

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 2.59.104 pertaining to the) AMENDMENT
semiannual assessment for banks)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On December 7, 2019, 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 October 18, 2019, to advise us of the nature of the accommodation that you need. Please contact Heather Hardman, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2922; 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:

- 2.59.104 SEMIANNUAL ASSESSMENT (1) through (3) remain the same.
- (4) The fee shall not exceed \$600,000 for the assessment period. For example, if Bank A paid \$375,000 for the first assessment in June, the maximum amount due for the second assessment in December would be \$225,000.
- (5) In the event of a bank merger between Montana state-chartered banks during the second or fourth quarter of the year, the assessment fee for the acquired bank must be paid by the surviving bank.

AUTH: 32-1-213, 32-1-218, MCA
IMP: 32-1-213, 32-1-218, MCA

STATEMENT OF REASONABLE NECESSITY: The Division of Banking and Financial Institutions (division) strives to keep assessment fees commensurate with the cost of supervising Montana state-chartered banks. In 2016, the division implemented a new fee schedule reducing the annual bank assessment revenue by approximately \$595,000. After further analysis, the division found that the assessment fee for banks with total assets \$8 billion and higher remained disproportionate to the cost of supervision, necessitating a further reduction in fees.

The division determined that the assessment fee should be capped at \$600,000 annually to better align with the cost associated with supervising a large bank.

Currently, there are two banks that would be affected by the proposed amendment because their assets exceed \$8 billion. If we use the March 31, 2019, total assets from these two banks, the proposed rule amendment will result in a reduction in revenue to the division of approximately \$772,489 annually.

Historically, the division has inadvertently waived the assessment fee for banks acquired by another Montana state-chartered bank during the second and fourth quarters of the year. During a review of our bank assessment rules, we decided to formally address this through the proposed rule amendment.

Banks that are acquired during the second or fourth quarter, are not in existence to pay the assessment fee by the subsequent assessment due date. For example, Bank A filed their first quarter call report and subsequently merged into Bank B effective April 25, 2019. The division sent out the bank assessment billing on July 1, 2019, which is based on the total assets from the first quarter call report. Bank A shows up in the list, but it no longer exists and therefore cannot remit the assessment. Bank B had also filed their first quarter call report but had not acquired Bank A yet. Therefore, the division performed services for Bank A for the assessment period, October 1, 2018 through March 31, 2019, without receiving reimbursement.

In an effort to project revenue accurately and receive reimbursement for services performed, the division requests the surviving entity pay the assessment fees of the acquired bank.

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., November 4, 2019.

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., November 1, 2019.

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 four state-chartered banks based on the 42 existing Montana state-chartered banks.

7. An electronic copy of this proposal notice is available through the department's website at <http://doa.mt.gov/administrativerules>. The department strives to make its online version of the notice conform to the official published version, but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website accessible at all times, concerned persons should be aware that the website 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 Heather Hardman, 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 amendment of the above-stated rule will not significantly and directly impact small businesses.

By: /s/ John Lewis
John Lewis, Director
Department of Administration

By: /s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State September 24, 2019.