

**PROPOSED REGULATION OF THE
COMMISSIONER OF MORTGAGE LENDING**

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

Authority: NRS 645B.050, 645B.060, 645B.750

Section 1. *Chapter 645B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 4 of this regulation.*

Sec. 2. *Procedure prior to hearing*

1. Any papers, records, data or documents expected to be used as exhibits at the hearing and a list of witnesses expected to testify at the hearing are to be provided to the opposing party no later than 10 business days prior to the scheduled hearing. The filing of a motion does not toll this requirement. The parties are also to provide the hearing officer with their list of witnesses and copies of the exhibits they expect to introduce at the hearing within 5 business days of the hearing.

2. Motions, with the exception of motions to exclude witnesses, are to be in writing, and must be served on the opposing party at least 15 days prior to the scheduled hearing date. A response is due 7 days prior to hearing. The decision on whether to grant the motion rests with the hearing officer, and no oral argument may be requested.

Sec. 3. *Requests for continuances of hearing*

1. Hearings may be continued only for good cause.

2. For purposes of this section, “good cause” means a:

(a) failure of a necessary witness to appear at the hearing in response to a lawfully issued subpoena;

(b) serious health issue that would prevent a witness or party from testifying at the hearing; or

(c) recent death in the family of a party or necessary witness.

A request for a continuance of a hearing must be in writing, made to the hearing officer, and the opposing party must be served at the time that the request for the continuance is made.

Sec. 4. *Procedures at hearing*

1. The hearing officer shall:

(a) Ascertain whether all persons commanded to appear under subpoena are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room.

(b) Administer the oath to the reporter as follows:

“Do you solemnly swear or affirm that you will report this hearing to the best of your stenographic ability?”

(c) Administer the oath to all persons whose testimony will be taken:

“Do you and each of you solemnly swear or affirm to tell the truth and nothing but the truth in these proceedings?”

(d) Ascertain whether either party wishes to have a witness excluded from the hearing except during the testimony of the witness. A witness may be excluded upon the motion of the hearing officer or upon the motion of either party. If a witness is excluded, he will be instructed not to discuss the case during the pendency of the proceeding. The respondent will be allowed to remain present at the hearing unless the respondent becomes disruptive. The Division may designate a person who is a member of the staff of the Division and who may also be a witness to act as its representative. Such a representative will be allowed to remain present at the hearing.

(e) Ascertain whether a copy of the complaint or decision to deny has been filed and whether an answer has been filed as part of the record in the proceedings.

(f) Hear any motions to exclude, stipulations or orders upon which the parties agree and address any administrative details.

2. In conducting any hearing, the hearing officer is not bound by the technical rules of evidence, and any informality in a proceeding or in the manner of taking testimony does not invalidate any order or decision made. The rules of evidence of courts of this State will be followed generally but may be relaxed at the discretion of the hearing officer if deviation from the technical rules of evidence will aid in determining the facts.

3. Any evidence offered at a hearing must be material and relevant to the issues of the hearing.

4. Sworn declarations may be used if a witness resides outside of the State of Nevada.

5. The hearing officer may exclude inadmissible, incompetent, repetitious or irrelevant evidence or order that presentation of that evidence be discontinued.

6. A party who objects to the introduction of evidence shall state the grounds of the objection at the time the evidence is offered. The party who offers the evidence may present a rebuttal argument to the objection.

7. If an objection is made to the admissibility of evidence, the hearing officer may:

(a) Note the objection and admit the evidence;

(b) Sustain the objection and refuse to admit the evidence; or

(c) Receive the evidence subject to a subsequent ruling by the hearing officer.

8. Parties may waive opening and closing statements.

9. Request the Division to proceed with the presentation of its case.

10. The respondent may cross-examine witnesses in the order that the Division presents them.

11. Witnesses or counsel may be questioned by the hearing officer at any time during the proceeding.

12. Evidence which is to be introduced:

(a) Must first be marked for identification; and

(b) May be received by the hearing officer at any point during the proceeding.

13. When the Division has completed its presentation, the hearing officer shall request the respondent to proceed with the introduction of evidence and calling of witnesses on his behalf.

14. The Division may cross-examine witnesses in the order that the respondent presents them.

15. When the respondent has completed his presentation, the Division may call any rebuttal witnesses.

16. When all testimony for the Division and respondent has been given and all evidence submitted, the hearing officer may request the Division and the respondent to summarize their presentations.

17. The hearing officer may, in his discretion, waive or modify any provision of this section if necessary to expedite or ensure the fairness of the hearing.