

SENATE BILL NO. 409

INTRODUCED BY TUTVEDT, HAMLETT AND MOWBRAY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING STATE LAND CABIN SITE LAWS; AUTHORIZING AN ALTERNATIVE RENTAL MARKET VALUATION COMPETITIVE BID PROCESS; AUTHORIZING THE SALE OF STATE-LEASED CABIN OR HOME SITES OR CITY OR TOWN LOTS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 77-1-208, AND 77-2-318, MCA; REPEALING SECTION 77-2-319, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Alternative rental market valuation -- open competitive bidding

process. (1) (a) In order to establish full rental market value, the board shall establish an open competitive bidding process for all vacant cabin site properties. Except as provided in subsection (1)(c), the minimum bid must be initially set at ~~4.5%~~ 2% of the most recent cabin site appraisal value as determined by the department of revenue.

(b) (i) The board shall, within 180 days from the date that a cabin site property becomes vacant, put that site up for open competitive bidding.

(ii) In providing notice of the open competitive bidding process, the board shall notify prospective bidders that a bidder other than the current lessee or licensee is obligated to purchase the improvements pursuant to 77-1-208(4) if that bidder offers the highest bid.

(iii) A lease or license term for a bidder that offers the highest bid and acquires a lease or license must be for a minimum period of 15 years.

(iv) The fee for each subsequent year must be adjusted using the average annual consumer price index as published by the U.S. bureau of labor statistics.

(c) If pursuant to subsection (1)(a) the board does not receive the minimum bid ~~WITHIN 30 180 DAYS~~, the board ~~may~~ SHALL MAY reduce the bid incrementally until a bid is received.

(2) Subject to [section 2], a lessee or licensee may voluntarily put the lessee's or licensee's cabin site up for open competitive bid as provided in subsection (1) of this section. A LESSEE CHOOSING TO VOLUNTARILY PLACE A CABIN SITE LEASE UP FOR COMPETITIVE BID IS NOT ENTITLED TO A PREFERENCE RIGHT TO MEET THE HIGH BID.



1 Prior to the open competitive bidding process, the board shall follow the procedures provided in 77-1-208(3) to
2 establish the market value of improvement.

3 (3) By January 1, 2012, the board shall adopt rules to ensure that:

4 (a) the open competitive bidding process authorized pursuant to this section is orderly and consistent
5 with the board's constitutional fiduciary duties and that the number of leased cabin or home sites or city or town
6 lots made available for competitive bid at any given time is consistent with the board's constitutional fiduciary duty
7 of attaining full rental market value; and

8 (b) the information used to determine the rental market percentage pursuant to this section is posted on
9 the department's website and periodically updated.

10

11 **NEW SECTION. Section 2. Rental market valuation lease program -- transition.** (1) (a) Subject to
12 subsection (2), the board shall offer all existing cabin site lessees or licensees the option of 15-year lease
13 contracts based on the rental market valuation process provided in [section 1].

14 (b) (i) At least three winning bids made pursuant to [section 1] must be referenced against the most
15 recent appraised value of the cabin site property by the department of revenue in order to establish a rental
16 market percentage. All rental market percentages that have been determined pursuant to [section 1] must be
17 grouped together by geographic location and averaged together to determine a final rental market percentage
18 for each geographic location. If there are not three winning bids in any one geographic location, then three bids
19 from similar locations may be averaged to establish a rental market percentage.

20 (ii) The final rental market percentage determined for each geographic location pursuant to this
21 subsection (1)(b) must be applied to the department of revenue's most recent appraised value for each cabin site
22 property in that location that did not go through the open competitive bidding process to determine the initial lease
23 amount for each cabin site property.

24 (c) If no properties in a particular geographic location go through an open competitive bidding process,
25 the most applicable comparable location, as determined based on professional appraisal standards, must be
26 chosen and the final rental market percentage must be applied as provided in subsection (1)(b).

27 (2) The lease amount for the first year must be set as provided in subsection (1). The annual lease rental
28 fee for each subsequent year must be adjusted using the average annual consumer price index as published by
29 the U.S. bureau of labor statistics.

30 (3) By January 1, 2012, the board shall adopt rules for the orderly transition for cabin site lessees or

1 licensees who have chosen the lease option pursuant to subsection (1) that is consistent with the board's
2 constitutional fiduciary duty of attaining full rental market value.

3 (4) Nothing in this chapter prevents:

4 (a) an existing lessee or licensee from completing or renewing the lessee's or licensee's current lease
5 or license based on existing methods of valuation as provided in 77-1-208; or

6 (b) a lessee or licensee that has abandoned a lease or license from bidding on the abandoned lease or
7 license.

8

9 **Section 3.** Section 77-1-208, MCA, is amended to read:

10 **"77-1-208. Cabin site licenses and leases -- method of establishing value.** (1) The board shall set
11 the annual fee based on full market value for each cabin site and for each licensee or lessee who at any time
12 wishes to continue or assign the license or lease. The fee must attain full market value based on one of the
13 following methods:

14 (a) appraisal of the cabin site value as determined by the department of revenue. The licensee or lessee
15 has the option to pay the entire fee on March 1 or to divide the fee into two equal payments due March 1 and
16 September 1. The value may be increased or decreased as a result of the statewide periodic revaluation of
17 property pursuant to 15-7-111 without any adjustments as a result of phasing in values. An appeal of a cabin site
18 value determined by the department of revenue must be conducted pursuant to Title 15, chapter 15.

19 (b) establishing full rental market value through the use of an open competitive bidding process as
20 provided in [section 1].

21 (2) A current licensee or lessee may complete or renew the licensee's or lessee's current lease based
22 on valuation methods provided in subsection (1)(a), or at the end of the lease or license contract, the licensee
23 or lessee may choose to proceed with the valuation option provided in subsection (1)(b).

24 ~~(2)(3)~~ The board shall set the fee of each initial cabin site license or lease or each current cabin site
25 license or lease of a person who does not choose to retain the license or lease. The initial fee must be based
26 upon a system of competitive bidding. The fee for a person who wishes to retain that license or lease must be
27 determined under the method provided for in subsection (1).

28 ~~(3)(4)~~ (a) The Subject to subsection (4)(b), the board shall follow the procedures set forth in 77-6-302,
29 77-6-303, and 77-6-306 for the disposal or valuation of any fixtures or improvements placed upon the property
30 by the then-current licensee or lessee and shall require the subsequent licensee or lessee whose bid is accepted

1 by the board to purchase those fixtures or improvements in the manner required by the board.

2 (b) (i) A subsequent licensee or lessee may not take occupancy unless the license or lease contract and
 3 the sale of improvements have been finalized. IF A WINNING BIDDER HAS BEEN IDENTIFIED AND THE TRANSACTION FOR
 4 THE SALE OF THE IMPROVEMENTS IS IN PROCESS, THE CURRENT LESSEE SHALL PAY A PRORATED LEASE FEE BASED ON
 5 THE CURRENT LEASE UNTIL THE DATE THAT THE SALE OF THE IMPROVEMENTS IS FINALIZED.

6 (ii) The valuation of improvements must be applicable to residential property inclusive of all
 7 improvements.

8 (iii) A licensee or lessee may assign or rent any improvements.

9 (IV) WITHIN 3 YEARS OF CANCELING, TERMINATING, OR ABANDONING A CABIN SITE LEASE, THE OWNER OF THE
 10 IMPROVEMENTS SHALL SELL THE IMPROVEMENTS, REMOVE THE IMPROVEMENTS, OR TRANSFER OWNERSHIP OF THE
 11 IMPROVEMENTS TO THE STATE. IF OWNERSHIP IS TRANSFERRED TO THE STATE, PROCEEDS FROM THE SALE OF THE
 12 IMPROVEMENTS MUST BE PAID TO THE OWNER WHO TRANSFERRED THE IMPROVEMENTS. THE BOARD SHALL SET THE
 13 CONDITIONS OF THE SALE OF TRANSFERRED IMPROVEMENTS IN ORDER TO SELL THE IMPROVEMENTS IN AN EXPEDIENT
 14 MANNER."

15

16 **Section 4.** Section 77-2-318, MCA, is amended to read:

17 **"77-2-318. Sale of leased cabin or home sites or city or town lots.** (1) At the request of the lessee
 18 and if consistent with the orderly development and management of state lands, the board may make available
 19 for sale, in the manner provided in this part, any leased cabin or home site or city or town lot that ~~was~~ is under
 20 lease on October 1, 1989 during the 15th year of any 15-year lease that was established through the open
 21 competitive bidding process or through the transition process provided for in [section 2] or subsection (4) of this
 22 section.

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

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

29 ~~———— (4) The sale of a leased cabin or home site or city or town lot under 77-2-318 through 77-2-320 must be~~
 30 ~~completed no later than 10 years after October 1, 1989. A lessee may request a lease sale at any time during~~

1 ~~the 10-year period. Upon request, the board may grant a lessee with a disability or a lessee 65 years of age or~~
2 ~~older an additional 10-year period to request a sale of leased land.~~

3 (4) By January 1, 2012, the board shall adopt rules to ensure that the sales process authorized pursuant
4 to this section is orderly and consistent with its constitutional fiduciary duties and that the number of leased cabin
5 or home sites or city or town lots made available for sale at any given time is consistent with the board's
6 constitutional duty of attaining full market value.

7 (5) Upon a sale of leased land, the department shall, upon compliance with 77-2-101 through 77-2-106,
8 grant a permanent easement across state lands to secure access using current routes."

9
10 NEW SECTION. Section 5. Repealer. The following section of the Montana Code Annotated is
11 repealed:

12 77-2-319. Conservation easement for certain sales.

13
14 NEW SECTION. Section 6. Codification instruction. [Sections 1 and 2] are intended to be codified
15 as an integral part of Title 77, chapter 1, part 2, and the provisions of Title 77, chapter 1, part 2, apply to [sections
16 1 and 2].

17
18 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

19 - END -