

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING
CONCERNING
MINIMUM INTERNAL CONTROL STANDARDS (MICS)
FOR GAMBLING ESTABLISHMENTS:
CHECKS, CREDIT AND ATMS**

CGCC-GCA-2009-05-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the action proposed at a public hearing to be held at 10:00 a.m. on July 21, 2009, at 2399 Gateway Oaks Drive, First Floor Hearing Room, Sacramento, CA 95833-4231.

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period, or may be received by the Commission at the above referenced hearing. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on July 21, 2009**. Written comments not submitted at the hearing should be directed to one of the individuals designated in this notice as a contact person. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 19811, 19823, 19840, 19841(g), 19841(o), 19841(q), 19901, 19905 and 19920 of the Business and Professions Code; and to implement, interpret or make specific Sections 19801, 19841(g), 19841(o), 19841(q), 19901, 19905 and 19920 of the Business and Professions Code; the Commission is proposing to adopt the following changes to Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The Gambling Control Act (Act)¹ provides the Commission with jurisdiction over controlled gambling and all activity that is related to the conduct of controlled gambling. The Act assigns the Commission with the responsibility of assuring that gambling licenses are not issued to, or held 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.² In particular, Business and Professions Code section 19801(n) is a statement of legislative intent, wherein the legislature declares that keeping records of cash and credit transactions may be helpful in criminal and regulatory investigations. Further, the Commission is tasked to adopt regulations, which, among other things, would govern the extension of credit, the cashing, deposit and redemption of checks or other negotiable instruments, and the verification of patron identification in monetary transactions.³

Industry representatives have indicated to the Commission that allowing patrons to use checks or lines of credit minimizes the amount of cash a patron carries and therefore should be allowed for reasons of personal security (preventing such ills as “follow-home robberies”). The Legislature clearly contemplated allowing checks to be cashed and extensions of credit by mandating the Commission to adopt regulations regarding such and by mandating gambling establishments (cardrooms) to forward copies of all dishonored or uncollectible checks to the Bureau of Gambling Control (Bureau) on a quarterly basis.⁴

SPECIFIC PROPOSAL:

Section 12388 was originally adopted by the Commission at a meeting on January 8, 2009. At that meeting, it was agreed that this regulation would not take effect until July 8, 2009. This delay in effective date was to allow time for the gaming industry to adjust to the requirements of the regulations, and for Commission staff to develop minor changes to the regulations that were requested by the gaming industry at the January 8th meeting.

These proposed regulations fulfill the Commission’s commitment to consider various cleanup amendments to Section 12388 relating to credit and check cashing.

¹ Business and Professions Code, section 19800 et seq.

² Business and Professions Code, section 19823

³ Business and Professions Code, sections 19841 and 19905

⁴ Business and Professions Code, subsections (d), (g) & (q) of section 19841

EXISTING LAW:

Section 12388(a) currently prohibits cardrooms from extending credit to a gambling business or third party provider of proposition player services (TPPS), when that credit is to be used to play a game that has a player-dealer position.

Section 12388(a)(2) currently requires licensees, prior to extending credit to a patron, to ensure that the patron is credit worthy by assessing the patron's credit information on a credit application, credit report, or previous credit transaction.

Section 12388(a)(6) currently requires that a copy of any consumer credit report obtained by the licensee be kept on file with the cardroom.

Section 12388(c) currently prohibits cardrooms from extending additional credit to a person who is delinquent in their existing loan payments by more than 90 days.

Section 12388(f) currently prohibits a cardroom from allowing a patron to redeem, reclaim or repurchase an un-deposited personal check and replace it with another personal check, unless the patron is approved for credit and the amount of the check to be replaced is within the patrons approved credit limit.

Section 12388(g)(1)(E) currently requires that checks be made payable to the cardroom; or in the case of a third party check, endorsed over to the cardroom.

Section 12388(g)(2) currently states that, if a cardroom cashes checks for patrons, they must examine an unexpired government-issued photo identification of the patron. If the patron has not been approved for credit, identification information must also be recorded. If the patron's identification information is already on file with the licensee, which includes a *photo* of the patron, then retrieval and examination of this file would satisfy the provisions of this paragraph.

EFFECT OF REGULATORY ACTION:

This proposed action is for the purpose of fulfilling a commitment to the gaming industry to consider clean up amendments to Section 12388. These amendments strive to accommodate industry concerns, while simultaneously allowing the Commission and the Bureau to achieve their oversight responsibilities under the Act.

This proposed action will make changes in Chapter 7 of Division 18 of Title 4 of the California Code of Regulations. Specifically, Article 3 of Chapter 7 would be amended as follows:

The amendments to Section 12388(a) would specify that credit prohibitions apply to an *owner, supervisor, player or other employee* of a gambling business or TPPS, and only when the TPPS is under *contract* with that cardroom. These changes would also specify that a cardroom cannot extend credit to a house prop player when the credit is to be used in a game with a *player-dealer position*.

The amendments to Section 12388(a)(2) would clarify that a cardroom must *verify* applicant information and *assess* the applicant's credit worthiness before granting credit to a patron. These changes would also allow a cardroom to use the *previous credit transactions* method of approval *only* when a patron actually has a credit history with that cardroom. Finally, these changes would delete the word *positively* when referring to the requirement that the cardroom identify credit applicants.

The amendments to Section 12388(a)(6) would require that a copy of a patron's credit report be kept on file with the cardroom: only if the credit report option, pursuant to subparagraph (B) of paragraph (2), was used to approve the credit; and only for as long as that patron's credit account is open.

The amendments to Section 12388(c) would require that a determination of payment delinquency be based on the terms of the *original credit agreement*, preventing the cardroom from changing the terms to avoid a delinquency.

The amendments to Section 12388(f) would allow cardrooms to accept a replacement check for up to two days from the time the original check was written, without credit approval. These changes would also permit patrons to replace *dishonored* checks, without a time limit.

The amendments to Section 12388(g)(1)(E) would delete the requirement that a check be made payable to the cardroom. This change would leave subparagraph (E) with only the requirement that third party checks be endorsed over to the cardroom, allowing regular checks to be made payable to *cash*.

The amendments to Section 12388(g)(2) would delete a requirement that a patron's identifying information retrieved from the cardroom's files contain a *photo* of the patron. These changes would also exempt the cardroom from examining photo identification if the patron is already approved for either credit or *check cashing*.

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

None.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

MANDATE IMPOSED ON LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

COST TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

IMPACT ON BUSINESS:

The Commission has made an initial 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.

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

Some cardrooms may have to modify their internal policies or control mechanisms to comply with these regulations, but this one-time cost would be minimal. Many cardrooms already have compliant rules in place or are forbidden from offering credit by local ordinance, so no additional costs would be incurred as a result of these regulations.

EFFECT ON HOUSING COSTS:

None.

EFFECT ON SMALL BUSINESS:

Some cardrooms may be small businesses; the cost effect on these cardrooms are the same as that addressed under "Cost Impact on Representative Private Person or Business."

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Web site listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Regulatory Actions Manager
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-4024
Fax: (916) 263-0499
E-mail: Jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Joy Calkin, Staff Services Analyst
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-0700
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WEB SITE ACCESS

Materials regarding this proposed action are also found on the Commission's Web site at www.cgcc.ca.gov.