

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to returned check service fees) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION)

TO: All Concerned Persons

1. On August 28, 2014, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed adoption of the above-stated rule.

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 August 21, 2014, 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, MT 59620-2801; telephone (406) 461-5173; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

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

NEW RULE I RETURNED CHECK SERVICE FEES (1) The following fees will be charged for insufficient funds checks, checks returned from the bank unpaid, and returned e-checks:

- (a) first returned check \$15.00
- (b) each subsequent returned check by the same payer 25.00

(2) The returned check service fees apply to checks returned because of insufficient funds, closed accounts, stop payments, incorrect date, inconsistency in amounts, incorrect signature, and/or lack of signature.

(3) The following exceptions apply:

(a) the payer of the check presents the secretary of state with written confirmation by the payer's financial institution that the check was returned to the secretary of state by the financial institution due to an error on the part of the financial institution; or

(b) the check is a returned e-check from the secretary of state's online payment processor that states the customer entered an invalid routing/account number.

AUTH: 2-15-405, MCA
IMP: 2-15-405, 27-1-717, MCA

REASON: This rule is reasonably necessary to impose a service charge on returned checks in order to compensate the Secretary of State's office for the additional time

spent on collection efforts and to act as a deterrent to future writers of bad checks. Pursuant to 2-15-405, MCA, fees charged by the Secretary of State must be commensurate with the overall costs of the office and must reasonably reflect the prevailing rates charged in the public and private sectors for similar services.

4. Pursuant to 2-4-302, MCA, the Secretary of State has determined the cumulative dollar amount for all persons of the proposed fee is \$2,850 and the number of persons affected is 190 based on the average number of returned checks per fiscal year.

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 Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing jquintana@mt.gov, and must be received no later than 5:00 p.m., September 5, 2014.

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

7. 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 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. 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, 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.

8. 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 the 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.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the Secretary of State has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 28th day of July, 2014.