

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 9, 2016, 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 April 18, 2016, 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 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) through (3) remain the same.  
(4) No fee will be charged for the June 30, 201~~5~~6, semiannual assessment.  
This section sunsets August 31, 201~~5~~6.

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

STATEMENT OF REASONABLE NECESSITY: The division has lost several staff members and bank examiners recently who have either moved on to other positions or retired.

While the division tries to keep its bank assessments in proportion to the costs it spends on supervising Montana banks, it is unable to predict when staff members will chose to leave the division. Reorganization of the division prevented the division from immediately filling certain vacant positions, and the division is also not filling certain others. In addition, new hires generally are not compensated as highly as more experienced staff members.

As a result of these staffing changes, the division's special fund balance continues to grow despite numerous efforts to reduce it. 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 2016 from approximately \$1,328,000 to zero. Because this rule revision is intended to be temporary, the division has chosen to have it sunset on August 31, 2016, which will make the amendment effective only for the first half of 2016 assessment, not for the second half of 2016 assessment or any assessment thereafter.

The division will propose a permanent downward revision in the bank assessments after it becomes reasonably certain what the future staffing levels at the division will need to be; however, at this time, the division remains in flux.

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., April 25, 2016.

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., April 25, 2016.

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 50 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, 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 March 7, 2016.