

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) NOTICE OF PROPOSED ADOPTION  
Rule I pertaining to due date of annual )  
financial statement for escrow licensee ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. On July 3, 2017, the Department of Administration proposes to adopt 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 June 19, 2017, 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](mailto:banking@mt.gov).

3. The rule proposed to be adopted provides as follows:

NEW RULE I ANNUAL FINANCIAL STATEMENT AND ESCROW ACTIVITIES REPORT AND DUE DATE (1) The Montana Escrow Business Annual Financial Statement and Escrow Activities Report form, May 9, 2017, edition, is adopted and incorporated by reference. The form is available on the division's website, <http://banking.mt.gov/Home/Forms#164912246-escrow>.

(2) By April 30 each year, persons licensed under the Montana Regulation of Escrow Businesses Act shall file the Montana Escrow Business Annual Financial Statement and Escrow Activities Report as of December 31 of the preceding calendar year.

AUTH: 32-7-108, MCA

IMP: 32-7-115, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is necessary to provide a form on which escrow businesses can report their financial condition and escrow activities; notice of the adoption of the form; and a reporting deadline. Section 32-7-115, MCA, requires filing an annual statement of escrow transactions and activities along with the audited financial statement. This rulemaking offers the opportunity to comment on the form.

The division debated whether to develop two separate forms or one combined form and decided to create one combined form for ease of use and consistency for all concerned. In so doing, the division created two separate sections on the form and made clear that the escrow business was attesting to the escrow activities

section and that the independent public accountant was attesting to the financial statement section of the form. The form was loosely based on the Arizona Department of Financial Institutions Escrow Agent Semiannual Financial and Escrow Report and modified to meet Montana's specific needs. This modified report meets the needs of the examiners to monitor and risk scope Montana escrow businesses without being too onerous for the escrow businesses. Using December 31 (year-end) as the "as-of" report date provides a standardized reporting period. April 30 was chosen as the due date to allow licensees sufficient time after year-end to have records audited and certified by an independent public accountant.

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., June 26, 2017.

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., June 26, 2017.

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 eight existing escrow company licensees.

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](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 new rule will not significantly and directly affect small businesses.

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

By: /s/ Michael P. Manion  
Michael P. Manion, Rule Reviewer  
Department of Administration

Certified to the Secretary of State May 15, 2017.