



Montana Legislative Services Division
Legal Services Office

TO: State Administration and Veterans' Affairs Interim Committee

FROM: K. Virginia Aldrich

DATE: June 26, 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: 44-2-202

AGENCY/BOARD: Secretary of State

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

SUBJECT: Electronic filing system for the Secretary of State

NOTICE DESCRIPTION: (e.g. proposal notice/adoption notice): Notice of proposed amendment

SUMMARY OF RULE(S):

The Secretary of State proposes to amend five rules concerning the Secretary of State's electronic filing system, the filing of a Title 71 lien, and the requirements for filing UCC amendments with the Business Services Division.

The Secretary of State proposes to adopt a new rule concerning the Secretary of State's existing online statewide electronic filing system, named SIMS, which currently allows the online filing of Uniform Commercial Code documents, accessible through electronic payments processed through ePass, Montana's online access portal. The proposed rule is intended to meet the rulemaking requirements concerning the implementation of a Secretary of State electronic filing system under section 2-15-404, MCA, including requirements that the Secretary of State adopt rules concerning procedures for entering data, security and protection of the data and monitoring of the database to preclude unauthorized entry, standardized information concerning entry into the system, certain electronic signature requirements, procedures for certification of electronic

filings, and conversion of electronic to paper copies. The proposed rule provides that SIMS will use a payment card industry-compliant data center and that day-to-day operational and security management is the responsibility of a contract vendor, that password security features are consistent with Department of Administration standards, and that SIMS has the capability to generate a unique image containing the filing number, the date and time of filing, and other information entered by the user. The rule references a potential ePass exception by the Secretary of State's office, and the Secretary's office has clarified that this exception would apply to the ePass requirements for payment processing, not for user access to the system, which is standardized (through SIMS) as required under 2-15-404, MCA.

The Secretary of State also proposes to amend four existing rules, including one that updates the filing requirements for a Title 71 lien if the lien is to appear on the farm bill master list to comply with federal law requirements; a rule that provides certain definitions and clarifies processes when using the existing SIMS filing system; amendments that clarify the effective date and time of filings delivered by mail, by hand, electronically, or by express service; and a rule that updates and consolidates many of the requirements for Uniform Commercial Code-specific amendments.

NOTES: (e.g. hearing dates)

A public hearing is scheduled on the above-referenced rules on July 9, 2015, at 9:30 a.m. in Room 260, State Capitol Building, Helena, Montana. The public comment period ends on July 16, 2015.

FULL TEXT OF NOTICE: The full text of the notice proposal may be found online at <http://www.mtrules.org/gateway/ShowNoticeFile.asp?TID=6420>

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