

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

In the matter of the repeal of ARM)	NOTICE OF PROPOSED REPEAL
6.6.101, 6.6.102, 6.6.104, and)	
6.6.105 pertaining to insurance)	NO PUBLIC HEARING
producer licensing and ARM)	CONTEMPLATED
6.6.4301, 6.6.4302, and 6.6.4303)	
pertaining to electronic filing of the)	
appointment and termination of)	
insurance producers)	

TO: All Concerned Persons

1. The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI), proposes to repeal the above-stated rules.

2. The 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 the CSI no later than 5:00 p.m. on August 18, 2017, to advise us of the nature of the accommodation that you need. Please contact Ramona Bidon, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail rbidon@mt.gov.

3. The CSI proposes to repeal the following rules:

6.6.101 LICENSING—GENERAL CHARACTER AND CONDUCT REQUIREMENTS

AUTH: 33-1-313, MCA
IMP: 33-1-313, MCA

REASON: The CSI proposes to repeal this rule because it restates requirements already found in statute. Section 33-17-211(1)(f), MCA, requires an insurance producer applicant to be "competent, trustworthy, and of good reputation." Section 33-17-1001, MCA, sets forth specific grounds for action on a producer license. These grounds effectively encompass the requirements in this rule.

6.6.102 FAMILIARITY WITH CODE AND RULES

AUTH: 33-1-313, MCA
IMP: 33-1-313, MCA

REASON: The CSI proposes to repeal this rule because it restates requirements already found in statute. Section 33-17-211(1)(g), MCA, requires a producer applicant to be reasonably familiar with applicable portions of the Insurance Code.

The rule also cites as an example of applicable law outdated statutory language previously found in 33-17-1004, MCA. While (2) sets forth a requirement of familiarity with administrative rules that is not expressly located in statute, this requirement is substantively covered by other statutory provisions. For example, 33-17-1001(1)(c), MCA, permits licensing action for failure to comply with an administrative rule, and 33-17-1001(1)(f), MCA, permits licensing action for a demonstration of incompetence by the producer.

6.6.104 APPLICANTS FOR TEMPORARY AGENT'S LICENSE—TIME PERIOD FOR PASSING EXAMINATION

AUTH: 33-1-313, MCA
IMP: 33-17-212, MCA

REASON: The CSI proposes to repeal this rule because it unnecessarily restricts the statutory latitude of the agency regarding temporary licensing of life insurance producers. The rule requires such a producer to complete the licensing examination within 30 days of issuance of the temporary license. Section 33-17-216, MCA, permits the CSI to issue a temporary license "for a period of not over 90 days," with an extension available at the CSI's discretion.

6.6.105 APPLICANTS FOR AGENT'S OR SOLICITOR'S LICENSE—TIME PERIOD FOR PASSING EXAMINATION

AUTH: 33-1-313, MCA
IMP: 33-1-313, MCA

REASON: The CSI proposes to repeal this rule because it applies a more restrictive examination timing requirement than found in statute and does not reflect the current practicalities of licensing application processes. Section 33-17-211(1)(d), MCA, requires that an applicant to have passed the applicable examination within 12 months of application, whereas the rule requires examination within six months of application. Additionally, licensing application process is almost entirely electronic, and through that process applicants complete the examination prior to submitting their applications. The change has essentially no substantive effect on producers.

6.6.4301 DEFINITIONS

AUTH: 33-1-313, 33-2-709, 33-17-236, MCA
IMP: 33-2-708, 33-17-236, 33-17-237, MCA

6.6.4302 ALLOWABLE METHODS OF ELECTRONIC FILING

AUTH: 33-1-313, 33-2-709, 33-17-236, MCA
IMP: 33-2-708, 33-17-236, 33-17-237, MCA

6.6.4303 PROCEDURES FOR ELECTRONIC FILING OF APPOINTMENTS

AUTH: 33-1-313, 33-2-709, 33-17-236, MCA
IMP: 33-2-708, 33-17-236, 33-17-237, MCA

REASON: The CSI proposes to repeal ARM 6.6.4301, 6.6.4302, and 6.6.4303 because the rules are outdated and do not reflect the current electronic appointment application process. The rules require submission of data using archaic methods not used in offices today. The change has no substantive effect on producers as the process outlined in rule is not utilized by any producer.

4. Concerned persons may submit data, views, or arguments in writing to: Michael A. Kakuk, Attorney, Office of the Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-0385; fax (406) 444-3497; or e-mail mkakuk@mt.gov, and must be received no later than 5:00 p.m., September 1, 2017.

5. If persons who are directly affected by the proposed action 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 Michael A. Kakuk at the above address no later than 5:00 p.m., September 1, 2017.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent 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 8,740 persons based upon the number of licensed insurance producers in Montana.

7. The 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 may sign up by clicking on the blue button on the CSI's website at: <http://csimt.gov/laws-rules/> and may specify the subject matter they are interested in. Notices will be sent by e-mail unless a mailing preference is noted in the request. Request may also be sent to the CSI in writing. Such written request may be mailed or delivered to the contact information in 2 above, or may be made by completing a request form at any rules hearing held by the CSI.

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

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the repeal of the above-referenced rules could significantly and directly impact some small businesses.

/s/ Michael A. Kakuk
Michael A. Kakuk
Rule Reviewer

/s/ Kris Hansen
Kris Hansen
Chief Legal Counsel

Certified to the Secretary of State July 24, 2017.