

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF PROPOSED  
2.59.104 pertaining to semiannual ) AMENDMENT  
assessment for banks )  
) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On May 18, 2015, the Department of Administration proposes to amend the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on May 11, 2015, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; or e-mail to [banking@mt.gov](mailto:banking@mt.gov).

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

2.59.104 SEMIANNUAL ASSESSMENT (1) ~~Based upon the following schedule, and upon calculation of the semiannual value for the respective bank, the value must be multiplied by the factor of 1.50 to determine the dollar fee assessment, rounded to the next highest dollar, due the~~ The Division of Banking and Financial Institutions for the semiannual period. invoices banks for semiannual assessments every June and December. The assessment is based on each bank's total assets provided in its previous March and September call reports.

(2) The fee is calculated based on the total assets of the bank using the table below. The fee is then multiplied by the factor of 1.50 and rounded to the next highest dollar to determine the assessment due for the semiannual period.

Total Assets (\$ Million)	Base Fee (\$)	Plus Rate per Million Dollar	Over (\$ Million)
0-1	0	0.00085	0
1-10	850	0.000105	1
10-50	1,795	0.000085	10
50-100	5,195	0.00005	50
over 100	7,695	0.00003	100

Example: Bank A reports total assets of \$8.2 million. Bank A's total assessment is \$2409, based on a base fee of \$850 plus \$756 (\$7.2 million x 0.000105 = \$1606) x 1.5.

(3) The assessment is due 30 days after each invoice date, or July 31 and January 31, whichever is later.

(2)(4) For the period August 22, 2014 through December 31, 2014, the assessment fee must be multiplied by a factor of .50. No fee will be charged for the June 31, 2015, semiannual assessment. This section will sunset January 26 August 31, 2015.

AUTH: 32-1-213, 32-1-218, MCA

IMP: 32-1-213, 32-1-218, MCA

STATEMENT OF REASONABLE NECESSITY: The banking industry in Montana is currently in a state of flux and there is no end in sight. Due to regulatory pressures and economic factors, the Montana Division of Banking and Financial Institutions (division) has seen a series of mergers and consolidations involving banks in this state and outside of this state over the last year. In 2014, the division approved three mergers and one conversion that resulted in gains to the assessments for Montana, and three mergers that resulted in losses to the assessments for Montana.

While the division tries to keep its banking assessments in proportion to the costs it spends on supervising Montana banks, it is particularly difficult to do so in the current environment when mergers and conversions throw the assessments into flux. So while the division has given an assessment holiday in each of the last three years, the special fund balance for banks continues to outpace expenses of supervision.

It is impossible for the division to predict with any certainty which institutions will or will not merge or convert in the future. As a result, the division has chosen not to collect an assessment for the first half of 2015 and so must amend the rule. The division estimates that on a semiannual basis, based on current costs and estimates of assessments, not collecting an assessment for one-half year will bring the amount of revenue it collects closer to the cost of supervision.

The intent of this amendment is to reduce the assessments that the division will receive in the first half of 2015 from approximately \$1,510,000 to zero. Because this rule revision is intended to be temporary, the division has chosen to have it sunset on August 31, 2015, which will make the amendment effective only for the first half of 2015 assessment, not for the second half of 2015 assessment or any assessment thereafter.

The division will propose a permanent downward revision in the bank assessments after it becomes reasonably certain that the number and composition of state-chartered banks have reached a relatively stable number; however, at this time, the division has no idea when that may be.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546;

faxed to the office at (406) 841-2930; or e-mailed to [banking@mt.gov](mailto:banking@mt.gov); and must be received no later than 5:00 p.m., May 14, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above no later than 5:00 p.m., May 14, 2015.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be five persons based on the 53 existing state-chartered banks.

7. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name and mailing address and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to [banking@mt.gov](mailto:banking@mt.gov); or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. The department has determined that under 2-4-111, MCA, the proposed rule amendment will not significantly and directly affect small businesses.

By: /s/ Sheila Hogan  
Sheila Hogan, Director  
Department of Administration

By: /s/ Michael P. Manion  
Michael P. Manion, Rule Reviewer  
Department of Administration

Certified to the Secretary of State April 6, 2015.