

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

|                                       |   |                    |
|---------------------------------------|---|--------------------|
| In the matter of the amendment of     | ) | NOTICE OF PROPOSED |
| ARM 44.2.202, 44.2.203, 44.5.121,     | ) | AMENDMENT AND      |
| and repeal of 44.5.111 regarding fees | ) | REPEAL             |
| and procedures pertaining to the      | ) |                    |
| Business Services Division            | ) | NO PUBLIC HEARING  |
|                                       | ) | CONTEMPLATED       |

TO: All Concerned Persons

1. On September 14, 2009, the Montana Secretary of State proposes to amend and repeal the above-stated rules.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on August 31, 2009, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana, 59620-2801; telephone (406) 444-5375; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

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

44.2.202 FEES FOR FACSIMILE TRANSMISSIONS OF DOCUMENTS

(1) The Secretary of State's Office, except the Business Services Division, shall charge \$3 for the facsimile transmission of documents, ten pages or less. Documents exceeding ten pages shall cost \$.50 for each additional page transmitted by facsimile machine to the requester.

(2) remains the same.

AUTH: ~~30-9-403, 35-1-1202~~ 2-15-405, 35-1-1307, MCA

IMP: ~~30-9-403, 35-1-1202~~ 2-15-405, 35-1-1206, MCA

REASON: This amendment is being proposed to eliminate any customer confusion regarding the fee charged for faxing because the Business Services Division charges a flat rate of \$5.00 to avoid invoicing and to meet the requirement for paying at the time of service.

44.2.203 PRIORITY AND EXPEDITED HANDLING OF DOCUMENTS

(1) through (3) remain the same.

(4) The priority and expedite fees are in addition to the filing fee for the document being processed.

AUTH: 30-9A-526, 35-1-1307, 35-2-1107, MCA  
IMP: 30-13-217, 35-2-1003, 35-12-521, MCA

REASON: The title is amended to add "AND EXPEDITED" and (4) is added to clarify fees charged by the Business Services Division.

44.5.121 MISCELLANEOUS FEES (1) remains the same.

(2) ~~Certified copy of any document~~ Copy per name for any business entity related document with or without certification 10.00

(3) Business Services documents or copies returned by fax 5.00

(a) ~~priority handling for all other documents/requests~~ per document or request 20.00

(b) through (4) remain the same.

AUTH: ~~2-6-103~~, 2-15-405, ~~30-9A-525~~, ~~35-1-1206~~ 30-9A-526, 35-1-1307, 35-2-1107, 35-7-103, MCA  
IMP: 2-6-103, 2-15-405, 30-9A-525, 30-13-320, 35-1-1206, 35-2-119, 35-2-1003, ~~35-7-104~~, 35-7-103, MCA

REASON: The amendment to (2) is proposed to eliminate customer confusion when a request is made for a noncertified copy of a business entity document. The fees were streamlined in 2008 to eliminate billing for most corporate filings. The fee change did not result in additional revenue to the Secretary of State's Office and fees continue to remain commensurate with costs. The amendment to (3) is proposed to eliminate customer confusion on how priority handling fees are applied to their documents.

4. The Secretary of State proposes to repeal the following rule:

44.5.111 FORMS, is found on page 44-220 of the Administrative Rules of Montana.

AUTH: 13-1-202, 13-19-104, MCA  
IMP: 13-19-105, MCA

REASON: The Business Services Division allows business entities to draft their own charter documents or utilize the Secretary of State's available forms. The information contained in the existing rule only depicts a few of the hundreds of business entity documents filed, so the Business Services Division is proposing to repeal the rule in its entirety.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana, 59620-2801; telephone (406) 444-5375; fax (406) 444-4249; or e-mail [jquintana@mt.gov](mailto:jquintana@mt.gov), and must be received no later than 5:00 p.m., September 10, 2009.

6. If persons who are directly affected by the proposed actions 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 Jorge Quintana at the above address no later than 5:00 p.m., September 10, 2009.

7. If the agency 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 directly affected has been determined to be 10,500 persons based on the number of Business Services clients impacted.

8. The department 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 that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. 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 contact person in 5 above 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 Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy 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 Secretary of State 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, do not apply.

/s/ Jorge Quintana  
JORGE QUINTANA  
Rule Reviewer

/s/ Linda McCulloch  
LINDA MCCULLOCH  
Secretary of State

Dated this 3rd day of August, 2009.