

during the period of winter blizzards beginning December 21, 1999 for which the President declared a disaster on February 17, 2000 pursuant to the Stafford Act, as amended, (FEMA DR-1316-AK) as a direct lump sum payment and an additional \$2,000,000 for an avalanche prevention program in the Chugach National Forest, Kenai National Park, Kenai National Wildlife Refuge and nearby public lands to remain available until expended: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### NATIONAL FOREST SYSTEM

For an additional amount for emergency expenses resulting from damage from windstorms, \$7,249,000 to become available upon enactment of this Act, and to remain available until expended: Provided, That the entire amount shall be available only to the extent that the President submits to Congress an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### TITLE VI—USER FEES UNDER FOREST SYSTEM RECREATION RESIDENCE PROGRAM

##### SEC. 601. SHORT TITLE.

This title may be cited as the "Cabin User Fee Fairness Act of 2000".

##### SEC. 602. FINDINGS.

Congress finds that—

(1) cabins located on forest land have provided a unique recreation experience to a large number of cabin owners, their families, and guests each year since Congress authorized the recreation residence program in 1915; and

(2) the fact that current appraisal procedures have, in certain circumstances, been inconsistently applied in determining fair market values for residential lots demonstrates that problems exist in accurately reflecting market values.

##### SEC. 603. PURPOSES.

The purposes of this title are—

(1) to ensure, to the maximum extent practicable, that the National Forest System recreation residence program is managed to preserve the opportunity for individual and family-oriented recreation; and

(2) to develop and implement a more consistent procedure for determining cabin user fees, taking into consideration the limitations of an authorization and other relevant market factors.

##### SEC. 604. DEFINITIONS.

In this title:

(1) AGENCY.—The term "agency" means the Forest Service.

(2) AUTHORIZATION.—The term "authorization" means a special use permit for the use and occupancy of National Forest System land by a cabin owner under the authority of the program.

(3) BASE CABIN USER FEE.—The term "base cabin user fee" means the fee for an authorization that results from the appraisal of a lot as determined in accordance with sections 606 and 607.

(4) CABIN.—The term "cabin" means a privately built and owned recreation residence that is authorized for use and occupancy on National Forest System land.

(5) CABIN OWNER.—The term "cabin owner" means—

(A) a person authorized by the agency to use and to occupy a cabin on National Forest System land; and

(B) an heir or assign of such a person.

(6) CABIN USER FEE.—The term "cabin user fee" means a special use fee paid annually by a cabin owner to the Secretary in accordance with this title.

(7) CARETAKER CABIN.—The term "caretaker cabin" means a caretaker residence occupied in

limited cases in which caretaker services are necessary to maintain the security of a tract.

(8) CURRENT CABIN USER FEE.—The term "current cabin user fee" means the most recent cabin user fee that results from an annual adjustment to the base cabin user fee in accordance with section 608.

(9) LOT.—The term "lot" means a parcel of land in the National Forest System—

(A) on which a cabin owner is authorized to build, use, occupy, and maintain a cabin and related improvements; and

(B) that is considered to be in its natural, native state at the time at which a use of the lot described in subparagraph (A) is first permitted by the Secretary.

(10) NATURAL, NATIVE STATE.—The term "natural, native state" means the condition of a lot or site, free of any improvements, at the time at which the lot or site is first authorized for recreation residence use by the agency.

(11) PROGRAM.—The term "program" means the recreation residence program established under the authority of the last paragraph under the heading "FOREST SERVICE" in the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497).

(12) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(13) TRACT.—The term "tract" means an established location within a National Forest containing 1 or more cabins authorized in accordance with the program.

(14) TRACT ASSOCIATION.—The term "tract association" means a cabin owner association in which all cabin owners within a tract are eligible for membership.

(15) TYPICAL LOT.—The term "typical lot" means a cabin lot, or a group of cabin lots, in a tract that is selected for use in an appraisal as being representative of, and that has similar value characteristics as, other lots or groups of lots within the tract.

##### SEC. 605. ADMINISTRATION OF RECREATION RESIDENCE PROGRAM.

The Secretary shall ensure, to the maximum extent practicable, that the basis and procedure for calculating cabin user fees results in a fee for an authorization that reflects, in accordance with this title—

(1) the market value of a lot; and

(2) regional and local economic influences.

##### SEC. 606. APPRAISALS.

(a) REQUIREMENTS FOR CONDUCTING APPRAISALS.—In implementing and conducting an appraisal process for determining cabin user fees, the Secretary shall—

(1) complete an inventory of improvements that were paid for by—

(A) the agency;

(B) third parties; or

(C) cabin owners (or predecessors of cabin owners);

during the completion of which the Secretary shall presume that a cabin owner, or a predecessor of the owner, has paid for the capital costs of any utility, access, or facility serving the lot being appraised, unless the Forest Service produces evidence that the agency or a third party has paid for the capital costs;

(2) establish an appraisal process to determine the market value of the fee simple estate of a typical lot or lots considered to be in a natural, native state, subject to subsection (b)(4)(A);

(3) enter into a contract with an appropriate professional appraisal organization to manage the development of specific appraisal guidelines in accordance with subsection (b), subject to public comment and congressional review;

(4) require that an appraisal be performed by a State-certified general real estate appraiser, selected by the Secretary and licensed to practice in the State in which the lot is located;

(5) provide the appraiser with appraisal guidelines developed in accordance with this title;

(6) notwithstanding any other provision of law, require the appraiser to coordinate the appraisal closely with affected parties by seeking information, cooperation, and advice from cabin owners and tract associations;

(7) require that the appraiser perform the appraisal in compliance with—

(A) the most current edition of the Uniform Standards of Professional Appraisal Practice in effect on the date of the appraisal;

(B) the most current edition of the Uniform Appraisal Standards for Federal Land Acquisitions that is in effect on the date of the appraisal; and

(C) the specific appraisal guidelines developed in accordance with this title;

(8) require that the appraisal report—

(A) be a full narrative report, in compliance with the reporting standards of the Uniform Standards of Professional Appraisal Practice; and

(B) comply with the reporting guidelines established by the Uniform Appraisal Standards for Federal Land Acquisitions; and

(9) before accepting any appraisal, conduct a review of the appraisal to ensure that the guidelines made available to the appraiser have been followed and that the appraised values are properly supported.

(b) SPECIFIC APPRAISAL GUIDELINES.—In the development of specific appraisal guidelines in accordance with subsection (a)(3), the instructions to an appraiser shall require, at a minimum, the following:

(1) APPRAISAL OF A TYPICAL LOT.—

(A) IN GENERAL.—In conducting an appraisal under this section, the appraiser—

(i) shall not appraise each individual lot;

(ii) shall appraise a typical lot or lots, selected by the cabin owners and the agency in a manner consistent with the policy of the program; and

(iii) shall be provided, and give appropriate consideration to, any information contained in the inventory of improvements relating to the lot being appraised.

(B) ESTIMATE OF MARKET VALUE OF TYPICAL LOT.—

(i) IN GENERAL.—The appraiser shall estimate the market value of a typical lot in accordance with this title.

(ii) EQUIVALENCE TO LEGALLY SUBDIVIDED LOT.—In selecting a comparable sale under this title, the appraiser shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot.

(2) EXCEPTION FOR CERTAIN SALES OF LAND.—In conducting an appraisal under this title, the appraiser—

(A) shall not select sales of comparable land that are sales of land within developed urban areas; and

(B) should not, in most circumstances, select a sale of comparable land that includes land that is encumbered by a conservation or recreational easement that is held by a government or institution, except land that is limited to use as a site for 1 home.

(3) ADJUSTMENTS FOR TYPICAL VALUE INFLUENCES.—

(A) IN GENERAL.—The appraiser shall consider, and adjust as appropriate, the price of sales of comparable land for all typical value influences described in subparagraph (B).

(B) VALUE INFLUENCES.—The typical value influences referred to in subparagraph (A) include—

(i) differences in the locations of the parcels;

(ii) accessibility, including limitations on access attributable to—

(I) weather;

(II) the condition of roads or trails;

(III) restrictions imposed by the agency; or

(IV) other factors;

(iii) the presence of marketable timber;

(iv) limitations on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing;

(v) the condition and regulatory compliance of any site improvements; and

(vi) any other typical value influences described in standard appraisal literature.

(4) ADJUSTMENTS TO SALES OF COMPARABLE PARCELS.—

(A) UTILITIES, ACCESS, OR FACILITIES.—

(i) AGENCY.—Utilities, access, or facilities serving a lot that are provided by the agency shall be included as features of the lot being appraised.

(ii) CABIN OWNERS.—Utilities, access, or facilities serving a lot that are provided by the cabin owner (or a predecessor of the cabin owner) shall not be included as a feature of the lot being appraised.

(iii) THIRD PARTIES.—Utilities, access, or facilities serving a lot that are provided by a third party shall not be included as a feature of the lot being appraised unless, in accordance with subsection (a)(I), the agency determines that the capital costs have not been or are not being paid by the cabin owner (or a predecessor of the cabin owner).

(iv) WITHDRAWAL OF UTILITY OR ACCESS BY AGENCY.—If, during the term of an authorization, the agency or an act of God creates a substantial and materially adverse change in—

(I) the provision or maintenance of any utility or access; or

(II) a qualitative feature of the lot or immediate surroundings;

the cabin owner shall have the right to request, and, at the discretion of the Secretary, obtain a new determination of the base cabin user fee at the expense of the agency.

(B) ADJUSTMENT FOR EXCLUSION.—In a case in which any comparable sale includes utilities, access, or facilities that are to be excluded in the appraisal of the subject lot, the price of the comparable sale shall be adjusted, as appropriate.

(C) ADJUSTMENT PROCESS.—

(i) IN GENERAL.—The appraiser shall consider and adjust, as appropriate, the price of each sale of a comparable parcel for all nonnatural features referred to in subparagraph (A)(ii) that—

(I)(aa) are present at, or add value to, the comparable parcel; but

(bb) are not present at the lot being appraised; or

(II) are not included in the appraisal as described in subparagraph (A).

(ii) ADJUSTMENTS.—

(I) IN GENERAL.—In a case in which the price of a parcel sold is to be adjusted in accordance with subparagraph (B), the adjustment may be based on an analysis of market or cost information or both.

(II) COST INFORMATION.—If cost information is used as the basis of an adjustment under subsection (I), the cost information shall be supported by direct market evidence.

(iii) ANALYSIS OF COST INFORMATION.—An analysis of cost information under clause (ii)(I) should include allowances, as appropriate, if the allowances are consistent with—

(I) the Uniform Standards of Professional Appraisal Practice in effect on the date of the analysis; and

(II) the Uniform Appraisal Standards for Federal Land Acquisition.

(D) REAPPRAISAL FOR AND RECALCULATION OF BASE CABIN USER FEE.—Periodically, but not less often than once every 10 years, the Secretary shall recalculate the base cabin user fee (including conducting any reappraisal required to recalculate the base cabin user fee).

#### SEC. 607. CABIN USER FEES.

(a) IN GENERAL.—The Secretary shall establish the cabin user fee as the amount that is equal to 5 percent of the market value of the lot, as determined in accordance with section 606, reflecting an adjustment to the typical market rate of return due to restrictions imposed by the permit, including—

(1) the limited term of the authorization;

(2) the absence of significant property rights normally attached to fee simple ownership; and

(3) the public right of access to, and use of, any open portion of the lot on which the cabin or other enclosed improvements are not located.

(b) FEE FOR CARETAKER CABIN.—The base cabin user fee for a lot on which a caretaker cabin is located shall not be greater than the base cabin user fee charged for the authorized use of a similar typical lot in the tract.

(c) ANNUAL CABIN USER FEE IN THE EVENT OF DETERMINATION NOT TO REISSUE AUTHORIZATION.—If the Secretary determines that an authorization should not be reissued at the end of a term, the Secretary shall—

(1) establish as the new base cabin user fee for the remaining term of the authorization the amount charged as the cabin user fee in the year that was 10 years before the year in which the authorization expires; and

(2) calculate the current cabin user fee for each of the remaining 9 years of the term of the authorization by multiplying—

(A)  $\frac{1}{10}$  of the new base cabin user fee; by

(B) the number of years remaining in the term of the authorization after the year for which the cabin user fee is being calculated.

(d) ANNUAL CABIN USER FEE IN EVENT OF CHANGED CONDITIONS.—If a review of a decision to convert a lot to an alternative public use indicates that the continuation of the authorization for use and occupancy of the cabin by the cabin owner is warranted, and the decision is subsequently reversed, the Secretary may require the cabin owner to pay any portion of annual cabin user fees that were forgone as a result of the expectation of termination of use and occupancy of the cabin by the cabin owner.

(e) TERMINATION OF FEE OBLIGATION IN LOSS RESULTING FROM ACTS OF GOD OR CATASTROPHIC EVENTS.—On a determination by the agency that, because of an act of God or a catastrophic event, a lot cannot be safely occupied and the authorization for the lot should accordingly be terminated, the fee obligation of the cabin owner shall terminate effective on the date of the occurrence of the act or event.

#### SEC. 608. ANNUAL ADJUSTMENT OF CABIN USER FEE.

(a) IN GENERAL.—The Secretary shall adjust the cabin user fee annually, using a rolling 5-year average of a published price index in accordance with subsection (b) or (c) that reports changes in rural or similar land values in the State, county, or market area in which the lot is located.

(b) INITIAL INDEX.—

(1) IN GENERAL.—For the period of 10 years beginning on the date of enactment of this title, the Secretary shall use changes in agricultural land prices in the appropriate State or county, as reported in the Index of Agricultural Land Prices published by the Department of Agriculture, to determine the annual adjustment to the cabin user fee in accordance with subsections (a) and (d).

(2) STATEWIDE CHANGES.—In determining the annual adjustment to the cabin user fee for an authorization located in a county in which agricultural land prices are influenced by the value influences described in section 606(b)(3), the Secretary shall use average statewide changes in the State in which the lot is located.

(c) NEW INDEX.—

(1) IN GENERAL.—Not later than 10 years after the date of enactment of this title, the Secretary may select and use an index other than the method of adjustment of a cabin user fee described in subsection (b)(2) to adjust a cabin user fee if the Secretary determines that a different index better reflects change in the value of a lot over time.

(2) SELECTION PROCESS.—Before selecting a new index, the Secretary shall—

(A) solicit and consider comments from the public; and

(B) not later than 60 days before the date on which the Secretary makes a final index selec-

tion, submit any proposed selection of a new index to—

(i) the Committee on Resources of the House of Representatives; and

(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) LIMITATION.—In calculating an annual adjustment to the base cabin user fee as determined by the initial index described in section (b), the Secretary shall—

(1) limit any annual fee adjustment to an amount that is not more than 5 percent per year when the change in agricultural land values exceeds 5 percent in any 1 year; and

(2) apply the amount of any adjustment that exceeds 5 percent to the annual fee payment for the next year in which the change in the index factor is less than 5 percent.

#### SEC. 609. PAYMENT OF CABIN USER FEES.

(a) DUE DATE FOR PAYMENT OF FEES.—A cabin user fee shall be prepaid annually by the cabin owner.

(b) PAYMENT OF EQUAL OR LESSER FEE.—If, in accordance with section 607, the Secretary determines that the amount of a new base cabin user fee is equal to or less than the amount of the current base cabin user fee, the Secretary shall require payment of the new base cabin user fee by the cabin owner in accordance with subsection (a).

(c) PAYMENT OF GREATER FEE.—If, in accordance with section 607, the Secretary determines that the amount of a new base cabin user fee is greater than the amount of the current base cabin user fee, the Secretary shall—

(1) require full payment of the new base cabin user fee in the first year following completion of the fee determination procedure if the increase in the amount of the new base cabin user fee is not more than 100 percent of the current base cabin user fee; or

(2) phase in the increase over the current base cabin user fee in approximately equal increments over 3 years if the increase in the amount of the new base cabin user fee is more than 100 percent of the current base cabin user fee.

#### SEC. 610. RIGHT OF SECOND APPRAISAL.

(a) RIGHT OF SECOND APPRAISAL.—On receipt of notice from the Secretary of the determination of a new base cabin user fee, the cabin owner—

(1) not later than 60 days after the date on which the notice is received, may notify the Secretary of the intent of the cabin owner to obtain a second appraisal; and

(2) may obtain, within 1 year following the date of receipt of the notice under this subsection, at the expense of the cabin owner, a second appraisal of the typical lot on which the initial appraisal was conducted.

(b) CONDUCT OF SECOND APPRAISAL.—In conducting a second appraisal, the appraiser selected by the cabin owner shall—

(1) have qualifications equivalent to the appraiser that conducted the initial appraisal in accordance with section 606(a)(4);

(2) use the appraisal guidelines used in the initial appraisal in accordance with section 606(a)(5);

(3) consider all relevant factors in accordance with this title (including guidelines developed under section 606(a)(3)); and

(4) notify the Secretary of any material differences of fact or opinion between the initial appraisal conducted by the agency and the second appraisal.

(c) REQUEST FOR RECONSIDERATION OF BASE CABIN USER FEE.—A cabin owner shall submit to the Secretary any request for reconsideration of the base cabin user fee, based on the results of the second appraisal, not later than 60 days after the receipt of the report for the second appraisal.

(d) RECONSIDERATION OF BASE CABIN USER FEE.—On receipt of a request from the cabin owner under subsection (c) for reconsideration of a base cabin user fee, not later than 60 days