

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
2.59.701 and 2.59.705 pertaining to)	AMENDMENT AND REPEAL
application procedure and standardized)	
forms and procedures and the repeal of)	NO PUBLIC HEARING
ARM 2.59.706 pertaining to transition of)	CONTEMPLATED
escrow business licensees to the NMLS)	

TO: All Concerned Persons

1. On December 5, 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 21, 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.

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

2.59.701 APPLICATION PROCEDURE FOR AUTHORIZATION TO ENGAGE IN THE ESCROW BUSINESS ~~(1) Pursuant to and in compliance with Title 32, chapter 7, MCA, "The Regulation of Escrow Business Act," all existing or proposed escrow businesses, as defined by the act, shall file with the department of administration applications for licenses to engage in the escrow business.~~

~~(2) Said applications must be in writing, verified by oath, and in the form prescribed by the director. Application forms may be obtained from the Commissioner of Banking and Financial Institutions, Department of Administration, 301 South Park, Suite 316, P.O. Box 200546, Helena, MT 59620-0546.~~

~~(3)~~(1) In addition to the statutory qualifications found in Title 32, chapter 7, MCA, officers and managers of proposed escrow businesses must shall demonstrate ~~through past record and present status as purveyors of escrow services and as business persons and citizens, that they are likely~~ the character and fitness to operate their proposed escrow businesses in compliance with all applicable state and local laws ~~of the state and local governments.~~

(4) and (5) remain the same, but are renumbered (2) and (3).

AUTH: 32-7-108, MCA

IMP: 32-7-109, 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: This proposed rule amendment is necessary because the processes described in (1) and (2) no longer apply to the escrow license application process. Effective October 10, 2014, escrow license applications are processed through the Nationwide Multistate Licensing System (NMLS) as adopted in ARM 2.59.705(2). The revised language of new (1) is being amended to clarify the current language.

2.59.705 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 escrow business company transition checklist dated May 21, 2014;~~

~~(b)~~(a) Montana escrow business company new application checklist dated ~~June 2, 2014~~ September 1, 2015;

~~(c)~~(b) Montana escrow business company amendment checklist dated ~~June 2, 2014~~ July 20, 2015;

~~(d)~~(c) Montana escrow business company surrender checklist dated ~~May 21, 2014~~ September 1, 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%20Loan%20License-Company-New-App-Checklist.pdf). All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

AUTH: 32-7-109, 32-7-112, MCA

IMP: 32-7-109, 32-7-112, MCA

STATEMENT OF REASONABLE NECESSITY: This proposed 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.

4. The department proposes to repeal the following rule:

2.59.706 TRANSITION, found on ARM page 2-6021.

AUTH: 32-7-109, 32-7-112, MCA

IMP: 32-7-109, 32-7-112, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is proposed for repeal because all escrow company licensees required to transition to the NMLS completed the transition during the transition period. There will be no other escrow company 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; and must be received no later than 5:00 p.m., November 28, 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 28, 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 one person based on the eight existing escrow company 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; 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 rule 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 17, 2016.