

# TABLE OF CONTENTS

## MORTGAGE BROKER REGULATIONS

20 CSR 1140-30.010	Definitions .....	25
20 CSR 1140-30.030	Licensing.....	25
20 CSR 1140-30.040	Operations and Supervision.....	26
20 CSR 1140-30.050	Annual Report of Mortgage Brokerage Activity and Mortgage Servicing Activity.....	26
20 CSR 1140-30.070	Advertising .....	27
20 CSR 1140-30.080	Loan Brokerage Practices.....	27
20 CSR 1140-30.090	Loan Application Practices.....	27
20 CSR 1140-30.100	General Practices.....	28
20 CSR 1140-30.110	Commitment and Closing Practices .....	28
20 CSR 1140-30.120	Exemption Guidelines .....	29
20 CSR 1140-31.010	General Organization - Mortgage Broker Board.....	29
20 CSR 1140-31.020	Rules of Procedure .....	29

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**TITLE 20 - DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION**

**Division 1140- Division of Finance  
Chapter 30 - Mortgage Broker Rules**

**20 CSR 1140-30.010 Definitions**

PURPOSE: This rule establishes definitions for use in Chapter 4 CSR 140-30 Mortgage Broker Rules.

(1) As used in Chapter 4 CSR 140-30 Mortgage Broker Rules, the definitions in section 443.803, RSMo shall apply and, in addition—

(A) “Act” means the Residential Mortgage Brokers License Act, sections 443.800 through 443.893, RSMo;

(B) “Assisting” or “helping” as used in section 443.803.1(17), RSMo shall not include activities undertaken by a person in pursuit of such person’s licensed profession or occupation including, but not limited to insurance producer, attorney at law, certified public accountant, land surveyor, or professional engineer;

(C) “Commissioner” means the commissioner of finance (director of the Division of Finance) or agent thereof;

(D) “Control” means the power to, directly or indirectly, affect the voting interest of twenty-five percent (25%) or more of any class of the outstanding voting shares, or partnership interest or limited liability company interest, of a licensee;

(E) “Document” for purposes of section 443.891, RSMo shall include all business and financial documents and all books and records of any type or kind whatsoever;

(F) “First tier subsidiary” shall include any corporation or limited liability company which is owned or controlled by a bank and that has its principal place of business in Missouri;

(G) “Material” shall include, but not be limited to, a misstatement or omission of fact which, if it had not been misstated or omitted, may have altered the decision, approval, determination, or finding made by the commissioner or may have caused the commissioner to act or consider acting pursuant to any of the powers vested in the commissioner;

(H) “Principal place of business” means the principal place of business of the subsidiary’s parent;

(I) “Principal shareholder” means person or entity that owns or controls ten percent (10%) or more of any class of stock of the applicant or person or entity, other than a depository institution that lends, provides or infuses funds to or into the applicant in an amount equal to, or more than, ten percent (10%) of the applicant’s net worth;

(J) “State” means the state of Missouri; and

(K) “Wholesale mortgage lender” shall mean an entity or person engaged solely in purchasing existing loans without participating in the application process, negotiation or credit decision; any entity or person who provides the money for what is commonly known as “table funding” is ordinarily not a wholesale mortgage lender.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo Supp. 1996.\* This rule originally filed as 4 CSR 140-30.010. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 27, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.010, effective Aug. 28, 2006. \*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo 1994, amended 1995.*

*PURPOSE: This rule establishes guidelines for the licensing of mortgage brokers.*

(1) Application for Missouri Residential Mortgage Brokers License.

(A) Applications for a license shall be in a form prescribed by the commissioner and shall include a nonrefundable license investigation fee which shall be set by the commissioner from time-to-time, not to exceed five hundred dollars (\$500).

(B) Failure to meet a request for additional information within ten (10) business days may result in denial of the application. A denial under such circumstances shall not affect subsequent applications filed with the appropriate investigation fee.

(2) Initial and Renewal Missouri Residential Mortgage Brokers Licenses.

(A) Upon approval of an initial brokers license, the commissioner shall collect a nonrefundable license fee, which shall be set by the commissioner from time-to-time, not to exceed one thousand dollars (\$1,000).

(B) Applications for renewal of a license shall be in a form prescribed by the commissioner. Such completed renewal application shall be received by the commissioner at least sixty (60) days prior to such licensee’s biennial renewal date. Upon approval of a biennial renewal of a brokers license, the commissioner shall collect a nonrefundable renewal license fee, which shall be set from time-to-time by the commissioner, not to exceed two thousand dollars (\$2,000), half upon issuance of the license, and the balance one (1) year thereafter.

(3) Amended License Fees—Corporate Changes. The commissioner shall collect an amended license fee not to exceed five hundred dollars (\$500) for each amended license required by 4 CSR 140-30.040 and for each notice of change of officers or directors or change of name or address, a fee of fifty dollars (\$50).

(4) Duplicate Original License Fees. The commissioner shall collect a duplicate original license fee of fifty dollars (\$50) for each duplicate original license issued.

(5) Additional Full Service Office. Each licensee which intends to operate and maintain an additional full service office, shall file a Notice of Intent to Establish an Additional Full Service Office, on a form prescribed by the commissioner, thirty (30) days prior to the proposed operation; the commissioner shall collect a fee of ten dollars (\$10) at the time the notice is filed.

(6) Waiver of License Fee. Applicants which intend to request a waiver of fees per section 443.837, RSMo shall file such request at least sixty (60) days prior to the licensing or renewal date.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo Supp. 1996.\* This rule originally filed as 4 CSR 140-30.030. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.030, effective Aug. 28, 2006. \*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo 1994, amended 1995.*

**20 CSR 1140-30.030 Licensing**

## **20 CSR 1140-30.040 Operations and Supervision**

*PURPOSE: This rule establishes operations and supervision guidelines concerning net worth, audit reports, escrow, change in business activities, change of ownership, bonding requirements, servicing, and full service offices.*

### (1) Net Worth.

(A) Amount. Each licensee shall maintain at least that minimum net worth set by section 443.859, RSMo as amended.

(B) Calculation. "Net worth" is total assets minus total liabilities, subject to limitations which may from time-to-time be prescribed by the commissioner to preserve the intent of the law.

(2) Late Audit Reports. Failure to timely deliver audit reports per section 443.851, RSMo shall result in suspension of the licensee's authority to do business absent an extension by the commissioner. Applications for extensions must be in writing and filed at least fifteen (15) days prior to the deadline. The commissioner shall consider whether such request results from conditions beyond the control of the licensee. An independent auditor may be appointed by the commissioner at the licensee's expense any time after the deadline.

### (3) Escrow.

(A) Funds collected for a rate-lock fee or for payment for third party services shall be placed with a licensed and bonded disbursing agent or licensed real estate broker and shall be disclosed as a part of the licensee's financial statement package; for purposes of this rule, a licensed and bonded disbursing agent shall include an escrow agent per section 339.600, RSMo, et seq.

(B) Where servicing includes maintenance of an escrow account for payment of taxes and/or insurance premiums, the funds shall be placed in a federally insured depository institution, to be removed and used only for—

1. Authorized payments for taxes and/or insurance premiums;
2. Refunds to the mortgagor;
3. Transferring to another institution as described in this subsection;
4. Forwarding to the appropriate servicer in case of a transfer of servicing; or
5. Compliance with a regulatory or court order.

(C) All servicing activities shall be in strict accordance with the Act and all state and federal laws.

(4) Proceedings Affecting a Licensee. Each licensee shall be required to notify the commissioner within five (5) business days of becoming the subject of any other government agency proceedings which could affect the licensee's authority.

(5) Change in Business Activities. Each licensee shall provide the commissioner at least fourteen (14) days' advance notice of an action to—

- (A) Close a full-service office; or
- (B) Discontinue brokering, originating, or servicing.

(6) Change of Ownership, Control or Name or Address of Licensee. Prior to a change of ownership or control, a change of name or address or a change of officers or directors, a licensee shall file the appropriate application and fee on a form prescribed by the commissioner.

(A) Change of Ownership or Control. An application on a form prescribed by the commissioner for a new Missouri residential mortgage brokers license shall be submitted with the fee by the prospective purchaser at least forty-five (45) days prior to the proposed change. The commissioner shall issue a new license, a finding that the proposed change of ownership or control does not require a new license or a denial.

(B) Change of Name or Address. A licensee shall file an Application for Change of Name or Address, with the fee,

ten (10) business days in advance, on a form prescribed by the commissioner. The name change shall be approved unless deceptively similar to another name.

(C) Change of Officers or Directors. Within thirty (30) days of any change in a licensee's directors or principal officers, a report of such change shall be filed on a form prescribed by the commissioner along with the appropriate fee.

(7) Bonding Requirements. Each licensee shall maintain a bond or irrevocable letter of credit in the amount of twenty thousand dollars (\$20,000). If a bond, it must be issued by some insurance company licensed to do business in this state and shall be in a form approved by the commissioner; if an irrevocable letter of credit, it must be issued by a financial institution insured by the Federal Deposit Insurance Corporation and shall be in a form approved by the commissioner. The bond or irrevocable letter of credit shall be payable to the commissioner and shall be filed with the commissioner prior to the issuance of a license.

(8) Servicing. All licensees must comply with the servicing and transfer of servicing requirements established by applicable federal and state statutes and regulations.

### (9) Full-Service Office.

(A) Each licensee shall maintain a full-service office consistent with section 443.857, RSMo. At a minimum, each licensee shall provide at such office a staff reasonably adequate to handle efficiently all matters relating to a loan application or existing loan. In determining whether a licensee handles such matters in a reasonably adequate manner, the commissioner shall consider consumer complaints received regarding such licensees and information obtained from examinations conducted and reports filed and whether the licensee has—

1. Provided facilities and personnel adequate to accommodate a borrower who wishes to bring all documents concerning an existing home mortgage or a mortgage application to the full-service office for examination; and
2. Maintained a supply of all required documents.

(B) If it is determined that a licensee is not in compliance with section 443.857, RSMo, the commissioner shall notify the licensee in writing detailing the requirements to achieve compliance, along with a reasonable deadline.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo Supp. 1996.\* This rule originally filed as 4 CSR 140-30.040. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.040, effective Aug. 28, 2006.*

*\*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo, amended 1995.*

## **20 CSR 1140-30.050 Annual Report of Mortgage Brokerage Activity and Mortgage Servicing Activity**

*PURPOSE: This rule declares requirements for annual reports by mortgage brokers.*

(1) Filing Requirements. By March 1 of each year, each licensee must file an Annual Report of Mortgage Brokerage Activity on a form provided by the commissioner. If any category(ies) requested has nothing to report, then the proper response is "none."

(A) The Annual Report of Brokerage Activity shall include the names of the originators, dollar amount of the loans and with whom the licensee had mortgage brokerage agreements including any specific loan programs and any aggregate dollar limits. Each licensee which reports any default or foreclosure shall also furnish the name of the lender who originated the loan.

(B) Licensees which file a Home Mortgage Disclosure Act (HMDA) report may file a copy thereof in lieu of the report described herein.

(2) Verification. An affidavit, attesting to truthfulness, must accompany each Annual Report of Brokerage Activity

and Annual Servicing Report. This verification must be signed by the owner of a sole proprietorship, by all partners of a partnership, all directors of a corporation, or by all members of an association.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo Supp. 1996.\* This rule originally filed as 4 CSR 140-30.050. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.050, effective Aug. 28, 2006.  
\*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo 1994, amended 1995.*

## **20 CSR 1140-30.070 Advertising**

*PURPOSE: This rule creates general guidelines for advertising practices by mortgage brokers.*

(1) General Prohibition. No person or other entity except a licensee or an exempt entity shall circulate or use any advertising or make any representation or give any information to any person which indicates or reasonably implies activity involving the making, servicing or brokering of loans secured by Missouri residential real estate.

(2) Definition of Advertisement. An advertisement is any message, conveyed in any format, attempting to induce, directly or indirectly, any person to enter into a residential mortgage loan or loan brokerage agreement; provided, small items bearing only a name, address and telephone number (examples: pencils, pens, buttons, pins, pocket calendars, balloons, and business cards) are excepted.

(3) Compliance with Other Laws. Every advertisement shall comply with the Act and federal and state law.

(4) Requirements. Any advertisement shall include:

(A) The name and an office address of such licensee or exempt entity, which shall conform to a name and address on record with the commissioner.

(5) Misleading and Deceptive Advertising Prohibition. Advertisements shall not be false, misleading or deceptive or indicate or imply that interest rates or charges are in any way "recommended," "approved," "set" or "established" by Missouri or the Act.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo Supp. 1996.\* This rule originally filed as 4 CSR 140-30.070. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.070, effective Aug. 28, 2006.  
\*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo 1994, amended 1995.*

## **20 CSR 1140-30.080 Loan Brokerage Practices**

*PURPOSE: This rule establishes general practices guidelines for mortgage brokers in the areas of agreements and disclosures.*

(1) Loan Brokerage Agreement. A loan brokerage agreement (agreement) is not required where licensee is a lender not engaged in the act of brokering. Where the licensee is acting as a broker, a written agreement shall be signed and dated by both the loan applicant (borrower) and licensee before the applicant signs an application or gives any consideration and—

(A) Carry a clear and conspicuous statement that a copy is available to the borrower or the borrower's attorney for review prior to signing;

(B) Contain an explicit description of the services the licensee agrees to perform and include the federally required good faith estimate of costs. In the same area of the agreement shall be equally prominent language listing the

circumstances which could materially affect the amounts indicated due to unforeseeable details;

(C) Carry a clear and conspicuous statement about conditions under which the borrower is obligated to pay the licensee;

(D) Truth-in-lending disclosures, transfer of servicing documents, good faith estimates of closing costs and all other documents required by state or federal law shall be provided and signed by the borrowers within three (3) days of the application;

(E) Except for a rate-lock fee agreement in accordance with 4 CSR 140-30.110, the loan brokerage agreement shall be the only agreement between the borrower and licensee with respect to a single loan unless otherwise required by federal or state law; and

(F) A copy signed by or on behalf of the licensee shall be given to the borrower.

(2) Loan Brokerage Disclosure Statement. Before the borrower signs an agreement or gives the licensee any consideration, the licensee shall give the borrower a written disclosure statement and shall obtain the customer's signature on a duplicate of the disclosure statement near bold and conspicuous wording indicating that the customer has read and understands the statement. The statement shall prominently display the following information in the order presented:

(A) The licensee is or is not making this loan;

(B) Whether funding is provided by another entity, which may affect availability of funds;

(C) The name under which the licensee has operated during the preceding ten (10) years and, if applicable, the name of any parent or affiliated company;

(D) Whether the licensee is an individual, partnership, association, or corporation; and

(E) If the licensee brokers loans to only one (1) entity, disclosure of that fact.

(3) Combined Forms. The loan brokerage agreement and the loan brokerage disclosure statement may be combined into one (1) form.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo, Supp. 1996.\* This rule originally filed as 4 CSR 140-30.080. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.080, effective Aug. 28, 2006.  
\*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo 1994, amended 1995.*

## **20 CSR 1140-30.090 Loan Application Practices**

*PURPOSE: This rule states the guidelines for the various loan application procedures of mortgage brokers.*

(1) Borrower Information Document. Before a mortgage loan applicant (borrower) signs a completed application, the licensee shall give the borrower a Borrower Information Document. The document may be incorporated into or appended to such material as is necessary for compliance with related federal requirements. All of the following information shall be included in the document:

(A) Regulatory Disclosure Statement. The following statement: "This document is provided pursuant to the Residential Mortgage Brokers License Act and related rules. Its purpose is to list those exhibits and materials you should receive with your application with (name of licensee) which is regulated by the Missouri commissioner of finance whose phone number is (573) 751-3242"; and

(B) Significant information on the types of situations which could affect the processing of the loan but which may not be known by the licensee at the time the application was taken.

(2) Required Documentation. A licensee shall observe good faith in requiring documents from the applicant.

(3) Confirmation of Statements. Within three (3) business days of receiving an applicant's written request, a licensee shall confirm or deny in writing any specific oral statements or promises made to the applicant.

(4) Maintenance of Records. Each licensee shall maintain an application log and shall produce it for examination by the commissioner. It shall contain at least the following concerning each application received during the previous thirty-six (36) months:

- (A) Application date;
- (B) Applicant's name;
- (C) Property address;
- (D) Loan amount;
- (E) Terms, loan program;
- (F) Loan officer;
- (G) If closed, disposition of the loan and servicing;
- (H) The Loan Brokerage Agreement and Loan

Brokerage Disclosure Statement;

- (I) The Borrower Information Document; and

(J) Any other documents the commissioner may require the licensee to obtain.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo Supp. 1996.\* This rule originally filed as 4 CSR 140-30.090. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.090, effective Aug. 28, 2006. \*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo 1994, amended 1995.*

## **20 CSR 1140-30.100 General Practices**

*PURPOSE: This rule establishes requirements for certain practices by mortgage brokers in the areas of notices to joint borrowers, changes in loans in process, use of unauthorized brokers or lenders and the general requirement of good faith.*

(1) Notice to Joint Borrowers. Any notice required by Chapter 4 CSR 140-30 shall be given to all joint applicants.

(2) Changes Affecting Loans in Process.

(A) If an applicant does not qualify, the licensee shall immediately provide a written and, when possible, an oral explanation of any other program for which the applicant may qualify.

(B) When any notice is received which materially affects a loan in process, the licensee shall immediately so notify the applicant in writing and, when possible, orally.

(3) Prohibition of Unauthorized Brokers or Lenders. No licensee shall knowingly use the services of any broker or lender not licensed or exempt.

(4) Good Faith Requirements.

(A) Any disclosure or action required by the Act or regulations shall be undertaken in good faith.

(B) A licensee shall not collect any charges unless able to demonstrate that if normal residential mortgage loan requirements are met, there is a reasonable likelihood that a loan commitment will be issued under conditions set forth.

(C) A licensee shall process applications within the time specified in the contract.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo Supp. 1996.\* This rule originally filed as 4 CSR 140-30.100. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.100, effective Aug. 28, 2006. \*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo 1994, amended 1995.*

## **20 CSR 1140-30.110 Commitment and Closing Practices**

*PURPOSE: This rule sets standards for mortgage brokers' commitments and closings.*

(1) Approval Notice. Immediately upon approval of a loan application, the licensee shall deliver to the applicant a written loan approval notice stating the terms and conditions of the loan, namely—

- (A) The day the loan commitment expires;
- (B) All economic terms of the loan and their duration;

and

(C) Whether the economic terms are fixed or, if subject to change, an explanation of the time when, circumstances under which, and extent to which they may be changed.

(2) Inconsistent Conditions Prohibited. No residential mortgage loan commitment shall contain conditions inconsistent with those required by the state and federal laws in effect at the time of application, unless such conditions are less onerous to the applicant.

(3) Avoidance of Commitment. If an applicant and the real estate meet normal standards, the licensee shall not refuse to make the loan to avoid complying with agreed to terms.

(4) Delay. Any licensee which delays processing an application with the result that a borrower incurs higher costs shall be liable to the borrower for such increase in costs, including points and rates, and for a reasonable attorney's fee.

(5) Fees and Charges Prior to Closing.

(A) Any fee paid by the borrower prior to closing shall be placed with a licensed and bonded disbursing agent or licensed real estate broker. A licensee shall not require a borrower to pay any fees or charges prior to the loan closing, except—

1. Charges to be actually and necessarily incurred for services from third parties needed to process the application; and

2. A rate-lock fee (fee), all of which must be a bona fide fee paid in full to a third party, and further provided—

A. The Rate-Lock Fee Agreement is in writing and signed by both the licensee and the applicant and states—

(I) The expiration date of the fee agreement;

(II) The amount of the loan;

(III) The maximum interest rate and maximum discount (points); and

(IV) The term of the loan; and

B. The licensee is able to demonstrate to the commissioner that—

(I) The licensee is able to perform under the terms of the fee agreement; and

(II) Subject to verification, the information submitted by the borrower indicates that the loan will be approved in accordance with the fee agreement; and

C. The fee is deposited in escrow in accordance with the requirements of 4 CSR 140-30.040, for the following distribution:

(I) The fee is paid to the lender and credited to the borrower at closing; and

(II) The fee must be refunded if the loan does not close in accordance with the fee agreement, except that the fee may be retained upon the licensee's ability to demonstrate to the commissioner any of the following reasons: the applicant withdrew the loan application; the applicant has made a material misrepresentation on the loan application; the applicant has failed to provide documentation necessary to the processing or closing of the loan, such documents having been timely requested; and

(III) When the fee is to be retained, the licensee shall send a written notice to the borrower stating the reason for retaining the fee.

(6) Refunds on Failure to Close. If a residential mortgage loan is not closed through no fault of the applicant, all the charges described in section (5) shall be refunded to the applicant, except to the extent such charges were incurred in

good faith by the licensee on behalf of the applicant for third party services.

(7) Licensee's Failure to Close—Disclosure. If a loan fails, through no fault of the applicant, to close within the specified commitment period, the licensee shall provide detailed written notification to such applicant of why the loan failed to close and specify any resulting conditions which will affect the availability of such loan.

(8) Escrow Account Agreements at Closing. If the mortgage requires an escrow account for taxes and/or insurance premiums, a written Escrow Account Disclosure Agreement shall be executed at closing. Compliance with applicable federal law shall constitute compliance with this rule.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo Supp. 1996.\*This rule originally filed as 4 CSR 140-30.110. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.110, effective Aug. 28, 2006. \*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo, 1994, amended 1995.*

### **20 CSR 1140-30.120 Exemption Guidelines**

*PURPOSE: This rule states the guidelines for exemption from the licensing requirements for mortgage brokers.*

(1) General. The exemption provision of section 443.803.1(8), RSMo shall be construed to avoid duplication of licensing and supervision by state and federal agencies. To the extent that specific conduct or business activity is not otherwise separately licensed or regulated, the provisions of section 443.803.1(8), RSMo shall be strictly construed.

(2) Interpretive Guidelines. Any person may request an interpretative ruling of the commissioner on the question whether that person is an exempt entity. Such requests shall be in writing and contain information sufficient to reasonably inform the commissioner of the basis for the exemption.

(3) Exempt List. The commissioner requests that all exempt entities file a letter disclosing exempt status and the reason therefore at the Division of Finance, Residential Mortgage Section, P.O. Box 716, Jefferson City, MO 65102.

*AUTHORITY: sections 443.847, 443.869(7) and 443.887, RSMo Supp. 1996.\* This rule originally filed as 4 CSR 140-30.120. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140-30.120, effective Aug. 28, 2006. \*Original authority: 443.847, RSMo 1994, amended 1995; 443.869(7), RSMo 1994, amended 1995; and 443.887, RSMo 1994, amended 1995.*

## **TITLE 20 - DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION**

### **Division 1140 - Division of Finance Chapter 31 - Mortgage Broker Board**

#### **20 CSR 1140-31.010 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). \*This rule originally filed as 4 CSR 140-31.010. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140- 31.010, effective Aug. 28, 2006.*

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

#### **20 CSR 1140-31.020 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" x 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" x 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.

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

(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.

*AUTHORITY: sections 443.816, RSMo (Cum. Supp. 1996) and 536.023, RSMo (1994). \* This rule originally filed as 4 CSR 140- 31.020. Emergency rule filed Nov. 25, 1996, effective Dec. 5, 1996, expired June 2, 1997. Original rule filed Nov. 25, 1996, effective May 30, 1997. Moved to 20 CSR 1140- 31.020, effective Aug. 28, 2006.*

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