



**Rules of
Department of Commerce and
Insurance**

**Division 1140—Division of Finance
Chapter 18—Administrative Procedures**

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**Title 20—DEPARTMENT OF
COMMERCE AND INSURANCE
Division 1140—Division of Finance
Chapter 18—Administrative Procedures**

**20 CSR 1140-18.010 Procedures for
Contested Cases**

PURPOSE: This regulation establishes the administrative procedures of the division for hearings on contested cases.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) General Provisions. All hearings before the division, other than hearings on proposed regulations and other than any hearings held by the director on proposed branch offices, mobile facilities or tandem branches are conducted as contested cases in accordance with the provisions of Chapter 536, RSMo.

(A) Commencement of Action. Contested cases are commenced on the filing of any document by which filing the director is required to hold a hearing or, by order of the director, to set a hearing, other than an order for a hearing on a proposed regulation.

(B) Other Rules to Apply. To the extent that the conduct of a hearing is not established by Chapter 536, RSMo or this regulation the procedure before the division shall conform to procedures established by the *Missouri Rules Civil Procedure*.

(C) Transcript of Proceeding. A court reporter selected by the director shall transcribe all hearings in contested cases. Parties before the division shall pay a *pro rata* share of the cost of two (2) transcripts of the proceedings for the division. On entry of a final order in the matter, the losing parties shall reimburse the successful parties for the cost so advanced.

(D) Briefs. Unless otherwise ordered by the director, the petitioner may file a brief within forty-five (45) days of the receipt of the transcript, the respondent may file a brief within thirty (30) days of receipt of the petitioner's brief and the petitioner may file a reply brief within fifteen (15) days of receipt of the respondent's brief. The initial brief filed by each party shall contain proposed Findings of Fact and Conclusions of Law designated as such.

(E) Copies of Correspondence. For every

writing filed with the division on any matter related to a contested case, each party shall provide one (1) copy for the division and sufficient other copies to enable the division to provide a copy to every other party to the contested case. The director may waive this requirement, if in his/her discretion, the parties are so numerous that this requirement would be unduly onerous.

(2) Prehearing Procedures.

(A) Subpoenas. Subpoena for personal appearance may be requested from the director in blank. Requests for subpoenas *duces tecum* shall be in writing and shall specify the person to be served and the documents to be provided. Subpoenas shall be served in accordance with the provisions of section 536.077, RSMo (1986).

(B) Discovery. In any contested case, any party may take and use depositions in the same manner as provided for in civil actions. The director shall provide for a reasonable opportunity for the preparation of evidence bearing on any issue raised or relief sought in the contested case.

(C) Prehearing Motions. Any motion seeking an order other than the final order in the case filed prior to the hearing in the matter shall be designated by the relief sought. Rulings on prehearing motions, at the discretion of the director, may be entered prior to or during the hearing or at the time of final order. A special hearing or briefs on the motion may be required by the director.

(D) Prehearing Conference. At the request of any party, or on his/her own motion, the director may order a prehearing conference for any of the following purposes; provided however, that no party shall be required to disclose the nature of its evidence, the names of its witnesses or its theory in the case at that conference:

1. To limit the issues in the case;
2. To provide for the acceptance of or the in-camera inspection of any documents requested by any party to be treated as confidential; or
3. To determine any procedural aspects of the hearings.

(3) Hearing Procedures.

(A) Evidence. Unless the parties stipulate otherwise, evidence shall be accepted in accordance with the provisions of section 536.070, RSMo (1986).

(B) Opening and Closing Arguments. Parties may make opening and closing arguments of a duration to be determined by the director.

(C) Examination of Witnesses. Following cross examination of a party's witness by all

adverse parties, the director may cause an examination to be conducted of that witness following which examination the party offering the witness may further examine his/her witness.

(4) Procedures Following Hearing.

(A) Post-Hearing Motions. Motions filed after the close of the hearing shall be designated as post-hearing motions and shall be for one (1) of the following purposes:

1. To strike portions of briefs on the grounds that the statements made are not supported by evidence taken at the hearing or that the brief was filed out of time; or

2. To reopen the hearing to accept evidence which arose after the close of the hearing but prior to entry of a final order, which motion shall state the nature of the evidence, when it arose and the specific issue to which the evidence is relevant.

(B) Final Order. The director shall notify the parties of the date and time at which s/he intends to enter the final order in the matter at least ten (10) days prior to that date.

(C) Appeal. Appeals shall be by notice of appeal filed with the division in accordance with section 369.319, RSMo (1986). All decisions of the director shall be final if not appealed to the State Savings and Loan Commission.

AUTHORITY: sections 369.299 and 369.304, RSMo 1986. This rule originally filed as 4 CSR 260-6.010. This rule previously filed as 4 CSR 140-18.010. Original rule filed July 14, 1978, effective Nov. 13, 1978. Amended: Filed Aug. 15, 1983, effective Nov. 11, 1983. Amended: Filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-18.010, effective July 6, 1994. Moved to 20 CSR 1140-18.010, effective Aug. 28, 2006.*

**Original authority: 369.299, RSMo 1971 and 369.304, RSMo 1971, amended 1983.*