

Title 210 - NEBRASKA DEPARTMENT OF INSURANCE

Chapter 26 - DEPARTMENT ADMINISTRATION, PRACTICE AND PROCEDURE

001. Forms and pleadings. There are no prescribed forms for practice and procedure before the Department of Insurance. All forms and pleadings filed or submitted by parties appearing before the Department shall be in writing on 8 1/2" x 11" paper. Protests, interventions, or other responsive pleadings shall specifically set forth the grounds upon which they are made, state the interest of the protestant or intervenor in proceedings, be subscribed and filed with the Department five (5) days prior to date of hearing.

002. Notice and hearing. When any party interested in any rule or decision of the Department initiates a hearing, after filing a written request with the Director, the Director shall issue a written notice to all interested parties by certified or registered mail. Notice shall state the time, place, and issues to be heard, and all such notices shall be mailed at least ten (10) days prior to the date of the hearing. In the case of the mailing of a notice to a corporation, the notice shall be sent to the principal place of business thereof, directed to the attention of its president, other chief executive officer, or its attorney. Except as otherwise provided for by statute, or by these regulations, the time and place of hearing will be set upon the instigation of any proceeding by the Director at his discretion.

003. Continuances. Any party desiring a continuance shall, immediately upon receipt of the notice of hearing, or as soon thereafter as the facts necessitating such continuance come to his knowledge, notify the Director in writing of said desire, and stating in said notification the reasons for such continuance. The Director may require any party to submit affidavits in support of such request. The Director may grant a continuance for good cause shown, and may at any time order a continuance on his own motion.

004. Conduct of hearings. All hearings will be conducted by the Director or by such hearing officer as the Director previously shall have designated. The Director or hearing officer will open the proceedings, take appearances, act on pleadings not previously filed and motions made during the hearing, administer oaths to witnesses, receive the evidence in order specified hereafter, rule on motions or objections relating to testimony and evidence, interrogate any witnesses to ascertain additional facts, and close the proceedings. In any proceeding initiated by the Department of Insurance, even though the same is in the posture of an order to show cause, evidence shall be presented first by the Department, then by the Respondent, and then rebuttal by the Department. In any proceeding initiated by any party other than the Department, evidence shall be presented first by the initiating party, then by any protestants and intervenors, then by the Department, and then rebuttal by the initiating party. Every party shall have the right to cross-examination of all witnesses who testify.

005. Discovery. Any party shall be afforded the same discovery procedures before the Director as are available in the District courts of this State, including, but not limited to taking of depositions, the submission of interrogatories, and the production of documentary evidence. When requested to do so by any party, the Director shall issue subpoenas to compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony, and cause the deposition of witnesses either residing within or without the state to be taken in the same manner prescribed by law for the taking of depositions in civil actions in the District Court, provided that the requesting party tender to the Director in advance all the necessary fees in connection therewith. The Director may on his own motion issue such subpoenas and cause such depositions to be taken. Whenever any person shall fail, refuse, or neglect to obey such subpoena or to give evidence concerning any matter pertaining to a hearing conducted by the Department of Insurance, the Director or hearing officer may forthwith report in writing such disobedience and file such subpoena with proof of service thereof in the district court of the county in which such hearing is being had if in session, and if not, then with any judge of such court. The Subpoena for witnesses to testify or for the production of papers or documents shall be issued under the seal of the Department, and may be served either by the sheriff or constable, or by the Director mailing by certified mail, return receipt requested. The subpoena shall be served not less than five (5) days before the hearing date of the cause upon which the witness is required to attend.

Every person who shall be obliged to attend as a witness pursuant to a subpoena or any other witness called to testify in any proceeding by the Department, shall be entitled to his actual reasonable expenses, and the same fees and mileage as are paid state employees. Such fees shall be paid by the Department out of the Insurance Department Cash Fund. Compensation of all other witnesses shall be made by the party calling such witnesses.

006. Evidence. In ruling evidentiary matters, the Director or hearing officer shall be guided by the evidentiary provisions of ~~Section~~ Neb.Rev.Stat. §84-914 R.R.S., 1943. All material offered into evidence shall stand as admitted unless objection thereto is timely made and sustained by the Director or hearing officer.

All exhibits introduced into evidence shall be confined to a maximum size of 8 1/2 by 14, or be placed upon paper which may be folded into such size, with the exception of insurance company annual statements. Large charts of exhibit may be utilized, but such exhibits which are to be made a part of the record shall be of the size previously specified. All exhibits received into evidence shall remain a part of the permanent record. In the event that any exhibits are to be withdrawn, duplicate copies must be available to be substituted at the time to the hearing.

All proceedings shall be recorded by a notary public. A copy of the official record, or any part of said record, shall be furnished to any interested party at its expense upon written request thereof. The Department and interested parties may provide for the payment of

the expense of transcribing said official record, by mutual agreement.

The Department may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within its specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports, of material so judicially noticed. They shall be afforded an opportunity to contest the facts so noticed.

007. Submission of briefs. Submission of briefs may be required by the Director or hearing officer. Any party desiring to submit a brief may do so by indicating such desire at the close of the hearing. The time at which briefs shall be filed and the number of copies required will be fixed at the close of the hearing by the Director or hearing officer.

008. Findings and order. Upon the completion of any hearing, the Director or hearing officer shall take the case under advisement. The Director will subsequently render his decision in the form of a written order, accompanied by findings of fact and conclusions of law. All parties to the proceeding and their attorneys of record shall be notified of said order in accordance with ~~Section~~ Neb.Rev.Stat. §84-915 R.R.S., 1943.

009. Appeal. Any party desiring to appeal an order of the Director shall do so in accordance with ~~Sections~~ Neb.Rev.Stat. §84-917 and §84-918.