

1 SENATE BILL NO. 49

2 INTRODUCED BY M. CUFFE

3 BY REQUEST OF THE STATE AUDITOR

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CABIN SITE SALES; REVISING THE
6 CANCELLATION OF SALE REQUIREMENTS; AMENDING SECTION 77-2-363, MCA; AND PROVIDING AN
7 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 77-2-363, MCA, is amended to read:

12 **"77-2-363. Land banking land sales and limitations -- sale preparation costs.** (1) (a) The board
13 may not cumulatively sell or dispose of more than 250,000 acres of state land. Seventy-five percent of the
14 acreage cumulatively sold must be isolated parcels that do not have a legal right of access by the public. At any
15 one time during the life of the land banking process, the board may not sell more than 20,000 acres of state
16 land unless the board has acted to use the revenue from that land to make purchases pursuant to 77-2-364.

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

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

25 (b) ~~Except as provided in subsection (2)(c),~~ if the current lessee of the land to be sold has
26 initiated the sale as authorized by 77-2-364, the lessee may cancel the sale by giving notice to the department
27 at least 10 days prior to the day of the auction. When the sale is canceled by the lessee, the lessee shall pay
28 the costs incurred by the department for the preparation of the sale, including any costs incurred for preparation

1 of documents required by 75-1-201.

2 (c) If the land to be sold is a leased cabin or home site as provided in 77-2-318 and the current
3 lessee has initiated the sale as authorized by 77-2-364, the lessee may cancel the sale by giving notice to the
4 department at least 10 days prior to the day of the auction unless another person has deposited a bid bond per
5 subsection (2)(a), at which point the sale cannot be canceled by the lessee. When the sale is canceled by the
6 lessee, the lessee shall pay the costs incurred by the department for the preparation of the sale, including any
7 costs incurred for preparation of documents required by 75-1-201.

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

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

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

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

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

27 (6) For the sale of a cabin or home site, the department shall prepare and assume the cost of the
28 land survey. The department may allow the survey to be paid for in advance by the lessee or the owner of any

1 improvements if the survey is contracted through the department according to department specifications. If the
2 parcel is sold but the purchaser is other than the lessee or the owner of the improvements, the cost of the
3 survey must be included in the actual costs at closing and the department shall refund the cost of the survey to
4 the former lessee or the owner of the improvements.

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

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8 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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10 NEW SECTION. Section 3. Applicability. [This act] applies to proposed sales of cabin or home sites
11 initiated on or after [the effective date of this act].

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