

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 2.59.1738 pertaining to renewal)	AMENDMENT
fees of mortgage brokers, mortgage)	
lenders, mortgage servicers, and)	NO PUBLIC HEARING
mortgage loan originators)	CONTEMPLATED

TO: All Concerned Persons

1. On October 9, 2021, 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 September 8, 2021, 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 proposed to be amended is as follows, new matter underlined, deleted matter interlined:

2.59.1738 RENEWAL FEES (1) Licenses issued under Title 32, chapter 9, part 1, MCA, expire December 31. Licensees shall submit their renewal applications by December 1 of each year to ensure issuance of the license to qualified renewal applicants by January 1 of the following year. The renewal fees for the license period January 1 through December 31, ~~2024~~ 2022, are:

(a) Mortgage Broker Entity, \$125.00, ~~(except as provided in 32-9-117(1)(b), MCA);~~

(b) through (g) remain the same.

(2) The renewal fees for the license period after January 1, 2023, are:

(a) Mortgage Broker Entity, \$375.00;

(b) Mortgage Broker Branch, \$187.50;

(c) Mortgage Lender Entity, \$562.50;

(d) Mortgage Lender Branch, \$187.50;

(e) Mortgage Loan Originator, \$300.00;

(f) Mortgage Servicer Entity, \$562.50;

(g) Mortgage Servicer Branch, \$187.50.

AUTH: 32-9-117, 32-9-130, 32-9-134, MCA

IMP: 32-9-117, 32-9-130, 32-9-134, MCA

STATEMENT OF REASONABLE NECESSITY: The Division of Banking and Financial Institutions (division) is funded through assessments, licensing, and examination fees and strives to keep these fees consistent with each program's expenditures. The mortgage program is currently generating more revenue than its expenditures because there has been growth in the number of mortgage licensees which has exceeded the division's projections. Pursuant to 32-9-117, MCA, renewal fees must be commensurate with program costs.

The housing market has seen a remarkable boom since the pandemic began and has allowed people to work anywhere they please. The number of mortgage loan originators has grown dramatically and increased by 21 percent from 2019 to 2020.

In Montana, there are currently licensed:

- 190 mortgage broker entities;
- 250 mortgage broker branches;
- 210 mortgage lender entities;
- 485 mortgage lender branches;
- 172 mortgage servicer entities;
- 111 mortgage servicer branches; and
- 4,807 mortgage loan originators.

The division expects that not all the current licensees will renew their licenses for 2022. However, based on prior years' renewals, the division predicts approximately 80 percent of its mortgage loan originators, 95 percent of mortgage companies, and 95 percent of mortgage company branch licensees will renew their licenses for 2022. This will result in revenue of \$525,000. The division can adequately fulfill its mission with this reduction in licensing fees being extended for another year into 2022. This will allow the division to reduce the fund balance it currently carries.

In 2023, the division proposes to restore fees to the level previously set in 2019. While this level represents a 25 percent decrease from the years prior to 2019, the division anticipates that with the increase in the number of licensees, the fees will be sufficient to cover program costs. The division anticipates the fee level proposed in (2) will increase fees received from these licensees by \$1,050,000 over the level in 2021-2022 and result in \$1,575,000 in revenues in 2023 and going forward.

The division proposes to remove the exception in (1)(a), since the fee reduction referred to in 32-9-117(1)(b), MCA, applies only to the license application fee, not the renewal fee.

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. Comments must be received no later than 5:00 p.m., September 24, 2021.

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., September 8, 2021.

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 622 persons based on the 6,225 mortgage brokers, mortgage lenders, mortgage servicers, and mortgage loan originators licensed in Montana.

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/ Misty Ann Giles
Misty Ann Giles, Director
Department of Administration

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

Certified to the Secretary of State August 17, 2021.