

Suspend the Rules and Pass the Bill, HR. 3397, with An Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

112TH CONGRESS
1ST SESSION

H. R. 3397

To modify the Forest Service Recreation Residence Program by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2011

Mr. HASTINGS of Washington (for himself and Mr. SIMPSON) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To modify the Forest Service Recreation Residence Program by implementing a simple, equitable, and predictable procedure for determining cabin user fees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Cabin Fee Act of 2012”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Cabin user fees.
Sec. 4. Payment of cabin transfer fees.
Sec. 5. Right of appeal and judicial review.
Sec. 6. Effect.
Sec. 7. Regulations.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) AUTHORIZATION; AUTHORIZE.—The terms
6 “authorization” and “authorize” mean the issuance
7 of a special use permit for the use and occupancy of
8 National Forest System land by a cabin owner under
9 the Recreation Residence Program.

10 (2) CABIN.—The term “cabin” means a pri-
11 vately built and owned recreation residence and re-
12 lated improvements on National Forest System land
13 that—

14 (A) is authorized for private use and occu-
15 pancy; and

16 (B) may be sold or transferred between
17 private parties.

18 (3) CABIN OWNER.—The term “cabin owner”
19 means—

20 (A) a person authorized by the Secretary
21 to use and to occupy a cabin; and

1 (B) a trust, heir, or assign of a person de-
2 scribed in subparagraph (A).

3 (4) CABIN TRANSFER FEE.—The term “cabin
4 transfer fee” means a fee that is paid to the United
5 States on the transfer of a cabin between private
6 parties for money or other consideration that results
7 in the issuance of a new permit.

8 (5) CABIN USER FEE.—The term “cabin user
9 fee” means an annual fee paid to the United States
10 by a cabin owner in accordance with an authoriza-
11 tion for the use and occupancy of a cabin.

12 (6) CURRENT APPRAISAL CYCLE.—The term
13 “current appraisal cycle” means the completion of
14 Forest Service review and acceptance of—

15 (A) initial typical lot appraisals; and

16 (B) second appraisals, if ordered by cabin
17 owners and approved by the Forest Service.

18 (7) CURRENT CABIN USER FEE.—The term
19 “current cabin user fee” means the most recent
20 cabin user fee, as adjusted under section 3(c).

21 (8) LOT.—The term “lot” means a parcel of
22 National Forest System land on which a person is
23 authorized to build, use, occupy, and maintain a
24 cabin.

1 (9) NATIONAL FOREST SYSTEM.—The term
2 “National Forest System” has the meaning given
3 that term in section 11 of the Forest and Rangeland
4 Renewable Resources Planning Act of 1974 (16
5 U.S.C. 1609).

6 (10) RECREATION RESIDENCE PROGRAM.—The
7 term “Recreation Residence Program” means the
8 Recreation Residence Program established under the
9 last paragraph under the heading “FOREST SERV-
10 ICE” in the Act of March 4, 1915 (16 U.S.C. 497).

11 (11) SECRETARY.—The term “Secretary”
12 means the Secretary of Agriculture, acting through
13 the Chief of the Forest Service.

14 (12) TYPICAL LOT.—The term “typical lot”
15 means a cabin lot, or group of cabin lots, in a tract
16 that is selected for use in an appraisal as being rep-
17 resentative of, and that has similar value character-
18 istics as, other lots or groups of lots within the tract.

19 **SEC. 3. CABIN USER FEES.**

20 (a) PAYMENT OF CABIN USER FEES.—Cabin owners
21 shall pay an annual cabin user fee established by the Sec-
22 retary in accordance with this section.

23 (b) INITIAL CABIN USER FEES.—

1 (1) ESTABLISHMENT.—The Secretary shall es-
2 tablish initial cabin user fees in accordance with this
3 subsection.

4 (2) ASSIGNMENT TO VALUE TIERS.—On com-
5 pletion of the current appraisal cycle, as required by
6 paragraph (4), the Secretary shall assign each per-
7 mitted lot on National Forest System land to 1 of
8 10 tiers based on the following considerations:

9 (A) Before assigning the lots to tiers, all
10 appraised lot values shall be adjusted, or nor-
11 malized, for price changes occurring after the
12 appraisal, in accordance with the National As-
13 sociation of Homebuilders/Wells Fargo Housing
14 Opportunity Index.

15 (B) Second appraisal values shall super-
16 sede initial lot appraisal values for the normal-
17 ization and ranking process under subpara-
18 graph (A).

19 (C) The tiers shall be established, on a na-
20 tional basis, according to relative lot value, with
21 lots having the lowest adjusted appraised value
22 assigned to tier 1 and lots having the highest
23 adjusted appraised value assigned to tier 10.

1 (D) The number of lots (by percentage) as-
2 signed to each tier is contained in the table set
3 forth in paragraph (3).

4 (E) Data from incomplete appraisals may
5 not be used to establish the fee tiers under this
6 subsection.

7 (F) Until assigned to a tier under this sub-
8 section, the Secretary shall assess (and may ad-
9 just annually subject to clause (ii)) an interim
10 fee for permitted cabin lots (including lots with
11 incomplete appraisals) in an amount equal to
12 the lesser of—

13 (i) \$5,000; or

14 (ii) the amount of the current cabin
15 user fee, as determined under the Cabin
16 User Fee Fairness Act of 2000 (16 U.S.C.
17 6201 et seq.), which amount the Secretary
18 may increase annually by not more than
19 25 percent, except that the increased fee
20 shall not exceed the otherwise scheduled
21 fee determined under the Cabin User Fee
22 Fairness Act of 2000.

23 (3) AMOUNT OF INITIAL CABIN USER FEES.—
24 The initial cabin user fees, based on the assignments
25 under paragraph (2), are as follows:

Fee Tier	Approximate Percent of Permits Nationally	Fee Amount
Tier 1	5 percent	\$500
Tier 2	12 percent	\$1,000
Tier 3	22 percent	\$1,500
Tier 4	22 percent	\$2,000
Tier 5	10 percent	\$2,500
Tier 6	9 percent	\$3,000
Tier 7	7 percent	\$3,500
Tier 8	5 percent	\$4,000
Tier 9	5 percent	\$4,500
Tier 10	3 percent	\$5,000

1 (4) DEADLINE FOR COMPLETION OF CURRENT
2 APPRAISAL CYCLE.—Not later than 3 years after the
3 date of enactment of this Act, the Secretary shall
4 complete the current appraisal cycle.

5 (5) EFFECTIVE DATE.—The initial cabin user
6 fees required by this subsection shall take effect be-
7 ginning with the first calendar year beginning after
8 the completion of the current appraisal cycle.

9 (c) ANNUAL ADJUSTMENTS OF CABIN USER FEE.—
10 Once initial cabin user fees have been assessed, based on
11 the tier assignments under subsection (b)(2), the Sec-
12 retary shall use changes in the Implicit Price Deflator for
13 the Gross Domestic Product published by the Bureau of
14 Economic Analysis of the Department of Commerce, ap-

1 plied on a 5-year rolling average, to assess an annual ad-
2 justment to cabin user fees.

3 (d) EFFECT OF DESTRUCTION, SUBSTANTIAL DAM-
4 AGE, OR LOSS OF ACCESS.—

5 (1) IN GENERAL.—The Secretary shall reduce
6 the cabin user fee to \$100 per year for a cabin if—

7 (A) the cabin is destroyed or suffers sub-
8 stantial damage in an amount that is greater
9 than 50 percent of replacement cost of the
10 cabin; or

11 (B) access to the cabin is significantly im-
12 paired, whether by catastrophic events, natural
13 causes, or governmental actions.

14 (2) TERM OF REDUCED FEE.—The reduced fee
15 under paragraph (1) shall be in effect until the later
16 of—

17 (A) the last day of the year in which the
18 destruction or impairment occurs; or

19 (B) the date on which the cabin may be
20 lawfully reoccupied and normal access has been
21 restored.

22 **SEC. 4. PAYMENT OF CABIN TRANSFER FEES.**

23 As a condition of the issuance by the Secretary of
24 a new authorization for the use and occupancy of the
25 cabin, the cabin owner transferring the cabin shall pay to

1 the Secretary a cabin transfer fee in the amount of
2 \$1,200.

3 **SEC. 5. RIGHT OF APPEAL AND JUDICIAL REVIEW.**

4 (a) RIGHT OF APPEAL.—

5 (1) IN GENERAL.—Notwithstanding any action
6 of a cabin owner to exercise rights in accordance
7 with section 6, the Secretary shall by regulation
8 grant to the cabin owner the right to an administra-
9 tive appeal of the determination of a new cabin user
10 fee, fee tier, or whether or not to reduce a cabin
11 user fee under section 3(d).

12 (2) APPLICABLE LAW.—An appeal under para-
13 graph (1) shall be pursuant to the appeal process
14 provided under subpart C of part 251 of title 36,
15 Code of Federal Regulations (or a successor regula-
16 tion).

17 (b) JUDICIAL REVIEW.—

18 (1) IN GENERAL.—A cabin owner that contests
19 a final decision of the Secretary under this Act may
20 bring a civil action in United States district court.

21 (2) VENUE.—The venue for an action brought
22 before the United States district court under this
23 subsection shall be in the Federal judicial district in
24 which the cabin is located.

1 (3) EFFECT ON MEDIATION.—Nothing in this
2 Act precludes a person from seeking mediation for
3 an action under this Act.

4 **SEC. 6. EFFECT.**

5 (a) IN GENERAL.—Nothing in this Act limits or re-
6 stricts any right, title, or interest of the United States in
7 or to any land or resource.

8 (b) SPECIAL RULE FOR ALASKA.—In determining a
9 cabin user fee in the State of Alaska, the Secretary shall
10 not establish or impose a cabin user fee or a condition
11 affecting a cabin user fee that is inconsistent with 1303(d)
12 of the Alaska National Interest Lands Conservation Act
13 (16 U.S.C. 3193(d)).

14 **SEC. 7. REGULATIONS.**

15 Not later than December 31, 2013, the Secretary
16 shall issue regulations to carry out this Act.