

**FILED**

APR 02 2010

TRACIE R. LINDEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
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March 30, 2010

The Honorable Justices of the Nevada Supreme Court  
201 South Carson Street  
Carson City, NV 89701

ADICT 435

The Nevada Bankers' Association respectfully submits these written comments regarding the proposed rule changes to Nevada's Foreclosure Mediation program.

**Rule 1(2): Extend time period for conducting mediation from 90 days to 135 days.**

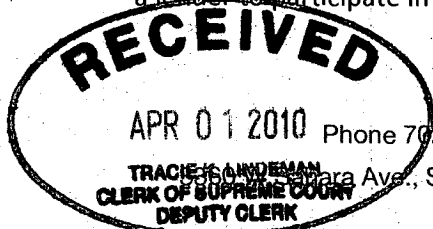
The NBA supports this change. In some instances, it is difficult for lenders to adequately prepare to conduct the mediation because several documents are required from the borrower and the lender to participate and these documents are not always forthcoming in a timely fashion. The time extension will allow the lender to more adequately prepare for the mediation and participate in good faith.

With that said, unnecessary delays in foreclosure proceedings frequently result in diminishing property values of the foreclosed real estate. Thus, it is important to continue expedited proceedings when possible. Rather than a blanket extension, if the parties are prepared to conduct a foreclosure mediation before the end of the original 90 days, we would encourage the mediators to schedule a mediation as soon as possible.

**Rule 5(8): Requiring legal representation to be licensed to practice law in the State of Nevada**

The NBA has some concerns regarding the language proposed in Rule 5(8). As we understand the language, if a lender is represented by outside legal counsel in the foreclosure mediation proceedings, the attorneys must be licensed to practice law in Nevada. However, if the individual representing the lender is not providing legal services to the lender, the lender's representative does not need to be a licensed Nevada attorney. Frequently, lenders will send their own personnel to conduct the foreclosure mediation proceeding. These individuals attend the mediation prepared with the lender's best offer for a loan modification. They do not provide any legal services or representation. However, it is possible that these individuals may be attorneys licensed in states other than Nevada. It is the NBA's interpretation of this rule that these individuals would not be precluded from representing the lender even though they are not licensed in Nevada.

If our interpretation is correct, the NBA can support this rule; however, if our interpretation is incorrect, the NBA would strongly oppose this proposed rule change. The rule would greatly increase the cost for a lender to participate in mediation.



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**Rule 7(2): Allowing Broker's Price Opinion (BPO) Letters in lieu of appraisal.**

The NBA is strongly supportive of this proposed rule. The use of BPO's will allow lenders and borrowers to discuss potential modification options in a quicker, less expensive manner. Rarely is the value of the real estate subject to foreclosure an issue that precludes a lender and borrower from agreeing to a modification. Requiring an appraisal of all real estate is time consuming and more expensive. Because the use of a BPO will reduce the time and cost of the mediation, the borrower and lender have a little more flexibility in agreeing to a modification. For these reasons, the NBA strongly supports this proposed rule.

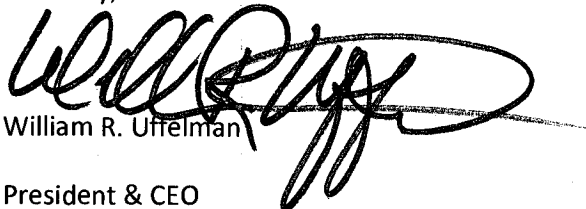
**Rule 9: Temporary Modification Agreements; New Mediation.**

The NBA supports the concept enumerated by Rule 9, but believes there may be less onerous alternatives to this proposed rule. We should distinguish between loans modified under the Home Affordable Modification Program (HAMP) and loans modified under lender sponsored programs. For example, a lender sponsored modification program might stretch loan amortization from 30 years to 40 years and reduce the interest rate for many months before a scheduled increase in the interest rate. While there will be a change of terms in the future, they will be known at the time of the mediation. In other words the changes are temporary but the future is certain and agreed at the mediation.

HAMP requires that a lender and borrower enter into a temporary modification and that the borrower make 3 consecutive monthly payments under the plan. These temporary modifications allow the lender to apply for HAMP subsidies and for the borrower to complete documentation required by HAMP. Unfortunately, due to the large number of applications under the HAMP program and difficulty processing all of the documents necessary for HAMP funding, lenders are often not able to get approval from the Federal Government within 90 days. Thus, lenders are unable to make such temporary modifications permanent. Rather than allow borrowers to reinstitute a mediation proceeding, it may be easier to allow the Supreme Court to retain jurisdiction over loans temporarily modified under HAMP until they become permanent.

Thank you for your consideration of these comments. The members of the Nevada Bankers Association are making a concerted effort to ensure Nevada's Foreclosure Mediation program remains successful.

Sincerely,

  
William R. Uffelman

President & CEO