

## 1 SENATE BILL NO. 34

2 INTRODUCED BY T. FACEY

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE

4 OFFICE OF BUDGET AND PROGRAM PLANNING

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO FUNDING AND ACCESS FOR THE  
7 SALE OF STATE CABIN OR HOME SITES; ALLOWING ADVANCE PAYMENT OF SURVEY COSTS;  
8 PROVIDING FOR ACCESS EASEMENTS TO CABIN OR HOME SITES; AMENDING SECTIONS 77-2-318,  
9 77-2-325, AND 77-2-363, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12  
13 **Section 1.** Section 77-2-318, MCA, is amended to read:

14 **"77-2-318. Sale of leased cabin or home sites.** (1) (a) The board shall, consistent with the board's  
15 constitutional fiduciary duty of attaining full market value, make available for sale within a reasonable period of  
16 time as provided in this part those lands that were state land cabin or home sites on May 6, 2013, at the request  
17 of a lessee or an improvement owner and with the consent of any mortgagee or other owner of an interest in the  
18 cabin or home site improvements, only if the requested sale is consistent with the board's constitutional fiduciary  
19 duty of attaining full market value and with the provisions of this part and if the sale is approved by the board.

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

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

24 ~~(2) The department shall have prepared a current certificate of survey for the property. The cost of~~  
25 ~~preparation of the certificate of survey must be included in the settlement for improvements, as provided for in~~  
26 ~~77-2-325, if a person other than the lessee is the purchaser.~~

27 ~~(3)(2)~~ The sale of a lease cabin or home site is exempt from the subdivision laws, except that the  
28 development of any new, replacement, or additional water supply or sewage disposal system on the property  
29 must be approved pursuant to the review procedure, fee, and other requirements of Title 76, chapter 4, part 1.

30 ~~(4)(3)~~ By January 1, 2014, the The board shall may adopt rules to ensure that the sales process

1 authorized pursuant to this section is orderly and consistent with its constitutional fiduciary duties and that the  
 2 number of leased cabin or home sites made available for sale at any given time is consistent with the board's  
 3 constitutional duty of attaining full market value.

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

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

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

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

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

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

12 (6) For purposes of this section, "cabin site improvements" has the meaning provided in 77-2-317."  
 13

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

15 **"77-2-325. Settlement for improvements.** If Except for the sale of a cabin or home site, if any state land  
 16 is sold on which there are improvements belonging to a lessee and some person other than the lessee is the  
 17 purchaser, that person shall settle with the lessee for all improvements on the land belonging to the lessee before  
 18 the issuance of the certificate of purchase. The provisions of 77-6-301 through 77-6-303 and 77-6-306 relating  
 19 to the payment and settlement for improvements on state lands between a former lessee and a new lessee apply  
 20 to the settlement between a lessee and the purchaser. If settlement is not reached within 6 months of the date  
 21 of sale, all improvements become the property of the state unless the department for good cause shown grants  
 22 both parties additional time in which to exhaust arbitration."  
 23

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

25 **"77-2-363. Land banking land sales and limitations -- sale preparation costs.** (1) (a) The board may  
 26 not cumulatively sell or dispose of more than 250,000 acres of state land. Seventy-five percent of the acreage  
 27 cumulatively sold must be isolated parcels that do not have a legal right of access by the public. At any one time  
 28 during the life of the land banking process, the board may not sell more than 20,000 acres of state land unless  
 29 the board has acted to use the revenue from that land to make purchases pursuant to 77-2-364.

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

1 appraiser.

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

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

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

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

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

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

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

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

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

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

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

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