

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the amendment of	)	AMENDED NOTICE OF PROPOSED
ARM 6.6.4802 pertaining to Fire	)	AMENDMENT
Premium Allocation and ARM	)	
6.6.4803 pertaining to Presumptively	)	NO PUBLIC HEARING
Reasonable Allocations	)	CONTEMPLATED

TO: All Concerned Persons

1. On May 26, 2023, Commissioner of Securities and Insurance, Office of Montana State Auditor published MAR Notice No. 6-276 regarding the proposed amendment of the above-stated rules, at page 460 of the 2023 Montana Administrative Register, Issue No. 10.

2. It was subsequently discovered that the proposal notice had not been sent to all interested persons as required by the Montana Administrative Procedure Act. Therefore, the department is issuing this amended notice to extend the time for public comment.

3. CSI 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 CSI no later than 5:00 p.m. on July 18, 2023, to advise us of the nature of the accommodation that you need. Please contact Sam Loveridge, Communications Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail [csi@mt.gov](mailto:csi@mt.gov).

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

6.6.4802 FIRE PREMIUM ALLOCATION PROCEDURE (1) Insurers paying fire premium tax required by 50-3-109(1), MCA, shall provide to the CSI the calculation of fire premium separately for each line of business identified in 50-3-109(2), MCA.

(2) For each line of business identified in 50-3-109(2), MCA, the following apply to an insurer's reporting obligation under (1):

(a) If the percentage of fire premium reported is at or above the presumptively reasonable allocation, the insurer need not provide any other documentation to justify that fire premium;

(b) If the percentage of fire premium reported is below the presumptively reasonable allocation, the insurer shall provide the basis for the calculation of fire premium along with any supporting documentation to the CSI. If the CSI accepts the insurer's calculation of fire premium, and in subsequent years the percentage of fire premium remains the same, the insurer is not required to provide such justification to the CSI; or

(c) Unless the presumptively reasonable allocation for a line of business is 0% as provided in ARM 6.6.4803(1), if If the fire premium reported is zero, the insurer shall provide the policy terms which show that risk of fire is excluded from the policy. If the CSI accepts the insurer's calculation of fire premium, and in subsequent years the calculation and policy terms remain the same, the insurer is not required to provide such policy terms to the CSI.

(3) If a rider, schedule, or addition to a policy:

(a) exclusively includes risk of fire, then all premium collected under such rider, schedule, or addition must be included in the fire line of business at 100% fire premium; or

(b) includes risk of fire as well as other risks, then all premium collected under such rider, schedule, or addition must be included in the line of business of the policy.

AUTH: 33-1-313, MCA

IMP: 33-2-705, MCA

6.6.4803 PRESUMPTIVELY REASONABLE ALLOCATIONS (1) For purposes of 33-2-705(3) and 50-3-109(2), MCA, the presumptively reasonable allocations for the following lines of business are ~~The presumptively reasonable allocation for each line of business identified in 50-3-109(2), MCA, is as follows:~~

(a) for fire, 100%;

(b) for allied lines, 30%;

(c) for farmowners multi-peril, 40%;

(d) for homeowners multi-peril, 40%;

(e) for commercial multi-peril (nonliability), 50%;

(f) for commercial multi-peril (liability), ~~0%~~35%;

(g) for ocean marine, 12%;

(h) for inland marine, 15%;

(i) for other private passenger auto liability, ~~0%~~9%;

(j) for other commercial auto liability, ~~0%~~9%;

(k) for private passenger auto physical damage, 9%;

(l) for commercial auto physical damage, 9%;

(m) for aircraft, 15%;

(n) for burglary and theft, ~~0%~~20%; and

(o) for boiler and machinery, ~~0%~~15%.

AUTH: 33-1-313, MCA

IMP: 33-2-705, MCA

5. REASON: As part of the biannual review of CSI's rules as required by 2-4-314, MCA, State Auditor Troy Downing (commissioner) identified the above-stated rules for revision to reduce the presumptive premium tax allocation for certain lines of insurance which experience has shown are relatively unproductive lines.

6. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Sam Loveridge, CSI Communications

Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail CSI@mt.gov, and must be received no later than 5:00 p.m., July 21, 2023.

7. 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 Sam Loveridge at the above address no later than 5:00 p.m., July 21, 2023.

8. If the agency receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed actions; 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 38 people based on a conservative estimate of how frequently CSI receives questions concerning the above-stated rules per year.

9. CSI 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 must 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 paragraph 6 or may be made by completing a request form at any rules hearing held by CSI.

10. An electronic copy of this proposal notice is available through the Secretary of State's website at <http://sosmt.gov/ARM/Register>.

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

12. With regard to the requirements of 2-4-111, MCA, CSI has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Mark Mattioli  
Mark Mattioli  
Rule Reviewer

/s/ Ole Olson  
Ole Olson  
Chief Legal Counsel  
Commissioner of Securities and Insurance,  
Office of the Montana State Auditor

Certified to the Secretary of State June 27, 2023.