

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PROPOSED
2.59.1728 and adoption of New Rule I) AMENDMENT AND ADOPTION
pertaining to written exemption form for)
requesting a mortgage licensing) NO PUBLIC HEARING
exemption) CONTEMPLATED

TO: All Concerned Persons

1. On October 29, 2012, the Department of Administration proposes to amend and adopt the above-stated rules.

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 11, 2012, 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) 444-1421; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

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

2.59.1728 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NMLS (1) ~~The Nationwide Mortgage Licensing System~~ NMLS Policy Guidebook dated ~~January 25, 2010~~ April 16, 2012, is incorporated ~~approved~~ and adopted by reference. It can be found at <http://mortgage.nationwidelicingsystem.org/slr/common/policy/Pages/default.aspx>.

(2) The following standardized NMLS forms relating to licensing are approved and adopted by reference:

(a) ~~MU1 Uniform Mortgage Lender/Mortgage Broker form~~ NMLS Company Form dated ~~January 25, 2010~~ March 19, 2012;

(b) ~~MU2 Uniform Mortgage Biographical Statement & Consent Form~~ dated ~~January 25, 2010~~;

(c) ~~MU3 Uniform Mortgage Branch Office form~~ NMLS Branch Form dated ~~January 2, 2008~~ March 19, 2012; and

(d) ~~MU4 Uniform Individual Mortgage License/Registration & Consent NMLS Individual Form~~ dated ~~January 25, 2010~~ March 19, 2012;

(d) Mortgage Uniform 1 Registry (MU1R) version 1 dated January 27, 2011;

(e) Mortgage Uniform 4 Registry (MU4R) version 1 dated January 27, 2011;

(f) Uniform Company Renewal Checklist dated September 15, 2010; and

(g) Uniform Individual Renewal Checklist dated September 15, 2010.

(3) Copies of the NMLS forms are available on the department's NMLS web site ~~www.banking.mt.gov~~ www.mortgage.nationwidelicensingsystem.org for review and informational purposes only. All standardized forms to be submitted to the department must be accessed ~~through NMLS~~ and submitted electronically through the NMLS. Supplemental hard copy materials required for verification of qualifications must be submitted to the department through the NMLS ~~Supplemental hard copy materials required for verification of qualifications must be submitted to the department at Division of Banking and Financial Institutions, 301 S. Park Ave., P.O. Box 200546, Helena, MT 59620-0546.~~

AUTH: 32-9-130, MCA

IMP: 32-9-105, ~~32-9-107~~, 32-9-112, ~~32-9-114~~, 32-9-117, ~~32-9-118~~, ~~32-9-127~~, 32-9-130, MCA

STATEMENT OF REASONABLE NECESSITY: Pursuant to 32-9-105(1), MCA, applicants for a state license under the Montana Mortgage Act must apply using applications approved by the NMLS. The rule amendments proposed are necessary because the NMLS policy guidebook was updated on April 12, 2012. The intent of the rule is to utilize the current version of the guidebook, not the prior version. In addition, correction of the location of the NMLS forms (the NMLS web site, not the department web site) needs to be made clear. All licensing is done through the NMLS. These forms cannot be printed in hard copy and mailed to the department in order to apply for a license. All standardized forms submitted to the department for licensing must be submitted electronically through the NMLS.

The two new NMLS exemption forms, MU1R and MU4R, are being adopted by reference as the department's required forms. The NMLS renewal forms are also being adopted by reference. The other forms have been updated since they were last adopted by reference. The department is adopting the current version by reference.

Sections 32-9-107 and 32-9-118, MCA, are being deleted because those sections are not being implemented by this rule. Sections 32-9-114 and 32-9-127, MCA, have been repealed and can no longer be implemented by this rule. Section 32-9-130, MCA, is being added because that statute requires the department to adopt rules prescribing forms for applications.

During the comment period of this rulemaking, links to the documents being adopted by reference will be available on the department's web site located at <http://banking.mt.gov/mortgage.mcp.x>. In order to comply with 2-4-307(3), MCA, the links to the documents being adopted by reference will be available for public comment on the department web site. However, such documents cannot be used for licensing purposes and are available only for public comment purposes.

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

NEW RULE I WRITTEN EXEMPTION FORM FOR REQUESTING A LICENSING EXEMPTION (1) The written exemption form for requesting exemptions under 32-9-104(1)(b), MCA, is the Mortgage Uniform 1 Registry (MU1R)

version 1, which is filed with the NMLS, www.mortgage.nationwidelicensingsystem.org.

(2) The written exemption form for requesting exemptions under 32-9-104(1)(c), MCA, is the Mortgage Uniform 4 Registry (MU4R) version 1, which is filed with the NMLS, www.mortgage.nationwidelicensingsystem.org.

(3) These forms are adopted and incorporated by reference in ARM 2.59.1728.

AUTH: 32-9-130, MCA

IMP: 32-9-104, MCA

STATEMENT OF REASONABLE NECESSITY: Section 32-9-104(2), MCA, requires the department to create a form for requesting an exemption from state licensure. Two categories of exemptions, one for depository institutions and one for individuals employed by depository institutions, are required to be registered through the NMLS. See 32-9-103(30) and 32-9-104(1)(b) and (1)(c), MCA. Rather than duplicate the registration form through NMLS with another exemption form, the department adopts the registration form filed with NMLS as its form for requesting an exemption from licensure under Montana law. The department believes the NMLS form covers all the relevant areas, and no purpose would be served by requiring that a separate state form be completed.

To file an MU1R through the NMLS, an entity must be one identified in 32-9-103(30)(a)(i) through (iii), MCA. If the depository institution or its subsidiary has filed a MU1R, and received a unique identifier assigned by the NMLS, that is sufficient for purposes of state law to meet the exemption in 32-9-104(1)(b), MCA. Likewise, an employee of a depository institution or its subsidiary that has registered by filing an MU4R through the NMLS and been assigned a unique identifier has already submitted a form to the NMLS that is sufficient for purposes of state law to meet the exemption under 32-9-104(1)(c), MCA.

During the comment period of this rulemaking, links to the documents being adopted by reference will be available on the department's web site located at <http://banking.mt.gov/mortgage.mcp.x>. In order to comply with 2-4-307(3), MCA, the links to the documents being adopted by reference will be available for public comment on the department web site. However, such documents cannot be used for licensing purposes and are available only for public comment purposes.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted 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., October 19, 2012.

6. 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 Kelly O'Sullivan at the above address no later than 5:00 p.m., October 19, 2012.

7. If the department receives requests for a public hearing on the proposed action from either 10% 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 has been determined to be 112 persons based on the total number of mortgage entities and mortgage loan originators licensed by the State of Montana.

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 and 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; or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this Proposal Notice is available through the department's web site at <http://doa.mt.gov/administrativerules.mcp>. 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.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Representative Walt McNutt, was contacted by mail on May 20, 2011.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State September 10, 2012.