



Montana Legislative Services Division
Legal Services Office

TO: State Administration and Veterans' Affairs Interim Committee
FROM: K. Virginia Aldrich
DATE: September 22, 2015
RE: Legislative Administrative Rule Review Report

Pursuant to 5-5-228, MCA, the State Administration and Veterans' Affairs Interim Committee is responsible for reviewing administrative rules within its jurisdiction. Staff for the State Administration and Veterans' Affairs Interim Committee has prepared this report for informational purposes only. This report does not represent any action or opinion of the State Administration and Veterans' Affairs Interim Committee and does not preclude additional action that may be taken by the State Administration and Veterans' Affairs Interim Committee pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER: 44-2-198

AGENCY/BOARD: Secretary of State

RULE CLASSIFICATION: (e.g. substantive/interpretative/emergency/temporary):
Substantive

SUBJECT: Notaries Public

NOTICE DESCRIPTION: (e.g. proposal notice/adoption notice): Notice of Public Hearing on Proposed Adoption, Amendment, and Repeal - Notaries Public.

UPDATE: The Secretary of State proposes to adopt four new rules, amend one rule, and repeal one rule concerning notaries public; all the rules are being updated for conformity and consistency with Ch. 391, L. 2015. Specifically, the Secretary of State proposes to adopt New Rule I concerning information that each notary public must keep current with the Secretary of State, including contact information, employer's contact information, and whether the notary will be using electronic notarization technology. If the notary's name changes, the notary must provide a rider by the notary's surety company reflecting a name change. The notary must also update the Secretary of State if the notary is convicted of certain crimes or disciplinary actions and whether the notary's commission has been revoked, denied, or restricted in another state. New Rule II specifies requirements for the conformity of all notary public stamps. New Rule III specifies certain requirements for two-way audio-visual notarizations, including certain requirements for the technology and certain recitations before the notarization takes place. New Rule IV allows a notary to charge a fee in accordance with the fees specified by Ch. 391, L. 2015. The Secretary of State also proposes to amend existing rule 44.15.101 concerning notary public applications for

clarity and consistency with the revisions of Ch. 391, L. 2015. Lastly, the Secretary of State proposes to repeal 44.15.104, concerning the cancellation of commissions because the language is "inconsistent with Senate Bill 306 [Ch. 391, L. 2015] which was passed by the 2015 Montana Legislature". Chapter 391, L. 2015, included a section concerning the ability of the Secretary of State to deny, refuse to renew, revoke, suspend, or impose conditions on a notary public commission.

NOTES: A public hearing is scheduled for October 1, 2015, at 10:00 a.m. in Room 260, State Capitol Building, Helena, Montana. The public comment period ends on October 9, 2015.

FULL TEXT OF NOTICE: The full text of the notice proposal may be found online at http://www.mtrules.org/gateway/Cycle_Home.asp?CID=2176

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