CALIFORNIA GAMBLING CONTROL COMMISSION

INITIAL STATEMENT OF REASONS

CGCC-GCA-2009-05-R

HEARING DATE: July 21, 2009

SUBJECT MATTER OF PROPOSED REGULATIONS: Minimum Internal Control Standards (MICS) for Gambling Establishments: Checks, Credit and ATMs.

SECTIONS AFFECTED: **California Code of Regulations, Title 4, Division 18, Chapter 7, Article 3,** Amend Section 12388.

SPECIFIC PURPOSE OF REGULATORY PROPOSAL:

Introduction:

The Gambling Control Act (Act)[1] provides the California Gambling Control Commission (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 Division of Gambling Control on a quarterly basis.[4]

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[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

These proposed regulations would make amendments to Section 12388 within Title 4, relating to the extension of credit and the cashing of patron checks.

Background:
Section 12388 was originally adopted by the Commission on January 8, 2009. These regulations were subsequently approved by the Office of Administrative Law and filed with the Secretary of State on March 10, 2009. Under normal circumstances, the regulations would have taken effect 30 days after this filing, on April 8th, 2009. However, at the Commission's hearing on January 8, 2009, it was agreed that these regulations would not take effect for an additional three months, making the regulations effective on 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.

An informal public comment period on these proposed changes to Section 12388 was held from March 17, 2009 through March 27, 2009. In addition, public comments were accepted at a Commission meeting on May 20, 2009. The resulting public comments and recommendations have been considered in the drafting of these proposed regulations.

Proposed Action:
This proposed regulatory action amends existing Section 12388 by providing the following clarifying details concerning the extension of credit and check cashing:

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. These amendments would specify that these 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*. These amendments help to further refine and clarify the terms under which the extension of credit is prohibited.

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. These amendments would better clarify that the cardroom must *verify* patron information and *assess* the patron's credit worthiness. 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. These amendments help to satisfy industry recommendations that the credit application process include a verification of patron information and an actual assessment of their credit worthiness. They also help to clarify that the *previous credit* option for credit approval be used only when the applicant actually has a credit history with the cardroom.

Section 12388(a)(6) currently requires that a copy of any consumer credit report obtained by the licensee shall be kept on file with the cardroom. These amendments 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 kept only for as long as that patron's credit account is open. This helps to clarify that copies of credit reports must be kept on file only when they have been obtained using the *credit report* option for credit approval.

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. These amendments would require that the 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.

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. These amendments 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. These amendments help to align subsection (f) with other regulations that require cardrooms consider a check an extension of credit if it is not deposited within three days (re. § 12388(e)). These amendments would also help to reduce cardroom debt by allowing patrons to replace checks that have been dishonored by the bank, without going through a credit approval process.

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. These amendments 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*.

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 paragraph (2). These amendments would delete the requirement that the 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*. These amendments help to further refine, clarify and simplify the requirements for patron identification when cashing checks.

In general, these proposed amendments have been drafted in an attempt to further establish and/or refine uniform procedures and standards. These amendments strive to accommodate industry concerns, while simultaneously allowing the Commission and the Bureau of Gambling Control (Bureau) to achieve their oversight responsibilities under the Act. Perhaps more importantly, the proposed action is intended to assist cardrooms in safeguarding their assets,

protecting patrons and their property, and maintaining the integrity of games and gaming. These proposed amendments also help to establish realistic baselines for cardroom operation, by requiring that licensees implement specified written policies and procedures that regulate the extension and collection of credit and the cashing of patron checks. Establishing baseline standards help to ensure consistency and uniformity.

UNDERLYING DATA:

Technical, theoretical or empirical studies or reports relied upon: None.

BUSINESS IMPACT:

The Commission has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

The proposed regulatory action does not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to the regulation would be either 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 regulation.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

No reasonable alternative has been considered or otherwise identified and brought to the attention of the Commission.