

STATE OF MONTANA
DEPARTMENT OF ADMINISTRATION
DIVISION OF BANKING AND FINANCIAL INSTITUTIONS

PROCLAMATION

Preamble

COVID-19 and the pandemic have caused staffing shortages across Montana, including at financial institutions. These staffing shortages are due to COVID-related illness, COVID protocols, and COVID-related employment challenges. Financial institutions are heavily regulated entities that are essential service providers. They are also subject to complex laws and onerous processes regarding temporary closures, unlike most privately held businesses.

At the present time, in order to close a branch on an emergency basis, the governing body of the bank must first designate a bank officer as the officer for purposes of carrying out the emergency closure provisions of Mont. Code Ann. § 32-1-561 through 32-1-565. Whenever the designated officer of the bank is of the opinion that an emergency exists or is impending which affects or may affect any of a bank's offices, the officer may, in the reasonable and proper exercise of their discretion, determine not to open any of those offices on any banking day or, if having opened, to close any of those offices during the continuation of the emergency.

Emergencies include, but are not limited to: fire; flood; earthquake; hurricanes; wind, rain, or snowstorms; labor disputes and strikes; power failures; transportation failures; interruption of communication facilities; shortages of fuel, housing, food, transportation, or labor; robbery or attempted robbery; actual or threatened enemy attack; epidemics or other catastrophes; riots, civil commotions, and other acts of lawlessness or violence, actual or threatened.

Any office so closed can remain closed until the officer determines that the emergency has ended and for a further time thereafter as may reasonably be required to reopen the branch.

If a bank officer closes a branch on an emergency basis for 48 consecutive hours or less (known as a temporary emergency closure), the bank must comply with Mont. Code Ann. § 32-1-563 and ARM 2.59.908. These provisions require banks to file a form with the Division of Banking and Financial Institution (Division) that sets forth the address of

the branch closed, the date and time of closure, the reason for the closure, and the bank contact person. A form must be filed for each branch closed each time there is a temporary closure.

If the branch remains closed for more than 48 consecutive hours, the designated officer must get approval from the Division to remain closed for more than 48 consecutive hours (known as an emergency closure) pursuant to Mont. Code Ann. §32-1-563 and ARM 2.59.909. These provisions require banks to file another form with the Division which sets forth the address of the branch, the date and time of closure, the anticipated date of reopening, the reason for the closure and the bank contact person. The Division then issues an approval to close the branch and asks that the bank notify the Division by email when the branch is reopened.

Since bank officers frequently do not know when an emergency occurs whether it will be of 48 consecutive hours in duration or more, commonly banks will file a temporary emergency closure notification and then must additionally file an emergency closure approval request. Then, when the branch reopens, the bank must notify the Division by email.

In addition to these closure requirements, banks take steps to notify their customers of the branch closures and nearby facilities where customers can obtain banking services. It should be noted that this closing procedure is only used for emergencies, not routine business-related closures based on strategic banking decisions, which closures are governed by a wholly separate process.

Mont. Code Ann. § 32-1-562 allows the Commissioner, when she is of the opinion that an emergency exists or is impending in this state or in any part of this state, to issue a proclamation authorizing banks located in the affected area to close any of their offices. The office or offices so closed may remain closed until the Commissioner proclaims that the emergency has ended or until such earlier time as the designated officer of the bank determines that one or more offices closed because of the emergency should reopen and, in either event, for such further time thereafter as may reasonably be required to reopen.

The effect of any branch closed during normal business hours is that the closure is considered to be a legal holiday and no liability or loss of rights of any kind on the part of a bank, or director, officer, or employee thereof, may accrue or result by virtue of a closing authorized by Mont. Code Ann. § 32-1-562 and 32-1-563.

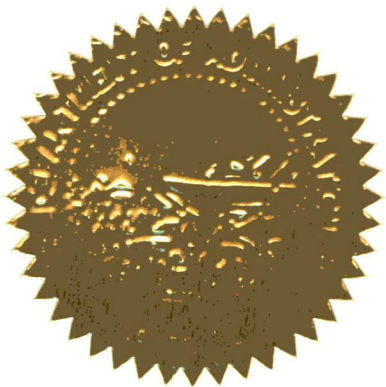
Proclamation of Emergency

Now, therefore, by the power vested in me by Mont. Code Ann. § 32-1-562, I hereby authorize all Montana state-chartered financial institutions to close branches at any time the institution is experiencing severe staffing shortages due to, or exacerbated by, the COVID-19 pandemic, if the institution deems it necessary to protect the safety and security of persons or property or both.

Each institution must develop and implement a plan to continue to provide essential financial services to its customers using ATMs, drive through windows and/or mobile banking applications. If an institution is unable to continue to provide essential services to its customers, it must notify the Montana Division of Banking and Financial Institutions immediately.

Banks are encouraged to reduce their hours rather than fully closing the branch on an emergency basis. Banks can change their hours by giving reasonable notice to the public and providing a copy to the Division pursuant to Mont. Code Ann. § 32-1-484.

This proclamation shall be effective at 8:00 a.m. on October 5, 2021 and will remain effective until 5 p.m. on May 1, 2022.



In witness whereof, I have hereunto subscribed my name and caused the seal of my office to be affixed at Helena, Montana this 21st day of January, 2022.

A handwritten signature in blue ink, appearing to read "Melanie G. Hall", written over a horizontal line.

Melanie G. Hall, Commissioner
Division of Banking and Financial Institutions