

SENATE BILL NO. 369

INTRODUCED BY T. FACEY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO STATE LAND CABIN
5 AND HOME SITES; REQUIRING THE BOARD OF LAND COMMISSIONERS, CONSISTENT WITH THE
6 BOARD'S CONSTITUTIONAL FIDUCIARY DUTY OF ATTAINING FULL MARKET VALUE, TO MAKE
7 AVAILABLE FOR SALE ALL LEASED OR VACANT STATE LAND AND PERMANENT AND IMMOVABLE
8 IMPROVEMENTS FOR CABIN OR HOME SITES BY JULY 1, 2035; PROVIDING A PROCESS FOR SELLING
9 ALL LEASED OR VACANT STATE LAND AND PERMANENT AND IMMOVABLE IMPROVEMENTS FOR CABIN
10 AND HOME SITES; PROVIDING FOR A VALUATION PROCESS PRIOR TO SALE; AMENDING SECTIONS
11 77-2-303, 77-2-311, AND 77-2-318, MCA; REPEALING SECTION 77-2-320, MCA; AND PROVIDING AN
12 IMMEDIATE EFFECTIVE DATE."

13
14 WHEREAS, implementation of the state cabin site leasing laws has become dysfunctional and those laws
15 have become subject to continuous and unproductive litigation; and

16 WHEREAS, a significant number of state land cabin site properties are vacant and are producing no
17 revenue for the state trust land beneficiaries; and

18 WHEREAS, the implementation of the state cabin site leasing laws has caused a loss in value of lessee
19 private property improvements; and

20 WHEREAS, the sale of all state land cabin site properties is the only long-term and viable solution to
21 resolve the state cabin site leasing law issues and maximize revenue to the state trust land beneficiaries; and

22 WHEREAS, it is recognized that in order to maximize the revenue from the sale of these state cabin site
23 properties to the state trust land beneficiaries, the properties must be sold over a reasonable period of time.

24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

26
27 **Section 1.** Section 77-2-303, MCA, is amended to read:

28 **"77-2-303. Restrictions on land available for sale.** (1) Subject to purchase by the department pursuant
29 to 17-6-340, land that in the judgment of the department is likely to contain valuable deposits of coal, oil, oil shale,
30 phosphate, metals, sodium, or other valuable mineral deposits is not subject to sale of either the surface land or



1 any of the mineral deposits. However, this subsection does not prohibit the sale of lands containing sand, gravel,
2 building stone, brick clay, or similar materials.

3 (2) (a) ~~There~~ Except any lands previously leased as cabin sites, there is reserved from sale from all state
4 land bordering on navigable lakes, nonnavigable meandered lakes, and navigable streams, that the board
5 considers in the best interests of the state, a strip of land that includes all the land lying between low-water mark
6 and high-water mark and that extends in width landward from the line of high-water mark of the lake or stream
7 the full width of the 40-acre tract or government lot abutting the line of high-water mark. If the width of the abutting
8 government lot at its narrowest point is less than 100 feet, then the strip reserved must extend to and include the
9 next adjoining 40-acre tract or government lot. The land reserved from sale by this subsection is subject to the
10 granting of easements the same as other state lands.

11 (b) Strips of land bordering on meandering lakes or on navigable streams, except the strip lying between
12 low-water and high-water mark, whether surveyed and platted into blocks and lots or not, may be leased as
13 provided in this title for the leasing of other state lands."
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15 **Section 2.** Section 77-2-311, MCA, is amended to read:

16 "**77-2-311. Survey and plat of shore lands.** The board may cause any part of the lands bordering on
17 lakes described in 77-2-303(2) and on navigable streams that are reserved from sale to be surveyed and platted
18 into blocks and lots. The lots may not be less than 125 feet in width, measured in the general direction of the
19 abutting water front. In all surveys and plats the strip of 100 feet in width along the water front, referred to in
20 77-2-303(2)(a), must be reserved for the use and enjoyment of the public. Cabin sites or home sites bordering
21 on meandered lakes or navigable streams may be surveyed and sold consistent with the procedures provided
22 in 77-2-361 through 77-2-367."
23

24 **Section 3.** Section 77-2-318, MCA, is amended to read:

25 "**77-2-318. Sale of leased cabin or home sites or city or town lots.** ~~(1) At the request of the lessee~~
26 ~~and if consistent with the orderly development and management of state lands, the board may make available~~
27 ~~for sale, in the manner provided in this part, any leased cabin or home site or city or town lot that is under lease~~
28 ~~during the 15th year of any 15-year lease that was established through the open competitive bidding process or~~
29 ~~through the transition process provided for in 77-1-236 or subsection (4) of this section.~~
30

(1) (a) On or before July 1, 2035, the board shall, consistent with the board's constitutional fiduciary duty

1 of attaining full market value, make available for sale within a reasonable period of time as provided in this part
 2 all state land cabin or home sites:

3 (i) that are under lease during the last year of the term of the lease;

4 (ii) at the request of a lessee prior to the last year of the term of the lease only if the requested sale is
 5 consistent with the board's constitutional fiduciary duty of attaining full market value and the provisions of this part;

6 or

7 (iii) that are not currently under lease and are vacant.

8 (b) (i) The disposition of proceeds of any sale of state land property pursuant to this section must comply
 9 with the provisions of 77-2-337.

10 (ii) The proceeds of any sale of permanent and immovable improvements pursuant to this part must go
 11 to the owner of record of the improvements.

12 (iii) Ownership of the permanent and immovable improvements on each state land property sold pursuant
 13 to this section must remain with the owner of record until both the state land property and the improvements are
 14 sold.

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

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

21 (4) By January 1, ~~2012~~ 2014, the board shall adopt rules to ensure that the sales process authorized
 22 pursuant to this section is orderly and consistent with its constitutional fiduciary duties and that the number of
 23 leased cabin or home sites ~~or city or town lots~~ made available for sale at any given time is consistent with the
 24 board's constitutional duty of attaining full market value.

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

27 (6) For purposes of this section, "permanent and immovable improvements" has the meaning provided
 28 in [section 4]."

29
 30 NEW SECTION. Section 4. Valuation of cabin or home site and permanent improvements. (1) (a)

1 Prior to the board's approval of any sale of state land leased as a cabin or home site or state land with a vacant
2 cabin or home site as provided in 77-2-318, the board shall separately determine the full market value of the land
3 and the value of the permanent and immovable improvements existing on the land.

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

10 (ii) The department shall assume the proportionate cost of the appraisal of the state land valuation. The
11 lessee shall assume the proportionate cost of the appraisal of the valuation of the permanent and immovable
12 improvements.

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

18 (2) (a) The sale must proceed utilizing the board's final determination of the values, and the lessee is
19 obligated to transfer its interest in the permanent and immovable improvements existing on the cabin or home
20 site lease according to the board's final determination of their value.

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

23 (3) For purposes of this section and 77-2-318, "permanent and immovable improvements" includes but
24 is not limited to:

- 25 (a) a home or residence;
- 26 (b) outbuildings and structures;
- 27 (c) sleeping cabins;
- 28 (d) utilities;
- 29 (e) water systems;
- 30 (f) septic systems;

1 (g) docks; and

2 (h) landscaping.

3

4 NEW SECTION. **Section 5. Repealer.** The following section of the Montana Code Annotated is
5 repealed:

6 77-2-320. Appraisal review board.

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8 NEW SECTION. **Section 6. Codification instruction.** [Section 4] is intended to be codified as an
9 integral part of Title 77, chapter 2, part 3, and the provisions of Title 77, chapter 2, part 3, apply to [section 4].

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

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