
**Rules of
Department of Economic
Development**

**Division 140—Division of Finance
Chapter 31—Mortgage Broker Board**

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**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 140—Division of Finance
Chapter 31—Mortgage Broker Board**

**4 CSR 140-31.010 General Organization—
Mortgage Broker Board**

PURPOSE: This rule complies with section 536.023, RSMo (1994) which requires each agency to adopt as a rule a description of its operation and the methods where the public may obtain information or make submissions or requests.

(1) The Residential Mortgage Board determines appeals from decisions of the commissioner of finance concerning issuance, denial, revocation, or suspension of a residential mortgage license and approves regulations promulgated by the commissioner of finance.

(2) The Residential Mortgage Board is a bipartisan board consisting of five (5) individuals appointed by the governor. Two (2) of the board members are forbidden to have any interest in any mortgage brokerage business, three (3) must be experienced in mortgage brokering and one (1) of the five (5) board members must be an attorney. The board shall designate its own chairman and secretary. A majority of the members of the board shall constitute a quorum and the decision of a majority of a quorum shall be the decision of the board. The board shall meet upon call of the chairman, or of the director, or of any two (2) members of the board, and may meet at any place in this state.

(3) Information relating to the activities of the Residential Mortgage Board may be directed to the Residential Mortgage Board, 301 West High Street, P.O. Box 716, Jefferson City, MO 65102.

AUTHORITY: sections 443.816, RSMo (Cum. Supp. 1996) and 536.023, RSMo (1994). Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997.*

**Original authority: 443.816, RSMo (1995) and 536.023, RSMo (1975) amended 1976.*

4 CSR 140-31.020 Rules of Procedure

PURPOSE: The Residential Mortgage Board was established to hear appeals from certain decisions of the commissioner of finance. In order to facilitate these appeals, the board is issuing these rules of procedure.

(1) Definitions. As used in this rule, except as otherwise required by the context—

(A) Appellants shall mean persons who are appealing a decision of the commissioner of finance;

(B) Board shall mean the Residential Mortgage Board;

(C) Commissioner shall mean the commissioner of finance and director of the Division of Finance;

(D) Presiding officer shall mean the chairman of the Residential Mortgage Board or any board member designated by the presiding officer to assume those duties; and

(E) Secretary shall mean that member chosen by the board to assume those duties.

(2) Records of the Board. The secretary shall maintain a complete record of all proceedings of the board. All orders or other actions of the board shall be certified or authenticated by the signature of the secretary.

(3) Pleadings shall be bound at the top, shall be typewritten on paper eight and one-half inches by eleven inches (8 1/2" × 11") in size and exhibits, wherever practical, folded to that size. Typing shall be on one (1) side of the paper only and shall be double spaced, except that footnotes and quotations in excess of a few lines may be single spaced. Briefs shall be typewritten or printed on paper eight and one-half inches by eleven inches (8 1/2" × 11"). Reproduction may be by any process, provided the copies are clear and permanently legible.

(4) Title and Number. Pleadings, briefs and other documents shall show the title of the proceeding and shall show the name, address, telephone number and fax number of the attorney, if any, on the flyleaf or at the end of the document. In the event the title of the proceeding contains more than one (1) name as appellant or intervenor, it shall be sufficient to show only the first of those names as it appears in the first document commencing the proceeding.

(5) Appeal Allowed. Appeals will be allowed from the decision of the commissioner as provided by law and the board shall hear the appeal. At the time the appeal is to be heard, testimony will be taken by the board on issues specifically raised by the notice of appeal and any application to intervene. The board will follow the practice of administrative agencies concerning the admissibility of evidence in contested cases as provided for in section 536.070, RSMo and may receive evidence by deposition as provided in section 536.073, RSMo.

(6) Notice of Appeal. The appellant, within ten (10) days of the commissioner mailing notice of the action shall file a notice of appeal to the board, specifically stating which finding of the commissioner the appellant challenges. The notice of appeal may be delivered to the board by mailing it to the Division of Finance at P.O. Box 716, Jefferson City, MO 65102.

(7) Docket and Hearing Calendar. The commissioner shall maintain a docket of all proceedings and each proceeding shall be assigned an appropriate case number. The commissioner shall maintain a record of proceedings filed and proceedings set for hearing which shall be available for public inspection at the office of the Division of Finance in Jefferson City, Missouri. The docket and hearing calendar shall be available for public inspection during office hours.

(8) Prehearing Conference. The presiding officer may hold prehearing conferences for the purpose of formulating or simplifying the issues, arranging for the exchange of proposed exhibits or prepared expert testimony, limitation of the number of witnesses and such other matters as may expedite orderly conduct and disposition of the proceedings.

(9) Time and Place. Notice of the day, hour and place of hearing shall be served at least ten (10) days prior to the time set on all appellants and intervenors, unless the board shall find that public necessity requires hearings be held on shorter notice. The hearing shall be held at a place determined by the presiding officer. At the direction of the board, the commissioner shall serve notice by mail to each party designated as applicant or intervenor.

(10) Limiting Number of Witnesses. To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony on a particular issue.

(11) Who May Practice Before the Board. Only licensed attorneys from Missouri or from other states as provided, shall be permitted to practice before the board. Attorneys who are not members of the Missouri bar shall be permitted to practice before the board under the same rules and limitations as an attorney in good standing in Missouri would be permitted to practice before the corresponding board, official or other body of the state of the nonresident attorney. A party may act as his/her own attorney if s/he desires.



(12) Form and Admissibility. The board will follow in general the practice in the circuit court of the state and the common law rules on admissibility of evidence as interpreted by the courts of the state, except that the board may permit the introduction of hearsay evidence when, in its opinion, circumstances require.

(13) Ruling. The presiding officer shall rule on the admissibility of all evidence. That ruling may be reviewed by the board in determining the matter on its merits.

(14) Objections and Exceptions. When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. Formal exception to rulings are unnecessary and need not be taken.

(15) Offer of Proof. When a party wishes to make an offer of proof for the record, that offer shall consist of a statement of the substance of the evidence to the admission of which objection has been sustained.

(16) Prepared Testimony. With the approval of the presiding officer, a witness may read into the record his/her testimony and direct examination. Before any prepared testimony is read, unless excused by the presiding officer, the witness shall deliver copies to the presiding officer, the court reporter and counsel for all parties. Admissibility of testimony shall be subject to the rules governing oral testimony. If the presiding officer deems that substantial saving of time will result without prejudice to any party, prepared testimony may be copied into the record without having the witness read it aloud; provided, however, that the witness shall be available for cross-examination by any party other than the party on whose behalf the testimony is admitted.

(17) Documentary Evidence. If relevant, material matter offered in evidence is embraced in the document containing other matter, the party offering it shall designate specifically the matter so offered. If other matter in the document would unnecessarily encumber the record, the document will not be received in evidence but at the discretion of the presiding officer, the relevant material matter may be read into the record or copies received in exhibit. Other parties will be afforded opportunity to examine these documents and to offer into evidence other portions believed material and relevant.

(18) Stipulations. The parties may file a stipulation of the facts or expected testimony and in this event the same shall be numbered and used at the hearing. This procedure is desirable wherever practical.

(19) Exhibits. Exhibits shall be legible and, wherever practical, shall be prepared either on paper not exceeding eight and one-half inches by eleven inches (8 1/2" x 11") in size or be bound and folded to that approximate size. Wherever practical, the sheets of each exhibit should be numbered and, where necessary, explained by index.

(20) Marking of Exhibits. Exhibits shall be marked as follows: Appellants' exhibits shall be numbered consecutively in order of their introduction and numbered as follows: Appellant Exhibit 1 and Appellant Exhibit 2, etc. The division's exhibits will be marked alphabetically. When exhibits are offered into evidence, the original and two (2) copies shall be furnished to the reporter and the party offering the exhibit should also be prepared to furnish a copy to each member of the board sitting.

(21) Board Records. If any document in the records of the Division of Finance is offered into evidence, that document need not be produced as an exhibit unless directed otherwise by the presiding officer, but may be received into evidence by reference, provided that the particular portions of that document are specifically identified and are otherwise competent, relevant and material.

(22) Judicial Notice. Official and judicial notice may be taken of those matters which may be noticed by the courts of Missouri.

(23) Additional Evidence. At the hearing, the presiding officer may require the production of further evidence upon any issue. Upon agreement of the parties, s/he may authorize the filing of specific documentary evidence as a part of the record within a fixed time after the submission, reserving exhibit numbers.

(24) Briefs. If counsel or any party requests permission to file a brief, the presiding officer shall fix the time for filing of briefs. Failure to request, at the close of the testimony, the fixing of time for filing briefs shall waive the right to subsequently file a brief.

(25) Decisions. Proceedings shall be submitted for the decision of the board after the taking of testimony and the filing of the briefs, as may be prescribed by the board or its presiding officer. The board's formal decision and order shall be issued as soon as practicable after the proceedings have been submitted. Decisions and orders shall be served by the commissioner mailing or making personal delivery of certified copies to the parties of record. When a party to a proceeding has appeared by representative, service upon that representative shall be deemed service upon the party.

(26) Construction of Rules. These rules shall be liberally construed to secure just, speedy and inexpensive determination of all issues presented. These rules may be amended at any time by the board.

(27) Forms. The following form of Notice of Appeal is merely illustrated as a general form. The content of particular pleadings will vary depending upon the subject matter and applicable procedural rules.

BEFORE THE RESIDENTIAL MORTGAGE BOARD OF THE STATE OF MISSOURI IN THE MATTER OF THE DENIAL, REVOCATION, ETC. OF THE LICENSE OF XYZ BROKERS BY THE COMMISSIONER OF FINANCE.

NOTICE OF APPEAL

You are hereby notified that an appeal is taken from the decision of the Commissioner of Finance denying, etc. a license to the XYZ Brokers for the following reasons:

1. The Commissioner was in error in finding that (State any specific ground relied on in the appeal).

WHEREFORE, petitioner prays said license be (issued, restored, etc.) as petitioned for.

XYZ MORTGAGE BROKER
By Its Attorney
(Mailing Jurat in Standard Form)

(28) Costs. The board will obtain the services of a court reporter to transcribe the hearing. The costs of original and four (4) copies of the transcript shall be taxed against the losing party.

(29) Service of Process. The commissioner of finance or a deputy shall be the agent for service of process on the board in any appeal arising from a decision of the board.

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