

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

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through V pertaining to) PROPOSED ADOPTION
Regulatory Sandbox Waivers)

TO: All Concerned Persons

1. On September 14, 2023, at 9:00 a.m., the Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI) will hold a public hearing in the basement conference room of CSI, at 840 Helena Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. 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 September 5, 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.

3. HB 836 provides for a "regulatory sandbox" waiver of certain provisions of the Montana Insurance Code. HB 836 has not yet been codified. As such, all references to HB 836 provisions use the section designations set forth in HB 836.

4. The rules proposed to be adopted are as follows:

NEW RULE I APPLICATION REQUIREMENTS (1) An application for a waiver under [HB 836, Section 1] must include the following information:

- (a) the identity of the insurer applying for the waiver;
- (b) the identity of the directors and executive officers of the insurer, any persons who are beneficial owners of 10% or more of the voting securities of the insurer, and any officers of the insurer;
- (c) a description of the product or service to be offered if the waiver is granted, including how the product or service functions and the manner and terms on which it must be offered;
- (d) a description of the potential benefits to consumers of the product or service;
- (e) a description of the potential risks, including but not limited to financial risks, to consumers posed by the product or service or approval of the proposed waiver and how the applicant proposes to mitigate the risks;
- (f) a statement that the insurer has a physical presence in the state and has a certificate of authority issued by the commissioner to write insurance in the state;
- (g) a filing fee of \$1,000 unless the submission is complex and lengthy, in which case the commissioner will provide an estimate of the fee that is

commensurate with regulatory costs for consideration of the submission. The insurer may withdraw the submission after receiving the estimate;

(h) a specific explanation of how the waiver sought would meet each of the criteria set forth in [HB 836, Section 1(1)];

(i) certification that the waiver sought does not fall into any of the prohibited categories set forth in [HB 836, Section 1(7)]; and

(j) a description of the insurer's plan for winding down the proposed program or activity pursuant to [HB 836, Section 1(12)].

(2) The application shall be submitted on a form designated by the commissioner and made available to applicants on the Montana State Auditor's website.

(3) At the time of submission, an applicant may request to protect confidential trade secrets contained in an application. The request must include an affidavit that clearly states the facts supporting the claim to trade secret protection with sufficient specificity to enable the reviewer to clearly understand the nature and basis of the claims to confidentiality, including an explanation of how the information meets the definition of "trade secret" under 30-14-402(4), MCA.

AUTH: [HB 836, Section 1]

IMP: [HB 836, Section 1]

NEW RULE II WAIVER MONITORING (1) At the time of granting a waiver, the commissioner shall provide an insurer granted a waiver under [HB 836, Section 1] with a list of reporting requirements and dates for reporting.

AUTH: [HB 836, Section 1]

IMP: [HB 836, Section 1]

NEW RULE III WAIVER REVOCATION (1) The commissioner may revoke a waiver if the insurer who obtains the waiver fails to comply with any terms, conditions, or limitations established by the commissioner, the requirements of [HB 836, Section 1], or if the waiver is causing harm to a consumer or causes material harm to the insurer's solvency.

(2) The commissioner shall give the insurer written notice of intent to revoke the waiver, and the insurer shall have ten days to respond to the notice.

(3) Following the insurer's response, if the commissioner is not satisfied that the condition warranting revocation is cured, the commissioner shall send final written notice revoking the waiver.

(4) If the reasons described in (1) of this rule pose a threat of harm in the absence of immediate action, the commissioner may immediately revoke the waiver pending the insurer's response.

AUTH: [HB 836, Section 1]

IMP: [HB 836, Section 1]

NEW RULE IV WAIVER EXTENSION (1) An extension request under [HB 836, Section 1(3)(b)] must be submitted to the commissioner within 45 days of the

expiration of the waiver period. This request must include the length of the extension period requested and the specific reasons why the extension is necessary. These specific reasons must include an analysis of the effectiveness of the waiver in meeting the goals set forth in the initial waiver application.

AUTH: [HB 836, Section 1]

IMP: [HB 836, Section 1]

NEW RULE V EXPEDITED WAIVER APPLICATIONS (1) Where a product or service has been granted a waiver by the Commissioner, any applicant wishing to offer a substantially similar product or service may file an expedited application meeting the following requirements:

(a) An application must be submitted on the same form described in [New Rule I](2). The applicant must indicate that the application is an expedited application under this rule.

(b) An application must specifically identify the previously granted waiver and explain in detail how the product or service it anticipates offering is substantially similar to those offered under the previously-granted waiver.

(c) An application under the expedited process does not need to comply with [New Rule I(1)(d), (e), and (i)].

AUTH: [HB 836, Section 1]

IMP: [HB 836, Section 1]

5. REASON: The Commissioner of Securities and Insurance, Montana State Auditor, Troy Downing (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and regulating the business of insurance. The 68th Montana Legislature passed House Bill 836, creating a "regulatory sandbox" waiver program and directing the commissioner to adopt procedures for submissions and granting, denying, monitoring, and revoking petitions for a waiver pursuant to the new law. The requirements set forth in the proposed rules provide for orderly submission of applications and are designed to elicit the information necessary for the commissioner to make a decision on any waiver applications submitted pursuant to this program, and to allow the commissioner to effectively administer and monitor the waiver program.

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., September 22, 2023.

7. Andrew Cziok, CSI Legal Counsel, has been designated to preside over and conduct this hearing.

8. 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.

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

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by email on July 21, 2023.

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

/s/ Andrew Cziok

Andrew Cziok
Rule Reviewer

/s/ Mary Belcher

Mary Belcher
Deputy Auditor
Commissioner of Securities and Insurance,
Office of the Montana State Auditor

Certified to the Secretary of State August 15, 2023.