A) the cabin is destroyed or suffers sub-  
 22              stantial damage in an amount that is greater  
 23              than 50 percent of replacement cost of the  
 24              cabin; or

1 (B) access to the cabin is significantly im-  
 2 paired, whether by catastrophic events, natural  
 3 causes, or governmental actions, which results  
 4 in the cabin being rendered unsafe or unable to  
 5 be occupied.

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

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

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

14 **SEC. 4. CABIN TRANSFER FEES.**

15 (a) PAYMENT OF CABIN TRANSFER FEES.—In con-  
 16 junction with the transfer of ownership of any cabin and  
 17 the issuance of a new permit, the cabin owner transferring  
 18 the cabin shall file with the Secretary a sworn statement  
 19 declaring the amount of money or other value received,  
 20 if any, for the transfer of the cabin.

21 (b) AMOUNT.—As a condition of the issuance by the  
 22 Secretary of a new authorization for the use and occu-  
 23 pancy of the cabin, the cabin owner transferring the cabin  
 24 shall pay to the Secretary a cabin transfer fee in an  
 25 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.

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

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

9 (a) RIGHT OF APPEAL.—

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

17 (2) APPLICABLE LAW.—An appeal under para-  
18 graph (1) shall be pursuant to the appeal process  
19 provided under subpart C of part 251 of title 36,

1 Code of Federal Regulations (or a successor regula-  
2 tion).

3 (b) JUDICIAL REVIEW.—

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

7 (2) VENUE.—The venue for an action brought  
8 before the United States district court under this  
9 subsection shall be in the Federal judicial district in  
10 which the cabin is located or the permit holder re-  
11 sides.

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

15 **SEC. 6. EFFECT.**

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

19 (b) SPECIAL RULE FOR ALASKA.—In determining a  
20 cabin user fee in the State of Alaska, the Secretary shall  
21 not establish or impose a cabin user fee or a condition  
22 affecting a cabin user fee that is inconsistent with 1303(d)  
23 of the Alaska National Interest Lands Conservation Act  
24 (16 U.S.C. 3193(d)).

1 **SEC. 7. REGULATIONS.**

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

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