

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PROPOSED
2.59.1002 pertaining to merger) AMENDMENT
application procedures for banks)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On July 24, 2017, 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 July 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.

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

2.59.1002 MERGER APPLICATION PROCEDURES (1) through (3) remain the same.

~~(4) The applicant bank(s) shall publish a notice in a newspaper of general circulation in the community in which the main office of each party to the transaction is located. If there is no such newspaper in the community, then the notice shall be published in a newspaper of general circulation published nearest to the community. The notice must run three times. It must be published once a week on the same day for two consecutive weeks and the last publication must be the 25th day after the first publication. If the newspaper does not publish on the 25th day, the notice must be published on the newspaper's publication date that most closely precedes the 25th day.~~ An applicant for approval of a merger transaction shall publish notice of the proposed transaction on at least three occasions at approximately equal intervals in a newspaper of general circulation in the community or communities where the main offices of the merging institutions are located; or, if there is no such newspaper in the community, then in the newspaper of general circulation published nearest to the community.

(a) The first publication of the notice must be as close as practicable to the date on which the application is filed with the division, but no more than five days before the filing date.

(b) The last publication of the notice must be on the 25th day after the first publication; or, if the newspaper does not publish on the 25th day, on the publication date closest to the 25th day.

(5) through (7) remain the same.

(8) Where public notice is required, the division may determine on a case-by-case basis that unusual circumstances surrounding a particular filing warrant modification of the publication requirements.

(9) The applicant(s) shall provide the affidavit(s) of publication to the division after it is received.

AUTH: 32-1-218, MCA

IMP: 32-1-370, 32-1-371, MCA

STATEMENT OF REASONABLE NECESSITY: The amendment to (4) is necessary to make the division's rule consistent with the Federal Deposit Insurance Corporation (FDIC) merger rule. This helps applicants that are both state-chartered banks and FDIC-insured to have consistent rules regarding publication of notice of merger. This language is identical to 12 CFR 303.65(a). The new text in (8) is necessary because the division needs to have the same flexibility as the FDIC to review the publication requirements. In some instances, the merger must be accomplished on a quicker timeline than normal, and the division needs to create a publication timeline that is appropriate for the circumstances. This language is identical to 12 CFR 303.7(2)(f).

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; and must be received no later than 5:00 p.m., July 10, 2017.

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., July 10, 2017.

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 46 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; 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/ 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 30, 2017.