

CALIFORNIA GAMBLING CONTROL COMMISSION

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Initial Statement of Reasons

California Code of Regulations, Title 4. Business Regulations
Division 18. California Gambling Control Commission
Security Interests and Secured Transactions

The Gambling Control Act¹ provides the California Gambling Control Commission (hereafter, "Commission") the authority to issue licenses concerning gambling operations at gambling establishments.

The Gambling Control Act is "an exercise in the police power of the state for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate those purposes."² The Legislative Findings and Declarations of the Gambling Control Act, Business and Professions Code, section 19801, subdivision (f), states:

Public trust that permissible gambling will not endanger public health, safety, or welfare requires that comprehensive measures be enacted to ensure that gambling is free from criminal and corruptive elements, that it is conducted honestly and competitively, and that it is conducted in suitable locations.

The Commission is tasked with carrying out this legislative intent by ensuring that there is no material involvement, directly or indirectly, with a licensed gambling operation, or the ownership or management thereof, by unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.³

The Commission is therefore proposing the following regulation to make sure that gambling establishments are not being influenced in any way by unlicensed interests that might be inimical to the public health, safety, or welfare.

¹ Business and Professions Code, section 19800 et seq.

² Business and Professions Code, section 19971.

³ Business and Professions Code, section 19823, subdivision (a)(2).

12355. Request for Approval Regarding Security Interests and Secured Transactions

Acknowledgements are included to ensure that the creditor is aware of the restrictions of the Gambling Control Act.

Often, secured transactions will be in the form of loans to a gambling establishment. These loans may be to purchase the establishment. In this case, the Commission wishes to process the purchase agreement and loan together, and to know how the establishment is proposed to operate. The Commission is requiring this information in this regulation because questions regarding purchaser identity and transaction details emerge frequently.

Processing times are included to aid the public in planning. Times indicated are based on the experiences of the Commission.

The Gambling Control Act mandates that those individuals who control – directly or indirectly – or have material involvement with a gambling establishment be licensed by the Commission. Therefore, a secured transaction needs to be reviewed. In instances where there is an institutional investor (a large bank, perhaps), the risk of involvement with the operation of the gambling establishment is minimized, and a set of exemptions is proposed to eliminate the possibility of over-regulating in this area. Also, if a creditor is already licensed, that creditor has submitted to fingerprinting and background investigations previously and found suitable, so the Commission is not requiring additional approvals. Likewise, the Commission is exempting from review secured transactions by the licensee which are unrelated to the gambling establishment or concern property which may be repossessed, but whose default does not entitle the creditor to become involved in the operation of the establishment.

Copies of the transactions need to be submitted to the Commission so that staff may ensure that transactions are correctly exempted and, if not, process the transaction according to the regulation.

An exemption may be lost, either by amendment or assignment or change in the status of the creditor. For instance, a loan from an owner licensee of a separate gambling establishment could have qualified as exempt when consummated. However, if the lender let his or her license expire, the exemption would also lapse and both owner licensees need to notify the Commission of that fact.

The Commission also reserves its authority to approve unsecured transactions in circumstances in which the Commission determines that the lender or creditor has the power to exert significant influence over the gambling operation.

Required Determinations

LOCAL MANDATE

These regulations do not impose a mandate on local agencies or school districts.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATIONS AND REASONS FOR REJECTING THOSE ALTERNATIVES.

The Commission is not aware of any reasonable alternatives that would as effectively achieve the Commission's regulatory purpose under the Gambling Control Act.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES

The Commission is not aware of any reasonable alternatives that would lessen any adverse impact on small businesses.

IMPACT ON PRIVATE PERSONS

The Commission is not aware of any reasonable alternatives that would be more effective or as effective and less burdensome to private persons.

IMPACT ON BUSINESS

The Commission has made a determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.