

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PROPOSED
2.59.1735 pertaining to determining the) AMENDMENT
amount of surety bond for a new)
mortgage broker or mortgage lender) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On May 30, 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 May 16, 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 rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

2.59.1735 DETERMINING THE AMOUNT OF SURETY BOND FOR A NEW MORTGAGE BROKER OR MORTGAGE LENDER (1) An entity applying for a license as a mortgage broker or mortgage lender for the first time in Montana shall submit with its application the total combined annual loan production volume for the year preceding the year of application as required by 32-9-123(2)(b), MCA.
(2) An entity having no prior business history, or a business history of less than one year at the time of application, shall purchase a surety bond in the amount of ~~\$50,000~~ \$25,000.

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

STATEMENT OF REASONABLE NECESSITY: The department proposes to amend this rule to reduce the initial amount of bond required for the licensure of new mortgage broker and mortgage lender entities, from \$50,000 to \$25,000. The department proposes this amendment given that since this rule was adopted, no new licensees have originated enough Montana mortgage loans in one year to require the \$50,000 bond pursuant to the levels set in 32-9-123, MCA. This proposed amendment aligns the rule with actual experience of new mortgage brokers and lenders in Montana.

The department is aware that often licensees maintain a \$50,000 bond after the first year of licensure even though the loan volume produced by that licensee does not warrant the higher bond amount, thus costing the licensee unnecessary expense. The department seeks to avoid requiring mortgage companies to pay more for a surety bond than is necessary.

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., May 23, 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., May 23, 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 25 persons based on the 250 existing licensed mortgage brokers and mortgage lenders.

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/ 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 April 11, 2016.