



AN ACT REQUIRING THE SALE OF LEASED CABIN OR HOME SITES ON STATE WATER PROJECT LANDS IF REQUESTED BY A LESSEE OR IMPROVEMENT OWNER; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 85-1-811, MCA.

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

Section 1. Sale of leased cabin or home sites -- rulemaking. (1) (a) Subject to subsection (7), the department shall make available for sale within a reasonable period of time project lands that are state land cabin or home sites on [the effective date of this act], 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. The sale must attain full market value.

(b) 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 sale of a cabin or home site is exempt from the subdivision laws, except that the development of any new 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.

(3) The department may adopt rules to ensure the sales process authorized pursuant to [sections 1 and 2] is orderly and attains full market value for the sale of a cabin or home site.

(4) On a sale of a cabin or home site, the department may:

(a) 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 department has authority to grant the easement; and

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

(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) (a) The lessee of the cabin or home site nominated for sale has the preference to match the high bid. If the lessee matches the high bid, bidding is reopened to all bidders, with the lessee retaining the right of preference to match the ultimate high bid and be awarded the sale.

(b) The current lessee of the cabin or home site who initiated the sale 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.

(c) For the sale of a cabin or home site, the department shall prepare and assume the cost of the land survey. 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.

(d) The department shall transfer water rights that are appurtenant to the cabin or home site to the purchaser on completion of the sale.

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

(f) For purposes of this section, "cabin site improvements" has the meaning provided in [section 2].

(7) Before January 1, 2022, the department shall determine what cabin sites would be adversely affected by an expansion of a state water project. Lessees of those lots may not request them to be sold pursuant to this section.

Section 2. Valuation of cabin or home sites and improvements. (1) (a) Prior to the sale of project lands pursuant to [section 1], the department shall separately determine the full market value of the land and the value of the cabin site improvements existing on the land and the value of any necessary access easement across existing state lands from the nearest public road. The appraisal must be based on comparable sales of nearby existing properties with the hypothetical condition that the state parcel to be sold is accessible for all lawful purposes. The appraisal must determine the raw undeveloped value of the parcel and the value of the

cabin site improvements.

(b) (i) In determining the values required by subsection (1)(a), the department shall establish a list of at least two third-party independent appraisers available to conduct the appraisal of the land and the cabin site improvements. The department shall provide a copy of the list to the cabin or home site lessee. The lessee shall provide the department with a list of at least 50% of the appraisers from the department's list. The department shall select the appraiser to conduct the appraisal from the list provided by the lessee.

(ii) The department shall assume the proportionate cost of the appraisal of the state land valuation. The lessee shall assume the proportionate cost of the appraisal of the valuation of the cabin site improvements.

(c) The department shall disclose the results of the appraisal to the cabin or home site lessee of the land for sale and shall give that lessee notice and opportunity for an administrative hearing before the department to contest those valuations. The department shall review the arguments and evidence received at the hearing. The department shall make a final determination on the values of the land and cabin site improvements.

(2) (a) If the lessee consents to the terms and conditions of the proposed sale and the valuation of cabin site improvements, the sale must proceed utilizing the department's final determination of the values, and the lessee is obligated to transfer its interest in the cabin site improvements existing on the cabin or home site lease according to the board's final determination of their value.

(b) Nothing in this section prohibits the lessee from accepting a price for the cabin site improvements existing on the cabin or home site that is less than the department's final determination of value.

(3) For purposes of [sections 1 and 2], "cabin site improvements" includes but is not limited to:

- (a) a home or residence;
- (b) outbuildings and structures;
- (c) sleeping cabins;
- (d) utilities;
- (e) water systems;
- (f) septic systems;
- (g) docks; and
- (h) landscaping.

Section 3. Section 85-1-811, MCA, is amended to read:

"85-1-811. Project lands lease and sales account. There is established a project lands lease and sales account within the state special revenue fund of the state treasury. All sale proceeds and lease fees collected under this part must be deposited in the account to pay the department's costs and expenses in administering this part."

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 85, chapter 1, part 8, and the provisions of Title 85, chapter 1, part 8, apply to [sections 1 and 2].

- END -

I hereby certify that the within bill,
HB 131, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 131

INTRODUCED BY D. BEDEY

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