

1 SENATE BILL NO. 408

2 INTRODUCED BY M. CUFFE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SALES OF STATE LANDS; REQUIRING A REPORT
 5 OF ANNUAL INCOME ON PROPOSED CABIN SITE SALES; REVISING THE CANCELLATION OF SALE
 6 REQUIREMENTS; PROVIDING A REPORT PROCESSING FEE; AMENDING SECTIONS 77-2-317 AND 77-
 7 2-363, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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11 **Section 1.** Section 77-2-317, MCA, is amended to read:

12 **"77-2-317. Valuation of cabin or home site and improvements -- rulemaking.** (1) (a) Prior to the
 13 board's approval of any sale of state land leased as a cabin or home site or state land with a vacant cabin or
 14 home site as provided in 77-2-318, the board shall separately determine the full market value of the land and
 15 the value of the cabin site improvements existing on the land and the value of any necessary access easement
 16 across existing state lands from the nearest public road. The appraisal to determine these values must be
 17 based upon comparable sales of nearby existing properties with the hypothetical condition that the state parcel
 18 to be sold is accessible for all lawful purposes. The appraisal must determine the raw undeveloped value of the
 19 parcel and the value of the cabin site improvements.

20 ~~(b) (i) (i)~~ In determining the value of state land leased as a cabin or home site pursuant to
 21 subsection (1)(a), the department shall establish a list that is acceptable to the board of no fewer than two third-
 22 party independent appraisers that are available to conduct the appraisal of the land and the cabin site
 23 improvements. The department shall provide a copy of the list to the cabin site or home site lessee. The lessee
 24 shall provide the department with a list of at least 50% of the appraisers from the department's list. The
 25 department shall select the appraiser to conduct the appraisal from the list provided by the lessee.

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

28 (b) (i) The board shall also direct the department or an independent entity to prepare a report that

1 capitalizes the current income to the state based on the average rate of return for replacement land purchased
2 with the estimated proceeds from the sale of the cabin site. The lessee shall pay a \$50 fee to the department to
3 generate the report.

4 (ii) The report must include the ratio of the most recent annual income, or the minimum income based
5 on the most recent appraisal, whichever is higher, divided by the expected initial rate of return of the average
6 historical rate of replacement land, or the specific expected income from the specific replacement property to be
7 purchased, whichever is higher.

8 (c) The board shall disclose the results of the appraisal and the report to the cabin site or home site
9 lessee of the land for sale and shall give that lessee notice and opportunity for an administrative hearing before
10 the department to contest those valuations. The department shall review the arguments and evidence received
11 at the hearing to make a recommendation of the values of the land and the cabin site improvements to the
12 board. ~~The~~ Using the appraisal and the report, the board shall make a final determination on the values of the
13 land and cabin site improvements and may cancel the proposed sale if it determines that the current income
14 from the leased cabin or home site is greater than the replacement income.

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

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

21 (3) For purposes of 77-2-318 and this section, "cabin site improvements" includes but is not limited to:

- 22 (a) a home or residence;
- 23 (b) outbuildings and structures;
- 24 (c) sleeping cabins;
- 25 (d) utilities;
- 26 (e) water systems;
- 27 (f) septic systems;
- 28 (g) docks; and

1 (h) landscaping.

2 (4) The board may adopt rules to implement the provisions of this section."
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4 **Section 2.** Section 77-2-363, MCA, is amended to read:

5 **"77-2-363. Land banking land sales and limitations -- sale preparation costs.** (1) (a) The board
6 may not cumulatively sell or dispose of more than 250,000 acres of state land. Seventy-five percent of the
7 acreage cumulatively sold must be isolated parcels that do not have a legal right of access by the public. At any
8 one time during the life of the land banking process, the board may not sell more than 20,000 acres of state
9 land unless the board has acted to use the revenue from that land to make purchases pursuant to 77-2-364.

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

12 (2) (a) A person bidding to purchase state land offered for sale shall 20 days prior to the day of
13 auction deposit with the department a bid bond in the form of a certified check or cashier's check drawn on any
14 Montana bank or an electronic funds transfer, as defined in 32-6-103, equal to at least 20% of the minimum
15 sale price specified by the department pursuant to 77-2-323(1) to guarantee the bidder's payment of the
16 purchase price. Bid bonds submitted to secure a bid on a parcel formerly leased as a cabin or home site need
17 only be equal to 5% of the minimum sale price as specified by the department.

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

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

27 (3) Except for a sale that is initiated by the lessee of the parcel of land proposed for sale, prior to the
28 proposed sale of any parcel of state land under the land banking process, the board shall give 60 days' notice

1 of the proposed sale to the lessee of the parcel to allow the lessee sufficient time to determine whether the
2 lessee wishes to propose an exchange of the land to the board.

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

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

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

14 (6) For the sale of a cabin or home site, the department shall prepare and assume the cost of the land
15 survey. The department may allow the survey to be paid for in advance by the lessee or the owner of any
16 improvements if the survey is contracted through the department according to department specifications. If the
17 parcel is sold but the purchaser is other than the lessee or the owner of the improvements, the cost of the
18 survey must be included in the actual costs at closing and the department shall refund the cost of the survey to
19 the former lessee or the owner of the improvements.

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

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23 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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25 **NEW SECTION. Section 4. Applicability.** [This act] applies to proposed sales of cabin or home sites
26 initiated after [the effective date of this act].

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