

HOUSE BILL NO. 66

INTRODUCED BY G. HERTZ

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING BANKING LAWS RELATED TO DOCUMENTS  
6 SUBMITTED TO THE DEPARTMENT OF ADMINISTRATION AND COURTS; PROVIDING THAT CALL  
7 REPORTS ELECTRONICALLY TRANSMITTED TO FEDERAL BANKING AUTHORITIES SATISFY THE  
8 REQUIREMENT FOR TRANSMITTAL TO THE DEPARTMENT; ELIMINATING THE DEPARTMENT'S  
9 OBLIGATION TO REQUISITION CALL REPORTS; REQUIRING PERMANENT RETENTION BY BANKS OF  
10 CALL REPORT SIGNATURE PAGES; CLARIFYING CONFIDENTIALITY OF CERTAIN REPORTS;  
11 ELIMINATING THE CERTIFICATION OF A FIDUCIARY FOREIGN TRUST COMPANY'S PAID-IN CAPITAL AS  
12 AN ALTERNATIVE TO FILING A BOND; ELIMINATING THE PENALTY FOR FAILING TO MAKE A CALL  
13 REPORT; AMENDING SECTIONS 32-1-231, 32-1-232, 32-1-233, 32-1-234, AND 32-1-1005, MCA; AND  
14 REPEALING SECTION 32-1-235, MCA."

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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18 **Section 1.** Section 32-1-231, MCA, is amended to read:

19 **"32-1-231. Reports to department.** ~~(1) The department shall call for the reports specified in this section~~  
20 ~~at least three times each year.~~

21 ~~(2)(1)~~ A bank shall make to the department regular call reports at least three times each year according  
22 to the form that may be prescribed by the department, verified by oath or affirmation of the president, vice  
23 president, or cashier of the bank and attested by the signature of at least two of the directors other than the  
24 subscribing officer.

25 ~~(3)(2)~~ Each call report must exhibit in detail, and under appropriate schedules, the resources and  
26 liabilities of the bank at the close of business on any past day specified by the department. The "past day  
27 specified" by the department, under the provisions of this section, must be the day designated by the comptroller  
28 of currency of the United States for reports of national banking associations.

29 ~~(4)(3)~~ The call report must be transmitted to the department within 30 days after the ~~receipt of a request~~  
30 ~~or requisition for it and must be in a form that the department may require~~ past day specified under subsection

1 (2). A bank's successful and timely electronic transmittal of its call report to the applicable federal banking  
 2 regulator or authority satisfies the bank's obligation to transmit the report to the department. The original signature  
 3 page of the bank's call report that complies with subsection (1) must be permanently retained by the bank and  
 4 available for the department's review. A nondepository trust company that is not insured by the federal deposit  
 5 insurance corporation shall transmit its call report directly to the department in hard copy or imaged form."

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7 **Section 2.** Section 32-1-232, MCA, is amended to read:

8 **"32-1-232. Report of declaration of dividend.** In addition to the call report required by 32-1-231, a bank  
 9 shall report to the department within 10 days after declaring any dividend, showing the amount of the dividend  
 10 and the amount of net earnings in excess of the dividend. The report shall be attested as provided in 32-1-231."

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12 **Section 3.** Section 32-1-233, MCA, is amended to read:

13 **"32-1-233. Special reports to department.** In addition to the information obtained from the call report  
 14 required by 32-1-231, the department may also require a bank to furnish a special report in writing, verified as  
 15 required by 32-1-231, when in its judgment the special report is necessary to inform it fully of the actual financial  
 16 condition and affairs of the bank. A willfully false statement in the report is perjury and shall be punished  
 17 accordingly."

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19 **Section 4.** Section 32-1-234, MCA, is amended to read:

20 **"32-1-234. Confidentiality -- penalties.** (1) (a) ~~The report and any information contained in the reports~~  
 21 ~~and statements provided for, other than those reports which are required to be published, must be considered~~  
 22 ~~secret and for the confidential information of the department only. The Reports and statements under 32-1-211,~~  
 23 ~~32-1-215, 32-1-216, 32-1-231, 32-1-232, and 32-1-233 are confidential. Except for information made public by~~  
 24 ~~the federal deposit insurance corporation or other federal banking authority's publicly accessible website, any~~  
 25 ~~information contained in the reports and statements, the source documents from which this information is derived,~~  
 26 ~~and communications concerning reports and statements are confidential. Except as provided in subsection (1)(b),~~  
 27 ~~confidential information may not be ~~imparted~~ disclosed to persons who are not officially associated with the~~  
 28 ~~department; and the information contained in the reports and statements may be used by the department only~~  
 29 ~~in the furtherance of to further its official duties.~~

30 (b) The department may exchange information with federal financial institution regulatory agencies and

1 with the financial regulatory departments of other states. The department may furnish information to the legislative  
2 auditor for use in pursuit of official duties. A prosecuting official may obtain the information by court order.

3 (2) Any knowledge or information gained or discovered by the department in pursuance of its powers  
4 or duties is confidential information of the department. The information may not, except as provided in subsection  
5 (1)(b), be ~~imparted~~ disclosed to any person not officially associated with the department. The information must  
6 be used by the department only ~~in the furtherance of~~ to further its official duties.

7 (3) An employee or agent of the department who violates this section or willfully makes a false official  
8 report as to the condition of a bank must be removed from office and is also guilty of a felony. Upon conviction,  
9 the person shall be fined an amount not exceeding \$1,000, imprisoned in a state correctional facility for a term  
10 not exceeding 5 years, or both."

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12 **Section 5.** Section 32-1-1005, MCA, is amended to read:

13 "**32-1-1005. Bond.** Before accepting an appointment or acting as a trustee, guardian, or conservator,  
14 a foreign trust company shall file a bond with a court of competent jurisdiction in an amount ~~as~~ that the court  
15 directs, with sufficient sureties, conditioned on the faithful discharge of its duties as trustee, guardian, or  
16 conservator. ~~In lieu of the bond, the foreign trust company shall certify, in a manner acceptable to the department,~~  
17 ~~that the capital stock of the foreign trust company is fully paid in cash, on deposit with an appropriate bank, and~~  
18 ~~is of an amount that is certified sufficient by the foreign trust company's primary regulator for the foreign trust~~  
19 ~~company's proposed business activities in this state. The deposit must be maintained until the foreign trust~~  
20 ~~company ceases to act as trustee, guardian, or conservator under this part. A foreign trust company is not~~  
21 ~~required to file a bond or certify the deposit of its capital with respect to a trust, other than a trust created by a will,~~  
22 ~~if the trust instrument requests or directs that a bond is not required of the trustee."~~

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24 NEW SECTION. **Section 6. Repealer.** The following section of the Montana Code Annotated is  
25 repealed:

26 32-1-235. Penalty for failure to make report within 30 days.

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