

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 2.59.104 and 2.59.401 pertaining) AMENDMENT
to semiannual assessment for banks)
and credit unions) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On November 21, 2020, the Department of Administration proposes to amend the above-stated rules.

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 October 21, 2020, to advise us of the nature of the accommodation that you need. Please contact Heather Hardman, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2922; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: In MAR Notice No. 2-59-599, the department adopted a temporary emergency rule on April 24, 2020, waiving bank assessments and credit union supervisory fees for June 2020. By waiving the assessment and supervisory fee, it allowed institutions to use the funds as appropriate to best assist their customers during the COVID-19 crisis.

The department proposes to waive the December 2020 assessment to allow banks and credit unions to continue to assist their customers as they see fit during this health and economic crisis. In addition, waiving these fees enables the department to reduce its fund balance which will be sufficient despite the decrease in revenue. This amendment will reduce assessments the department will receive from banks from approximately \$762,554 to zero and reduce fees the department will receive from credit unions from approximately \$170,839 to zero.

4. The rules as proposed to be amended provide as follows, new matter underlined:

2.59.104 SEMIANNUAL ASSESSMENT (1) through (5) remain the same.
(6) The assessment billed in December 2020 and collected in January 2021 is waived.

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

2.59.401 CREDIT UNIONS - SUPERVISORY FEE (1) and (2) remain the same.

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

(4) The assessment billed in December 2020 and collected in January 2021 is waived.

AUTH: 32-3-201, MCA

IMP: 32-3-201, MCA

STATEMENT OF REASONABLE NECESSITY: No due date for credit union supervisory fees is provided in statute or rule. The department has determined it is necessary to include a due date in rule to provide clarity to credit unions. The longtime practice of the department has been to treat banks and credit unions the same in terms of when the invoices are sent and due. Current practice is that invoices are sent in January and July and payment is requested by the end of the month or 30 days thereafter, whichever is later. This proposal reflects current practice and is intended to formally incorporate it in rule.

5. 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., November 6, 2020.

6. If persons who are directly affected by the proposed actions 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 5 above no later than 5:00 p.m., October 21, 2020.

7. 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 5 persons based on the 39 state-chartered banks and 10 state-chartered credit unions.

8. An electronic copy of this proposal notice is available through the department's website at <http://doa.mt.gov/administrativerules>. The department strives to make its online version of the notice conform to the official published version but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website

accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

9. 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 Heather Hardman, 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.

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

11. The department has determined that under 2-4-111, MCA, the proposed amendment of the above-stated rules will not significantly and directly impact small businesses.

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

By: /s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 29, 2020.