

BEFORE THE STATE BANKING BOARD  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PROPOSED ADOPTION
RULE I pertaining to closure or	)	AND AMENDMENT
relocation of bank branch and the	)	
amendment of ARM 2.60.203,	)	NO PUBLIC HEARING
2.60.204, 2.60.501, and 2.60.904	)	CONTEMPLATED
pertaining to certificate of authorization,	)	
procedural rules, deposit liability, and	)	
incorporation for state-chartered banks	)	

TO: All Concerned Persons

1. The Department of Administration proposes to adopt and 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 April 3, 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](mailto:banking@mt.gov).

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

NEW RULE I ADOPTION OF FORM FOR NOTICE TO PUBLIC OF BANK BRANCH CLOSURE OR RELOCATION (1) The department adopts by reference the Notice to Public of Proposed Closure or Relocation of Bank Branch, effective August 1, 2016. This form is required to notify the public of a proposed closure or relocation of a bank branch and to provide an opportunity for protest. This form is available at the division's website: <http://banking.mt.gov/Home/Forms#164912240-banks-and-trust-companies>.

AUTH: 32-1-218, MCA  
IMP: 32-1-202, 32-1-218, MCA

STATEMENT OF REASONABLE NECESSITY: The department is adopting this form by reference because, while the form has been used for several years by the department, it has not been formally adopted by rule.

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

2.60.203 APPLICATION PROCEDURE FOR A CERTIFICATE OF AUTHORIZATION FOR A STATE-CHARTERED BANK (1) remains the same.

(a) the Interagency Charter and Federal Deposit Insurance Application (Expiration Date: ~~6/20/2013~~ August 31, 2019) as the form that shall be completed when applying for a certificate of authorization; and

(b) the Interagency Biographical and Financial Report (Expiration Date: ~~4/30/2014~~ April 30, 2017) for use by individuals in conjunction with the Interagency Charter and Federal Deposit Insurance Application. The application and biographical and financial report are available at the Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546, or on the division web site located at <http://banking.mt.gov/Home/Forms#164912240-banks-and-trust-companies>.

(2) through (5) remain the same.

AUTH: 32-1-203, MCA

IMP: 32-1-203, MCA

GENERAL STATEMENT OF REASONABLE NECESSITY: As part of its required biennial review of rules, the Department of Administration has identified necessary changes identified in these proposed amendments including updated versions of forms and model rules.

STATEMENT OF REASONABLE NECESSITY: The division proposes to amend this rule to reflect the most current forms provided for banks by the Federal Deposit Insurance Corporation and to provide a more direct link to the forms.

2.60.204 PROCEDURAL RULES FOR DISCOVERY AND HEARING

(1) The State Banking Board and the division adopt and incorporate by reference the following Attorney General's model rules ~~dated June 30, 2009 in effect February 27, 2017, by reference, as stated in~~ ARM 1.3.101, ARM 1.3.102, ARM 1.3.201, ARM 1.3.202, ARM 1.3.211 through ARM 1.3.224, and ARM 1.3.226 through ARM 1.3.233. These rules may be found at [sos.mt.gov](http://sos.mt.gov). Prehearing discovery procedures shall be allowed in the same manner as specified under the Montana Rules of Civil Procedure relative to district court actions. The time period established in discovery may be shortened at the discretion of the board.

(2) and (3) remain the same.

AUTH: 32-1-203, MCA

IMP: 32-1-203, MCA

STATEMENT OF REASONABLE NECESSITY: The division proposes to amend this rule to reflect the most current model rules from the Attorney General and where they may be accessed.

2.60.501 STATE BANK ORGANIZED FOR PURPOSE OF ASSUMING DEPOSIT LIABILITY OF ANY CLOSED BANK (1) All provisions of ARM 2.60.202 and 2.60.203, application procedures, apply except ~~(4)(c) of 2.60.203(3),~~ summary

of evidence demonstrating reasonable public necessity and demand for a new bank; and (4) of 2.60.203, notification to applicants to perfect application. The provisions of ARM 2.60.302 through 2.60.304 also apply.

(2) and (3) remain the same.

(4) Details of the proposed purchase along with a copy of the purchase and assumption agreement ~~and an application fee of \$1,500~~ will must be submitted to the Division of Banking and Financial Institutions prior to submitting a bid for the closed bank.

(5) remains the same.

AUTH: 32-1-204, MCA

IMP: 32-1-204, MCA

STATEMENT OF REASONABLE NECESSITY: There is no longer a subsection (c) to ARM 2.60.202(1). And ARM 2.60.203(4) does not pertain to notification to applicants to perfect application. In fact, there is no longer a section in ARM 2.60.203 addressing notification to applicants to perfect application, so these references must be removed. The fee of \$1,500 is being deleted because the current application fee for a certificate of authority for a state-chartered bank is \$10,000. That fee is located in ARM 2.60.203(2).

2.60.904 DECISION OF STATE BANKING BOARD; INCORPORATION

(1) through (5) remain the same.

(6) The State Banking Board's approval shall be specifically conditioned on:

(a) the commissioner's approval of the subsequent merger; and

(b) the new institution being accepted for deposit insurance by the Federal

Deposit Insurance Corporation.

(7) remains the same.

AUTH: 32-1-218, MCA

IMP: 32-1-109, 32-1-202, 32-1-204, 32-1-205, 32-1-218, 32-1-302, MCA

STATEMENT OF REASONABLE NECESSITY: All banks chartered in the state of Montana are required by 32-1-203, MCA, to have Federal Deposit Insurance Corporation (FDIC) insurance. ARM 2.60.304 sets forth the requirement set by the State Banking Board to require all commercial banks in Montana to be accepted by the FDIC for deposit insurance. This requirement ensures the deposit insurance is in place before a new bank can begin business.

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](mailto:banking@mt.gov); and must be received no later than 5:00 p.m., April 10, 2017.

6. 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 5 above no later than 5:00 p.m., April 10, 2017.

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 five persons based on the 47 existing state-chartered banks.

8. 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.

9. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the State Banking Board. 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 board 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.

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 rule adoption and rule amendments 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 February 27, 2017.