

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PROPOSED
2.59.301, 2.59.310, and 2.59.318	)	AMENDMENT AND REPEAL
pertaining to advertising, standardized	)	
forms and procedures, and the annual	)	NO PUBLIC HEARING
reporting form for consumer loan	)	CONTEMPLATED
licensees, and the repeal of ARM	)	
2.59.311 pertaining to the transition of	)	
licenses to the NMLS	)	

TO: All Concerned Persons

1. On November 21, 2016, the Department of Administration proposes to amend and repeal 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 November 7, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.59.301 ADVERTISING (1) through (3) remain the same.

(4) A licensee may not use any advertising ~~which~~ that is inconsistent with the Montana Unfair Trade Practices and Consumer Protection Act, Title 30, chapter 14, parts 1 and 2, MCA, or with federal laws including 15 USC 45(a)(1) ~~or 15 USC 5(a)(1)~~ or the rules promulgated thereunder.

(5) remains the same.

AUTH: 32-5-401, MCA

IMP: 32-5-309, 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 and repeal.

STATEMENT OF REASONABLE NECESSITY: It was discovered in this particular rule that federal laws have been amended and 15 USC 5(a)(1) is no longer a valid law. The division is amending this rule to align with federal law and to improve grammar.

2.59.310 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS) (1) through

(2)(b) remain the same.

(c) NMLS individual form dated ~~April 16, 2012~~ July 30, 2014.

(3) The following state-specific forms on the NMLS are approved and adopted by reference:

~~(a) Montana consumer loan license transition checklist dated June 3, 2014;~~

~~(b)(a) Montana consumer loan license new application checklist dated June 3, 2014~~ August 31, 2015;

~~(c)(b) Montana consumer loan license amendment checklist dated June 2, 2014~~ August 31, 2015;

~~(d)(c) Montana consumer loan license surrender checklist dated May 21, 2014~~ August 31, 2015;

~~(e) Montana consumer loan branch transition checklist dated June 2, 2014;~~

~~(f)(d) Montana consumer loan branch new application checklist dated June 2, 2014~~ August 31, 2015;

~~(g)(e) Montana consumer loan branch amendment checklist dated June 2, 2014~~ August 31, 2015; and

~~(h)(f) Montana consumer loan branch surrender checklist dated June 2, 2014~~ August 31, 2015.

(4) remains the same.

(5) Copies of the standardized NMLS forms are available on the department's web site ~~www.banking.mt.gov for review and informational purposes only~~ NMLS web site at [http://mortgage.nationwidelicensingsystem.org/slr/PublishedStateDocuments/MT-Consumer\\_Loan\\_License-Company-New-App-Checklist.pdf](http://mortgage.nationwidelicensingsystem.org/slr/PublishedStateDocuments/MT-Consumer_Loan_License-Company-New-App-Checklist.pdf). All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

AUTH: 32-5-201, 32-5-209, MCA

IMP: 32-5-201, 32-5-209, MCA

STATEMENT OF REASONABLE NECESSITY: This rule amendment is necessary to reflect the most current forms provided by the NMLS and the most current checklists used by the division. The web site address is being changed from the division web site to the NMLS web site to make it easier for the public to access the forms.

2.59.318 ADOPTION OF ANNUAL REPORT FORM AND DUE DATE

(1) and (2) remain the same.

(3) The Consumer Loan Annual Report of Licensee form, ~~7/1/2015~~ July 1, 2016, edition, is adopted and incorporated by reference.

(4) remains the same.

AUTH: 32-5-308, MCA

IMP: 32-5-308, MCA

STATEMENT OF REASONABLE NECESSITY: This rule amendment is necessary because the current dates in the Consumer Loan Annual Report of Licensee must be amended annually to reflect the licensees' current financial information.

4. The department proposes to repeal the following rule:

2.59.311 TRANSITION, found on ARM page 2-5967.

AUTH: 32-5-209, MCA

IMP: 32-5-201, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is proposed for repeal because all consumer loan licensees required to transition to the NMLS completed the transition during the transition period. There will be no other consumer loan licensees requiring transition because new license applicants will apply for their license directly through the NMLS.

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., November 14, 2016.

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., November 14, 2016.

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 nine persons based on the 92 existing consumer loan licensees.

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 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.

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 amendments and repeal 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 October 3, 2016.