

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to definition of "alter" for mortgage licensees) NOTICE OF PROPOSED ADOPTION)
))
) NO PUBLIC HEARING)
) CONTEMPLATED)

TO: All Concerned Persons

1. On August 28, 2017, the Department of Administration proposes to adopt 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 July 31, 2017, 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) 841-2974; facsimile (406) 841-2930; or e-mail banking@mt.gov.

3. The rule proposed to be adopted provides as follows:

NEW RULE I DEFINITION OF "ALTER" FOR MORTGAGE LICENSEES

(1) The word "alter" as used in 32-9-124(1)(l), MCA, means that loan documents may not be revised by:

- (a) using correction fluid, correction tape, or any other means of changing or covering over a date or signature not on the original;
- (b) inserting a signature or date not on the original; or
- (c) making any other change to a document.

(2) To correct an error in a loan document, the licensee shall either:

- (a) reprint the document, have it re-signed, and retain the original document noting in the file why the document was reprinted and re-signed; or
- (b) strike out the error, put the correct text beside it, and initial and date the change.

AUTH: 32-9-130, MCA

IMP: 32-9-124, MCA

STATEMENT OF REASONABLE NECESSITY: The division proposes this new rule because it has seen a number of cases recently in which mortgage brokers altered documents by using correction fluid, correction tape, and cutting and pasting signatures and dates on documents. The date on which documents are received by the borrower sets the clock running for purposes of federal rules requiring disclosures be made within a certain number of days after various forms have been received. The division has a zero-tolerance policy for the use of any means of

altering mortgage documents. Attempting to evade penalties for not complying with the date restrictions in federal law by altering dates or dates signed is unacceptable. The proper method to correct an incorrect entry is to either reprint the document and have it re-signed or to strike out the entry made in error, put the correct entry beside it, and initial and date the change. The division will view any attempt to alter documents using correction fluid, correction tape, or cutting and pasting as a violation of 32-9-124, MCA, and will seek enforcement penalties against any licensee who engages in this behavior.

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; and must be received no later than 5:00 p.m., August 7, 2017.

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., August 7, 2017.

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 352 persons based on the 3,523 existing mortgage licensees.

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, 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; 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 new rule will not significantly and directly affect small businesses.

By: /s/ John Lewis
John Lewis, Director
Department of Administration

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

Certified to the Secretary of State June 26, 2017.