

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 2.59.429 pertaining to adoption of) AMENDMENT
model bylaws and statutory reference)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On September 12, 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 August 5, 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.

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

2.59.429 ADOPTION OF MODEL BYLAWS AND STATUTORY
REFERENCE FOR CREDIT UNIONS (1) The ~~division~~ department adopts by reference the model bylaws of credit unions dated ~~August 2016~~ June 2020 and the model credit union bylaws statutory reference dated ~~August 2016~~ June 2020, to be used by incorporators when they want to start a new credit union. Both can be found on the ~~division's~~ department's web site at <http://banking.mt.gov/Home/Forms#164912241-credit-unions> www.banking.mt.gov.

AUTH: 32-3-201, MCA

IMP: 32-3-302, MCA

REASON: Montana law requires the department to make model bylaws available to incorporators and credit unions. The statutory reference is not required by law but may be of assistance to incorporators or credit unions.

The changes to these bylaws are necessitated by COVID-19. Because gathering sizes are limited and potentially risky to both credit union members and management of the credit union, the department is allowing credit unions to conduct virtual annual meetings.

Since virtual annual meetings are allowed, credit unions need election procedures that will allow elections to be conducted in formats other than in person, such as by mail or electronically. In general, the department recommends that credit unions adopt election procedures that recognize some members prefer to vote in person, while others prefer mail or electronic means. The goal of the election is to allow all members to vote, by whatever method they prefer.

The new bylaws allow for directors emeritus and associate directors. Director emeritus is an honorary title designed to recognize and reward the good service of a retired director. The designation rewards the individual and allows the credit union to retain the benefit of some of their institutional knowledge. The new bylaws set forth the requirements and procedures for directors emeritus. This is an optional designation.

Associate director positions are intended to provide qualified individuals with an opportunity to gain exposure to board meetings and discussions but without formal director responsibility or the right to vote. The new bylaws set forth the requirements and procedures for associate directors. This is also an optional designation.

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., August 21, 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., August 5, 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 one person based on the ten existing state-chartered credit unions.

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 July 14, 2020.