



AN ACT REVISING LAWS RELATED TO FUNDING AND ACCESS FOR THE SALE OF STATE CABIN OR HOME SITES; ALLOWING ADVANCE PAYMENT OF SURVEY COSTS; PROVIDING FOR ACCESS EASEMENTS TO CABIN OR HOME SITES; AMENDING SECTIONS 77-2-318, 77-2-325, AND 77-2-363, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 77-2-318, MCA, is amended to read:

"77-2-318. Sale of leased cabin or home sites. (1) (a) The board shall, consistent with the board's constitutional fiduciary duty of attaining full market value, make available for sale within a reasonable period of time as provided in this part those lands that were state land cabin or home sites on May 6, 2013, at the request of a lessee or an improvement owner and with the consent of any mortgagee or other owner of an interest in the cabin or home site improvements, only if the requested sale is consistent with the board's constitutional fiduciary duty of attaining full market value and with the provisions of this part and if the sale is approved by the board.

(b) (i) The disposition of proceeds of any sale of state land property pursuant to this section must comply with the provisions of 77-2-337.

(ii) The proceeds of any sale of cabin site improvements pursuant to this part must go to the owner of record of the improvements.

~~(2) The department shall have prepared a current certificate of survey for the property. The cost of preparation of the certificate of survey must be included in the settlement for improvements, as provided for in 77-2-325, if a person other than the lessee is the purchaser.~~

~~(3)(2)~~ The sale of a lease cabin or home site is exempt from the subdivision laws, except that the development of any new, replacement, or additional water supply or sewage disposal system on the property must be approved pursuant to the review procedure, fee, and other requirements of Title 76, chapter 4, part 1.

~~(4)(3)~~ By January 1, 2014, the The board shall may adopt rules to ensure that the sales process authorized pursuant to this section is orderly and consistent with its constitutional fiduciary duties and that the

number of leased cabin or home sites made available for sale at any given time is consistent with the board's constitutional duty of attaining full market value.

~~(5)~~(4) Upon a sale of ~~leased land~~ a cabin or home site, the ~~department board shall~~, may:

(a) upon compliance with 77-2-101 through 77-2-106, grant a permanent easement across state lands to secure access using current routes; or

(b) convey an appurtenant, nonexclusive easement to the property from the nearest public road if:

(i) the board has authority to grant the easement; and

(ii) the conveyance of the easement does not overburden a right-of-way held by the board.

(5) The appraised value and minimum bid for a cabin or home site must include the value of the easement granted pursuant to subsection (4).

(6) For purposes of this section, "cabin site improvements" has the meaning provided in 77-2-317."

Section 2. Section 77-2-325, MCA, is amended to read:

"77-2-325. Settlement for improvements. Except for the sale of a cabin or home site, if any state land is sold on which there are improvements belonging to a lessee and some person other than the lessee is the purchaser, that person shall settle with the lessee for all improvements on the land belonging to the lessee before the issuance of the certificate of purchase. The provisions of 77-6-301 through 77-6-303 and 77-6-306 relating to the payment and settlement for improvements on state lands between a former lessee and a new lessee apply to the settlement between a lessee and the purchaser. If settlement is not reached within 6 months of the date of sale, all improvements become the property of the state unless the department for good cause shown grants both parties additional time in which to exhaust arbitration."

Section 3. Section 77-2-363, MCA, is amended to read:

"77-2-363. Land banking land sales and limitations -- sale preparation costs. (1) (a) The board may not cumulatively sell or dispose of more than 250,000 acres of state land. Seventy-five percent of the acreage cumulatively sold must be isolated parcels that do not have a legal right of access by the public. At any one time during the life of the land banking process, the board may not sell more than 20,000 acres of state land unless the board has acted to use the revenue from that land to make purchases pursuant to 77-2-364.

(b) The estimated fair market value must be determined by a Montana-licensed and Montana-certified

appraiser.

(2) (a) A person bidding to purchase state land offered for sale shall 20 days prior to the day of auction deposit with the department a bid bond in the form of a certified check or cashier's check drawn on any Montana bank equal to at least 20% of the minimum sale price specified by the department pursuant to 77-2-323(1) to guarantee the bidder's payment of the purchase price. Bid bonds submitted to secure a bid on a parcel formerly leased as a cabin or home site need only be equal to 5% of the minimum sale price as specified by the department.

(b) If the current lessee of the land to be sold has initiated the sale as authorized by 77-2-364, the lessee may cancel the sale by giving notice to the department at least 10 days prior to the day of the auction. When the sale is canceled by the lessee, the lessee shall pay the costs incurred by the department for the preparation of the sale, including any costs incurred for preparation of documents required by 75-1-201.

(c) The department shall retain the bid bond of the successful bidder and shall return the bid bonds of the unsuccessful bidders. If the successful bidder fails to comply with the terms of the sale for any reason, the successful bidder's bid bond must be forfeited and credited to the interest and income account of the proper trust.

(3) Except for a sale that is initiated by the lessee of the parcel of land proposed for sale, prior to the proposed sale of any parcel of state land under the land banking process, the board shall give 60 days' notice of the proposed sale to the lessee of the parcel to allow the lessee sufficient time to determine whether the lessee wishes to propose an exchange of the land to the board.

(4) For a sale initiated by the board, the department, or the cabin or home site lessee, the lessee of the land must be afforded all the rights and privileges to match the high bid as provided in 77-2-324.

(5) (a) Except as provided in subsection (6), when the lessee has initiated a sale of land under this section, the lessee shall remit to the department the estimated costs of preparing the parcel for sale, including but not limited to appraisals, cultural surveys, environmental review pursuant to Title 75, chapter 1, parts 1 through 3, and land surveys, if necessary. Payment must be made within 10 days after the board has provided preliminary approval for the sale of the parcel.

(b) If the parcel is sold to the lessee, the funds remitted for the costs of the sale must be applied to the actual costs at closing. If the parcel is sold to a party other than the lessee, the funds remitted by the lessee must be refunded to the lessee and actual costs of preparing the parcel for sale must be assessed to the purchaser at closing.

(6) For the sale of a ~~parcel formerly leased as~~ a cabin or home site:

~~(a)~~ the department shall prepare and assume the cost of the land survey, and. The department may allow the survey to be paid for in advance by the lessee or the owner of any improvements if the survey is contracted through the department according to department specifications. If the parcel is sold but the purchaser is other than the lessee or the owner of the improvements, the cost of the survey must be included in the actual costs at closing and the department shall refund the cost of the survey to the former lessee or the owner of the improvements.

~~(b)(7)~~ the The sale of a cabin or home site is exempt from the provisions of Title 75, chapter 1, parts 1 through 3."

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 0034, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2015.

Speaker of the House

Signed this _____ day
of _____, 2015.

SENATE BILL NO. 34

INTRODUCED BY T. FACEY

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE
OFFICE OF BUDGET AND PROGRAM PLANNING

AN ACT REVISING LAWS RELATED TO FUNDING AND ACCESS FOR THE SALE OF STATE CABIN OR HOME SITES; ALLOWING ADVANCE PAYMENT OF SURVEY COSTS; PROVIDING FOR ACCESS EASEMENTS TO CABIN OR HOME SITES; AMENDING SECTIONS 77-2-318, 77-2-325, AND 77-2-363, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.