

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 August 8, 2020, 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 8, 2020, 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](mailto: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~~ 300,000 for each semiannual assessment ~~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) remains the same.

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

STATEMENT OF REASONABLE NECESSITY: On April 24, 2020, the department adopted a temporary emergency rule that waived the first semiannual assessment for banks and supervisory fee for credit unions due to the declared emergency derived from the COVID-19 pandemic. This created a problem for banks, but not credit unions, because different rules apply. The bank waiver only applied to the first semiannual assessment; however, the cap applies to the full-year period which covers both semiannual assessments. The department immediately began receiving questions as to the effect of the annual cap on a semiannual assessment. While the intent of the department was that cap be \$300,000 per semiannual assessment, for a total of \$600,000 per year, the rule did not say that. In order to remove the confusion surrounding the inartfully phrased rule, the department is

amending the rule to convey the department's original intent. The cap is \$300,000 per semiannual assessment. The department anticipates the revenue generated by the assessments will be commensurate with the cost of supervising Montana state-chartered banks.

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](mailto:banking@mt.gov); and must be received no later than 5:00 p.m., July 24, 2020.

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 8, 2020.

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 persons based on the 39 existing 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](mailto: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 June 16, 2020.