

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
2.59.1706, 2.59.1708, 2.59.1739, and)	AMENDMENT AND REPEAL
2.59.1743 pertaining to surety bond,)	
table funding, application of financial)	NO PUBLIC HEARING
standards, and reporting forms for)	CONTEMPLATED
mortgage servicers, and the repeal of)	
ARM 2.59.1728 and 2.59.1750)	
pertaining to standardized forms and)	
procedures of the Nationwide Mortgage)	
Licensing System and clarification of)	
definition)	

TO: All Concerned Persons

1. On June 19, 2017, 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 June 5, 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.

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

2.59.1706 SURETY BOND (1) The surety bond ~~shall~~ must be issued by a surety company authorized to do business in the state of Montana. The bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, ~~shall~~ must be placed on file with the ~~department~~ NMLS. The entity name on the application and on the surety bond must match exactly. The bond ~~shall~~ must be continuous. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it ~~shall be considered~~ is deemed one continuous obligation, and the surety upon the bond ~~shall not be~~ is not liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond.

(2) remains the same.

AUTH: 32-9-130, MCA
IMP: 32-9-123, 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.

STATEMENT OF REASONABLE NECESSITY: This rule is being amended to reflect the change in the method in which the division reviews and tracks the surety bond. Surety bonds are no longer mailed to the division; instead, they are uploaded into the licensee's NMLS record. Division-authorized users may view the uploaded surety bond in the licensee's NMLS record to verify compliance. The remaining proposed changes are to improve readability and follow drafting convention.

2.59.1708 TABLE FUNDING REQUIRES LICENSURE (1) remains the same.

AUTH: 32-9-130, MCA
IMP: ~~32-9-108~~ 32-9-102, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is being amended to replace the implementation statute 32-9-108, MCA, because it was repealed in 2009. This rule now implements 32-9-102, MCA.

2.59.1739 APPLICATION OF FINANCIAL STANDARDS (1) and (2) remain the same.

AUTH: 32-9-130, MCA
IMP: 32-9-113, 32-9-117, 32-9-120, ~~32-9-166~~, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is being amended to remove the implementation statute 32-9-166, MCA, because the statute was stated in error and does not apply to the application of financial standards.

2.59.1743 REPORTING FORMS FOR MORTGAGE SERVICERS

(1) remains the same.

(2) At the servicer's election, each servicer shall submit either the expanded mortgage call report (~~MCR~~) through the NMLS or the Quarterly Statement for Mortgage Servicing Activity dated ~~September 3, 2015~~ May 31, 2016, for every quarter during which it held a license.

(3) The Quarterly Statement for Mortgage Servicing Activity dated ~~September 3, 2015~~ May 31, 2016, which is adopted and incorporated by reference, is available on the division's web site at <http://banking.mt.gov/Home/Forms#164912243-loan-servicers>.

AUTH: 32-9-130, MCA
IMP: 32-9-170, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is being amended to reflect the current edition date of the Quarterly Statement for Mortgage Servicing Activity. The division forms must be updated to reflect the current reporting standards as directed by the NMLS. The remaining proposed change is to improve readability and follow drafting convention.

4. The department proposes to repeal the following rules:

2.59.1728 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NMLS, found on ARM page 2-6165.

AUTH: 32-9-130, MCA

IMP: 32-9-105, 32-9-110, 32-9-112, 32-9-130, 32-9-134, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is being repealed because the adoption of standardized forms and procedures of the NMLS is now required by 32-9-105 and 32-9-112, MCA.

2.59.1750 CLARIFICATION OF DEFINITION, found on ARM page 2-6177.

AUTH: 32-9-130, MCA

IMP: 32-9-103(26), MCA

STATEMENT OF REASONABLE NECESSITY: When this rule was adopted in 2013, Montana did not have a definition of clerical or support duties. This meant all loan processors or underwriters had to be licensed as mortgage loan originators. That was not the intent of the SAFE Act or the Montana Mortgage Act. The division therefore adopted this rule to clarify that loan processors or underwriters need not be licensed. In 2015, the Montana legislature added a definition of clerical or support duties at 32-9-103(10), MCA, so this rule is no longer needed.

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., June 12, 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., June 12, 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 375 persons based on the 3,749 existing mortgage 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 repeals 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 May 1, 2017.