

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING ON  
amendment of ARM 44.2.101, ) PROPOSED AMENDMENT  
44.15.101, and 44.15.104 pertaining )  
to commissioning of notaries public )

TO: All Concerned Persons

1. On December 11, 2007, a public hearing will be held at 1:00 p.m. in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on December 4, 2007, to advise us of the nature of the accommodation that you need. Please contact Janice Doggett, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-5375; fax (406) 444-3976; e-mail [jdoggett@mt.gov](mailto:jdoggett@mt.gov).

3. The rules proposed to be amended provide as follows, new matter underlined, stricken matter interlined:

44.2.101 INCORPORATION OF MODEL RULES (1) The Secretary of State hereby adopts and incorporates by reference ARM 1.3.102, ~~1.3.206~~ and 1.3.205 through ~~1.3.211~~ and ~~1.3.227~~ through ~~1.3.234~~, 1.3.233 relating to citizens' participation, noticing and hearing procedures, and declaratory rulings. A copy of the model rules may be obtained from the Secretary of State, Montana State Capitol, Helena, Montana, 59620.

AUTH: 2-4-201, MCA  
IMP: 2-4-202, MCA

44.15.101 APPLICATION FOR A COMMISSION AS A NOTARY PUBLIC

(1) A person seeking a commission as a notary public shall make an application on a form prescribed by the Secretary of State which contains the following information:

- (a) name of the applicant;
- (b) applicant's address, e-mail address, and phone number;
- (c) name of employer;
- (d) employer's address, e-mail address, and phone number;
- ~~(e) applicant's social security number;~~
- ~~(f)~~ (e) date of birth;
- ~~(g)~~ (f) the date of expiration of the applicant's current notary commission (if applicable); and

~~(h)~~ (g) name under which the previous commission was issued if different than the name used on the application.

(2) The application must state if the applicant:

(a) has been a resident of the state of Montana for over one year;

~~(b) is a citizen of the United States;~~

~~(c)~~ (b) is at least 18 years old;

~~(d)~~ (c) has been convicted of a felony; and

~~(e)~~ (d) has had a notary commission or bond denied, revoked, or restricted in any state.

(3) The applicant must affirm under oath that the information on the application is true and correct.

AUTH: 2-4-201, MCA

IMP: 1-5-405, MCA

44.15.104 CANCELLATION OF COMMISSION (1) If the Secretary of State receives information or has reason to believe a notary public has engaged in activities that constitute just cause to revoke a commission of a notarial officer, then the Secretary of State may revoke the commission of a notary public following the formal or informal hearing procedures for contested cases found in ~~the Montana Administrative Procedure Act~~ MAPA.

(a) Hearings may be held before a panel appointed by the Secretary of State or by a hearing officer appointed by the secretary. The panel shall be made up of qualified departmental personnel including the deputy responsible for the Notary Division, a currently commissioned notary public, and one other individual as determined by the secretary.

(2) If the Secretary of State receives official notice of the revocation of a notary bond, conviction of a felony, or a change of residence to outside the state of Montana of a notary public, then the office shall cancel the commission upon giving the notary public ~~40~~ ten days notice.

AUTH: 2-4-201, MCA

IMP: 1-5-405, 2-4-604, MCA

4. STATEMENT OF REASONABLE NECESSITY: The above changes are made to bring the rules into compliance with applicable statutory and/or court rulings regarding the criteria for granting a notarial commission, cancellation or revocation of commissions, and to protect the privacy of personal information of notary applicants.

5. Concerned persons may present their data, views, or arguments concerning the proposed action, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Jean Branscum, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing [jabranscum@mt.gov](mailto:jabranscum@mt.gov), and must be received no later than 5:00 p.m., December 19, 2007.

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, e-mailed to [jabranscum@mt.gov](mailto:jabranscum@mt.gov), faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

7. Janice Doggett, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ W. Ralph Peck for  
W. RALPH PECK for  
BRAD JOHNSON  
Secretary of State

/s/ Janice Doggett  
JANICE DOGGETT  
Rule Reviewer

Dated this 13th day of November 2007.