

# FREQUENTLY ASKED QUESTIONS

## Cabin Site and Home Site Sales

*\*Responses are based on Administrative Rules of Montana (ARM) drafted in October of 2013 to implement Senate Bill 369. The draft rules, if approved, are scheduled to be effective January 1, 2014.*

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### **Basics**

**1. Why is the DNRC selling Cabin and Home Sites?**

*During the 2013 Regular Legislative Session, Senate Bill 369 (SB369) was passed. SB369 was a bill regarding the availability for sale, and the sale process for trust lands designated as cabin sites or home sites. The bill allowed for the sale of a cabin site or home site at the request of the lessee (or owner of improvements upon a cancelled lease), if the sale is approved by the Land Board and is consistent with the Board's fiduciary duty of attaining full market value.*

**2. Will my leased cabin site be sold out from under me?**

*No. The Land Banking Sale process is a voluntary program. You will not be required to nominate your cabin site for sale if you wish to continue leasing.*

**3. How many cabin sites will be sold per year?**

*DNRC will begin a pilot cabin site sale program in January 2014. Because of lack of department funding, we only have the ability to move 5 sales through the sale process for 2014. This number will be re-evaluated in subsequent years depending on funding.*

**4. How long does the sales process take?**

*The estimated timeline for a cabin or home site sales from selecting which sales will move forward, up to the time of closing will take approximately 10-12 months.*

**5. Why does the land have to be a public auction?**

*The sale of all state lands must be sold by public auction as required by state statute and the Enabling Act of 1889. <http://courts.mt.gov/content/library/docs/enablingact.pdf>*

**6. Who is writing the Administrative Rules for the sales process? Are any lessees involved?**

*DNRC staff is currently writing Administrative Rules of Montana (ARM) specific to cabin and home site sales to implement SB369. DNRC met with members of the Montana State Lease Holders Association (MSLA) during initial rule drafting and addressed concerns and questions. The MSLA is a group comprised of current and former cabin site or home site lessees and their families. There will also be a public comment period, including two public hearings, prior to rule adoption for members of the public to participate.*

**7. How can I comment on the draft Administrative Rules?**

*You may submit written comments via email to [dcabinsites@mt.gov](mailto:dcabinsites@mt.gov), or to DNRC ATTN: SB369 ARM Public Comments, PO Box 201601, Helena, MT 59620. You may also submit oral or written comments in person by attending one of two scheduled public hearings scheduled for November 6, 2013 at 7:00 pm at the Sullivan Memorial Community Hall, 3248 Highway 83, Seeley Lake, MT or November 8, 2013 at 1:00 pm in the Bannack Room (first floor) at the Department of Natural Resources and Conservation, Headquarters, 1625 11<sup>th</sup> Avenue, Helena, MT. Comments must be submitted by November 14, 2013*

## **Getting Started**

**8. How do I get on a list to purchase my lease lot?**

*There is not a list at this time. DNRC will be sending out a letter in late Fall of 2013 to all current lessees explaining the sale process in more detail. At that time, lessees may respond to indicate that they are interested in participating in the pilot cabin site sale program. DNRC will evaluate cabin sites for the pilot sale program based on responses from those indicating that they are interested in participating in the sale program.*

**9. What are the preliminary sale criteria?**

*The department may consider the following factors in the preliminary review:*

- Whether sale is consistent with the board's constitutional fiduciary duty;*
- whether the improvements possess clear title and whether any mortgage holder consents to sale;*
- whether there are any outstanding lease violations on the parcel;*
- whether, and to what degree the sale of the parcel would affect access to other public lands;*
- the extent of infrastructure, such as roads, utilities, power, telephone, water, or sewer availability;*
- whether the land has been surveyed by a licensed surveyor and title can be conveyed using that survey.*

**10. What if my lease lot does not meet the preliminary criteria?**

*You will be notified by DNRC staff that the lease does not meet preliminary criteria for sale. You would work with DNRC staff to address the issues.*

**11. How do I find out if my lot has been surveyed? What if it has not been surveyed?**

*You may contact a DNRC office in your area to see if your lot has a current survey useable to convey title. The lot will **not** be saleable until it has been properly surveyed. DNRC will work to complete surveys as funding is available.*

**12. Do I have to be a current lessee to nominate a cabin site for sale?**

*Parcels can be nominated for sale by the current lessee, improvements owner, DNRC or the Land Board. During the pilot program period, lots that are currently under lease will be prioritized over abandoned or cancelled lease lots.*

**13. How do I nominate a lease site for sale?**

*DNRC will be sending out a letter in late Fall of 2013 to all current lessees explaining the sale process in more detail. At that time, lessees can respond to indicate that they are interested in participating in the pilot cabin site sale program. DNRC will begin to screen for preliminary criteria based on respondents. If the lot meets the preliminary criteria, the DNRC will notify the lessee with further instructions. Instructions will include a nomination form and payment of a non-refundable \$100 nomination fee.*

**14. How will DNRC prioritize nominated parcels?**

*All parcels will first be screened through the preliminary sales criteria. Leased lots that have a current lessee will be prioritized ahead of leases that have been abandoned or cancelled. The department will then select nominations at random, with consideration given to not saturating the market in any given area.*

**15. Who can nominate a parcel for sale?**

*Parcels can be nominated for sale by the current lessee, improvements owner, DNRC or the Land Board.*

**16. What if my nomination for sale is not selected for the current sale year?**

*The DNRC will keep the nomination on file until such time that it is selected. You do not have to nominate every year if your lot is not selected in the first year.*

**17. What if it is denied entirely?**

*You may appeal the denial to the Land Board, or choose to continue leasing, or work with the DNRC to correct any issues if possible.*

**18. What happens after my nomination is accepted for sale?**

*Please see the [Cabin Site Sale Processing Timeline for 2014 Pilot](http://dnrc.mt.gov/CabinSite/Documents/Timeline%20for%20Cabin%20site%20sale%20processing%202014(2).pdf).*

[http://dnrc.mt.gov/CabinSite/Documents/Timeline for Cabin site sale processing 2014\(2\).pdf](http://dnrc.mt.gov/CabinSite/Documents/Timeline%20for%20Cabin%20site%20sale%20processing%202014(2).pdf)

## **Risks/Cost**

### **19. Can someone outbid me if I own improvements on the lease site?**

*Yes, but if you are the current lessee you have the preference right to match the high bid in accordance with 77-2-324, MCA. If you are only the improvements owner, and not a current lessee, you do not have the same right to match the high bid; you must bid higher.*

### **20. What happens to my improvements if someone outbids me?**

*You must sell the improvements to the winner bidder, and the winning bidder must purchase the improvements from you for the appraised value determined by the appraiser and set by the Land Board prior to the public auction. The improvements sale/purchase agreement is understood and agreed upon by all parties prior to going to auction, or the auction will not be held.*

### **21. What are the costs involved?**

*The lessee or improvements owner is responsible for Processing Costs associated with preparing a parcel for sale. These costs include but are not limited to:*

- *A one-time non-refundable \$100 nomination fee that must be paid for each cabin site or home site nominated for sale;*
- *Cost of the appraisal attributable to the improvements;*
- *Legal advertisement of sale;*
- *Environmental review (if required);*
- *Document recording fees; and*
- *Water rights transfers*

## **During the Process**

### **22. How is the sale price determined for the lease lot?**

*A Montana Certified General appraiser will appraise both the cabin site lease lot and all improvements under consideration for sale. The department then takes the appraisers determination of values to the Land Board for their approval. The Land Board then sets the minimum bid for the sale.*

### **23. How will the sales price for my improvements be determined?**

*A Montana Certified General Appraiser will appraise the lease site for both the land and improvement values. The appraisal will include separate values for the land and the improvements under consideration for sale. The maximum asking price for the improvements associated with the sale of the land will be the appraised value of the improvements as determined by the appraiser.*

**24. What if I don't want to sell my improvements?**

*The owner of any improvements located on the lease site must agree to sell the improvements to the highest bidder on the land, or the nomination will not be accepted. If you are the current lessee, you have a preference right to match the highest bid. The current lessee also has the right to withdraw the parcel from sale up to 10 days before auction.*

**25. Who does the appraisal?**

*DNRC will contract with a MT Certified General appraiser to appraise both the cabin site /home site and all improvements under consideration for sale. The appraisal must comply with Uniform Standards of Professional Appraisal Practices (USPAP) as adopted by the state Board of Real Estate Appraisers in ARM 24.207.402. DNRC will review or contract the review of the appraisal conducted by the contract appraiser.*

**26. What if I don't agree with the appraised value?**

*If the lessee or improvement owner does not agree with the value of the improvements or the land under consideration for sale, they may request an informal administrative hearing before the department to contest those valuations. The department shall review the arguments and evidence received at the hearing and makes a recommendation of the values to the Land Board. This request for an informal hearing must be given within 10 days of the department's notification to the lessee or improvement owner of the appraised value of the land and improvements considered for sale. A current lessee may also choose to withdraw the parcel from the sale process and continue to lease.*

**27. Do I still need to pay my lease fee while my lease is going through the sale process?**

*Yes. All lease fees must be paid as the sale goes through the sale process.*

**28. What if my lease expires before my lot is selected for sale?**

*In order to maintain a preference right to match high bid, the lease must be in good standing. For the 2014 pilot sale program, leased lots will be prioritized over cancelled or abandoned lots. In order to maintain the preference right, and the priority status, the lease would have to be renewed upon expiration.*

**29. Can I withdraw my nomination from sale?**

*Yes, if you are the current lessee. The lessee must send written notice by certified mail to the department, postmarked no later than 10 days before the date of the auction.*

**30. Will I know if there are any other people interested in bidding on my lease lot?**

*Each bidder wishing to participate in the auction as a qualified bidder must execute an Offer to Purchase Agreement along with a bid deposit equal to 5% of the minimum bid amount and the Improvements Purchase Agreement, no later than 20 days before the date of the auction. You may contact the DNRC after the date that the bids are due and inquire whether or not there are any qualified bidders on the sale.*

**31. What is required to be a qualified bidder for auction?**

*To be a qualified bidder, one must submit an Offer to Purchase Agreement, an Improvements Purchase Agreement, and have submitted a 5% bid deposit no later than 20 days before the date of the auction.*

**32. Where will the auctions take place?**

*Auctions must take place in the county seat for the county where the parcel is located. Typically this is at the county court house or in some instances, the local DNRC office, if one is located in the county seat.*

**33. Do I have to be present for the auction?**

*Yes. All qualified bidders wishing to participate in the auction must appear in person or be represented by a legal representative at the auction.*

**34. What is the process for bidding on auction day?**

*DNRC staff will hold a public oral auction for the sale of the land. All qualified bidders wishing to participate in the auction must appear in person or be represented by a legal representative at the auction to present an oral bid. All bidding will be for the land only. Only qualified bidders will be allowed to bid. The minimum bid amount will be set by the Land Board based on the appraised value of the land. Bids for less than the minimum amount will not be accepted. If there are multiple qualified bidders, the bidding will continue until no one wishes to offer a higher bid. If one of the qualified bidders is a current lessee, they will be allowed to match the highest bid until such time that there is no longer a higher bid, or the current lessee does not wish to match the highest bid. The land will be sold to the highest bidder who consummates the terms of the sale. All qualified bidders and the improvements owner will have signed an Agreement to Sell/Purchase Improvements prior to the auction. The closing of the sale of the improvements is conducted separately between the improvements seller and the purchaser and must be completed prior to the closing of the land sale.*

**Closing**

**35. What happens after the auction.**

*The sale of the land must be taken to the Land Board for Final Approval. Upon approval, the state will prepare closing documents, including settlement statements and drafting of deeds. The sale of the improvements is conducted separately between the seller and the purchaser and must be completed prior to the closing of the land.*

**36. How is title transferred?**

*The state conveys title to the land by Patent, Grant Deed or Quitclaim Deed. The state does not warrant title, but you have the option to purchase title insurance at your own expense. Transfer of the improvements happens between the seller and the purchaser.*

**37. How long will the winning bidder have to close on the sale of land and improvements?**

*The department will allow 90 days from the sale's Final Approval from the Land Board for closing. An extension of time may be granted on a case by case basis for good cause.*

**38. How will closing occur on the land sale?**

*All closings will occur by mail, unless an alternative time and location is agreed upon by all parties. Closing of the improvements happens between the seller and the purchaser and must be completed prior to the closing of the land.*

**39. What are my financing options?**

*Sales of state land are on a cash only basis. Purchasers will need to seek financing from a lending agency if necessary.*