**CALIFORNIA GAMBLING CONTROL COMMISSION**

# INITIAL STATEMENT OF REASONS

**CGCC-GCA-2009-08-R**

**HEARING DATE:** No Hearing Scheduled.

**SUBJECT MATTER OF PROPOSED REGULATIONS:** Portable Personal Key Employee Licenses.

**SECTIONS AFFECTED:** California Code of Regulations, Title 4, Division 18, Sections 12008, 12335, 12340, 12342, 12343, 12344, 12345, 12346, 12347, 12348, 12350, 12351, 12352, 12353, 12354 and 12355.

## SPECIFIC PURPOSE OF REGULATORY PROPOSAL:

**INTRODUCTION:**

The California Gambling Control Commission (Commission) is proposing to adopt regulations that would implement Senate Bill 730 by Senator Florez (SB 730)[1] as it relates to establishing portable personal key employee licenses. Under the provisions of this bill, a key employee license entitles the holder to work as a key employee in **any** key employee position at **any** gambling establishment, provided the key employee terminates employment with one gambling establishment before commencing work for another. The bill requires the Commission to establish a program for portable personal licenses for key employees. The bill also requires the schedule of fees to distinguish between initial and renewal licenses with respect to costs and charges.

The proposed action would amend sections in Chapter 1 and Chapter 6 of Division 18 of Title 4 of the California Code of Regulations to separate the key employee license requirements from the gambling license requirements for owner-licensees. The proposed action also creates a new Article 3, entitled "Portable Personal Key Employee License" and new Sections 12350, 12351, 12352, 12353, 12354, and 12355 that describe the requirements for interim, initial, renewal, and replacement of portable personal key employee licenses, including the required forms, documentation, and processing times. The application fees are being added to Section 12008. Several sections would be combined and renumbered to provide consistency and to allow for additional sections for future regulations. Other sections are renumbered and amended to conform to the separation of key employee license requirements from the gambling license requirements.

[1] Chapter 438, Statutes of 2007.

**BACKGROUND:**
Prior to the enactment of SB 730, the Gambling Control Act (Act)[2] required that licenses issued to key employees be for specified positions only and that those licenses be endorsed on the owner's gambling license.[3] Key employee renewal applications were also required to be included with those of the gambling establishment, in a single package. In addition, state law required that the key employee's license application fee be assessed against the gambling license issued to the owner of the gambling establishment.[4]

SB 730 provides that key employee licenses are independent of the gambling establishment employer's license by creating a portable key employee license that can be used from job-to-job. As a result, key employees are responsible for maintaining their own licenses. In addition, gambling establishment owners who might have paid the key employee license fees in the past may decide not to continue that practice. Prior to SB 730, the application fee to renew a license for a term of one year was $500. This same application fee was also assessed each time the key employee changed from one employer to another. Although, the application fee increased from $500 to $750 in a previous rulemaking,[5] key employee licenses are now valid for a period of two years; therefore, the fee was reduced by 25%, which should help to ease the transition for key employees who must pay the fee themselves.[6]

SB 730 required the Commission to establish and implement a program for portable personal key employee licenses on or before July 1, 2008.[7] The Commission initiated the program by continuing to utilize existing key employee application forms and procedures. In order to implement the program and issue portable personal licenses, key employees were requested to provide a 2x2 inch color passport-style photograph to the Commission. Key employees were then issued licenses with their same expiration date and their names were subsequently removed from the endorsement on the owner-licensee's gambling license.

Since the implementation of the program several items were identified that needed to be developed in regulations. These items include a method for key employees to notify the Commission when they leave one employer to work for another and requests for a replacement license in the event the key employee license is lost, stolen, damaged, or due to a change in name. Current regulations commingle the licensing requirements for gambling establishment owners and key employees; therefore, these proposed regulations separate the two license types. In addition, amendments were made to the interim key employee regulations to provide consistency with the key employee license process and to further enhance the purpose of the regulation that was established in 2007 in a separate rulemaking file.[8]

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[2] Business and Professions Code, section 19800 et seq.
[3] Business and Professions Code, section 19951, subdivision (a), as written prior to SB 730.
[4] Business and Professions Code, section 19951, subdivision (b), as written prior to SB 730.
[5] California Code of Regulations, Section 12340, subsection (c), adopted in regulatory action file No. CGCC-GCA-2007-R-3 (OAL File No. 2008-0904-03 S).
[6] The employer is not precluded from paying the fee on behalf of an employee.
[7] Business and Professions Code, section 19854, subdivision (d).
[8] California Code of Regulations, Section 12347, adopted regulatory action file No. CGCC-GCA-2007-R-4 (OAL File No. 2007-1012-03 S).

**PROPOSED ACTION:**
This proposed action would make the following specific changes to Division 18 of Title 4 of the California Code of Regulations:

**Chapter 1, Section 12008**

Section 12008 (b) would be amended and paragraphs (1), (2), and (3) would be added, which would prescribe the key employee fees for an interim license, an initial and a renewal license, and a replacement license. The initial and renewal license fees remain unchanged. The fees for the interim key employee license and replacement license are established to cover the Commission's cost to process the request and to create a new license. The $25 fee is comparable to the fee assessed for a replacement work permit badge in Section 12140.

These changes are being proposed and placed in Section 12008 (b) so that all application fees are conveniently located in one regulation. This also separates the gambling license fees from the key employee license fees.

**Chapter 6**

The title of Chapter 6 would be amended by deleting the word "state" when referring to gambling licenses and to reflect the addition of portable personal key employee licenses. Business and Professions Code section 19805 defines both "gambling license" and "state gambling license" as having the same meaning; therefore, the use of the word "state" was found to be unnecessary.

**Article 1, Section 12335**

Section 12335 would be amended by adding paragraph (2) to subsection (b) to define "portable personal key employee licenses" or "key employee licenses."[9]

A definition did not exist in regulations for a "portable personal key employee license." This subsection defines "portable personal key employee license" or "key employee license" as having the same meaning. This is necessary to carry out the provisions in SB 730 to make the key employee licenses portable so the key employees would not have to reapply for a new license each time they change employment.

**Article 2**

The title of Article 2 would be amended from "Licensing" to "Gambling Licenses." The regulation provisions applicable to gambling licenses and key employee licenses are being divided between two separate articles.

Article 2 would be amended to specify only the requirements for obtaining a gambling license as follows:

**Section 12340**

Section 12340 would be amended to delete the references to key employee licenses, to delete "state" in reference to gambling licenses, to delete subsection (b), and to renumber the subsections accordingly.

**Section 12342**

The title of Section 12342 would be amended to include "Processing Times." The processing times are being moved from Section 12343 and combined with Section 12342

[9] Business and Professions Code, section 19805, subdivisions (w) and (ac), as amended by SB 730.

in order to include this topic with the initial application processing and to provide an additional section for future regulations.

- Subsection (a) would be amended to delete all references to forms specifically required for key employee licenses. This section would continue to include forms required for gambling licenses and the subsections would be renumbered accordingly. In addition, amendments would be made to the California Department of Justice's revision date for the Request for Live Scan Service form from "Rev. 04/01" to "Rev. 03/07" and to the Internal Revenue Service's Request for Transcript of Tax Return IRS 4506-T form from "Rev. April 2006" to "Rev. 01/08."
- Subsection (b) would be added which was previously Section 12343, "Processing Times – Initial Applications." The language from Section 12343 is being moved to subsection (b) of Section 12342 to combine this topic and to make Section 12343 available for future regulations. Subsection (b) would be amended to delete all references to processing times for an initial application for a key employee license. This section would only refer to requirements for an initial application for a gambling license. All references to any forms required for an initial application for a key employee license would be deleted.

**Section 12345**

Section 12344 would be renumbered as Section 12345 and the license renewal application requirements and processing times would be combined into one section. In addition, this section would be amended to specify the requirements for license renewals for a gambling license and any forms or references concerning a key employee renewal license would be deleted.

Paragraph (4) of subsection (e) would be amended to change the reference to the Bureau's written "recommendation" to "report" and language would be added that indicates the report may include a recommendation pursuant to Business and Professions Code section 19826, subdivision (a). This amendment is intended to provide clarification of existing statutory provisions.

The current language of paragraph (4) appears to require that the Bureau make a recommendation to the Commission concerning license *renewal* applications in all cases. However, in the case of a license renewal, for which a background investigation is normally not done, a recommendation is unnecessary. Thus, the proposed language of paragraph (4) has been changed to delete the requirement for a recommendation, requiring, instead, a report and specifying that the report may or may not include a recommendation.

The proposed amendments to paragraph (4) will clarify that recommendations are necessary in connection with a license renewal application only in those instances where the Bureau finds that denial or limitation, conditioning, or restriction of the license is appropriate.

**Section 12346**

Section 12348 would be renumbered as 12346 and any reference to mandatory and discretionary grounds for denial of an application for a key employee license would be deleted. These amendments are necessary to delete any references to key employee

licenses since they are now addressed in later sections. These proposed changes would clarify the regulations in that all sections in Article 2 would only relate to requirements for obtaining a gambling license.

**Article 3**

Article 3, referring to "Table Fees," would be amended to become Article 4.

This article would be moved to allow the licensing requirements for key employees to follow those of the gambling licenses for clarity purposes.

A new Article 3 would be added to contain the requirements for portable personal key employee licenses and titled accordingly. The new sections included under this article are described as follows:

**Section 12350**

Section 12350 would be added to include the licensing requirements for obtaining an initial portable personal key employee license, including the required forms, documents, and application processing timeframes. These requirements are similar to the previous licensing regulations in regard to key employees that were located in Sections 12340, 12342, and 12343. The following requirements will be contained in Section 12350:

- Subsection (a) would be added to specify that a valid key employee license is required to be associated with a gambling enterprise, except as provided for in Business and Professions Code section 19883 and Section 12354. This is necessary to specify that a valid key employee license is required or that interim key employees pursuant to statute or regulations are the only individuals who may be associated with a gambling enterprise that perform key employee duties.
- Subsection (b) would be added to indicate a key employee license is valid for two years. Also, in the case where an interim key employee license is issued pursuant to Section 12354 the initial key employee license will only be valid for the unexpired term of the interim license. This will provide a simple way of transitioning from an interim key employee license to a regular key employee license.
- Paragraph (1) of subsection (c) would require an individual applying for a key employee license to submit an "Application for Gambling Establishment Key Employee License CGCC-031 (Rev. 08/09)." This form was originally incorporated by reference in Section 12342; however, it is being attached as Appendix A and moved to Section 12350. The revisions made to the form in order to conform to the requirements of SB 730 are described below.

  - **Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 08/09)**

    1) The header and footer information would be reformatted to be consistent with other recently adopted Commission forms.
    2) The introduction paragraph would be edited to conform to the new statutory language added in SB 730.
    3) A new requirement that a two inch by two inch color passport-style photograph be included with the application was added. This is necessary to create the licenses, which include a photograph of the key employee.

4) In Section 3 of the form, question 1 would be reworded into two additional questions, which are now questions 3 and 4. This was done to provide clarity in the questions, so that accurate responses are received. This is also consistent with other Commission license applications that request the same information.
5) Section 4 would be amended to make it clear that a key employee may designate someone to represent them and that completion of the section is optional.

**Section 12350 (Continued)**

- Paragraph (2) of subsection (c) refers to the application fee for a key employee license. The fee amount remains unchanged.
- Paragraph (3) of subsection (c) would require the key employee applicant to submit a two inch by two inch passport-style photograph taken no more than 30 days before the submission to the Commission. This is required in order for the Commission to create the license that contains the photograph of the key employee.
- Paragraph (4) of subsection (c) incorporates by reference the form "Key Employee Supplemental Background Investigation Information, BGC-APP. 016A (Rev. 08/09)." This form was deleted from paragraph (6) of subsection (a) of Section 12342 and moved to this section. The form would be amended with non-substantive changes except for the changes described below.

➢ **Key Employee Supplemental Background Investigation Information Form BGC-APP. 016A (Rev. 08/09).**

**Page 1 – Introductory Paragraphs**

The header was deleted from the first page, as it is not necessary to be located on the first page. The title of the supplemental form was revised to omit the words "Gambling Establishment."

Paragraph 1 was revised to remove the words "gambling establishment," to be consistent with the revised title of the form. The second sentence was deleted due to SB 730 making the key employee licenses portable and independent of the gambling establishment; therefore, the sentence is no longer consistent with the statutory language.

Paragraph 3 was revised to add the instruction to applicants to use a separate sheet of paper if additional space is needed to provide a complete explanation. By adding this as part of the instructions it eliminates the need to repeat this throughout the form. The statement that applications which are not complete will be returned to the applicant was deleted. This language was determined to be unnecessary.

Paragraph 4 was revised to add the specific name of the application form and to specify that both the application form and supplemental information package be mailed to the Commission. The Commission's suite number was amended to reflect the correct suite. Additional information is also now being requested on the front page, including the name of the employer and the job title of applicant. These are being requested in order to have vital information on the front page of

the supplemental information form. An additional instruction is also added to the front page which requests the applicant to print his/her name on the back of their photograph. This is necessary to ensure that the photograph can be matched to the applicant in the event it becomes detached from the form.

**Page 2**

The instructions were deleted since they are now located on the front page of the form.

**Section 1: Personal Information**

This section has been amended by adding fields to better identify the applicant including, alias information, current address, telephone numbers, date of birth, social security number, and gender in the event the Supplemental form and the Application for Key Employee License (CGCC-031) were to get separated.

The question regarding what other country of citizenship has been deleted along with their naturalization certificate number, and the date and place they were naturalized. Applicants are already required to provide a copy of their naturalization document, so the information has been revised to delete any redundant information.

Language was added that now requests the applicant to provide the I.N.S. registration number, "INSA" number, or USCIS "A" number. This amendment is necessary to provide the correct name of the document used by the Immigrations and Customs Enforcement Agency.

A statement regarding the requirement to provide the applicant's social security number is added to reference the authority the Bureau has to obtain this information.

The questions regarding family members involved with gaming in California was moved to Section 2 since it was determined to be a more appropriate place to request the information.

**Section 2: Family/Cohabitants Information**

The title of this section was changed from "Marital Information" to "Family/Cohabitants Information." This was found to be a more appropriate title since the information requested in this section includes family members, cohabitants, and roommates.

A request to provide the state in which a divorce from a former spouse was filed has been added. This assists the Bureau with the proper identification of the spouse for tax identification and financial background purposes.

The question that previously requested the applicant to disclose any family member working in any position at any gaming facility in California is revised to now include immediate family members, cohabitants, or roommates, who have a financial interest in or are employed by a gaming related business. The question also requests the percentage owned, which would be applicable if the individual had a financial interest, and the name of the business. Expanding this question to include cohabitants and roommates allows for identification and investigation by

the Bureau, if needed, of those individuals who are related to or residing with the applicant, who may be involved in a gaming business and thereby present potential conflicts of interest.

The request for the address and name of the individual and the supervisor's name was deleted, as it was no longer considered necessary and did not provide pertinent information in the investigation process.

A request for information regarding children and dependents has been added. The information now requests the name, date of birth, residence address, and relationship of any children and dependents. This information assists the Bureau with the proper identification of the applicant's children and dependents for tax and financial background purposes (e.g., potential sources of income and/or liabilities.)

**Section 3: Residences**

This section has been amended to provide an additional 5 years of information and to provide more clarity. Additional information has been added requesting the country the applicant lived in (if applicable) and whether the applicant owned or rented the dwelling. This additional information provides the Bureau with more background information, including financial background and in determining assets or liabilities, as well as in verifying taxes owed. It also enables the Bureau to verify if the applicant has resided outside of the United States.

**Section 4: Experience and Employment**

The instructions were amended to provide more clarity. In addition, information regarding volunteer activities is no longer required to be included since it was determined it is not pertinent to the background investigation. The request for the applicant's job title was combined with the duties and the request for the applicant's assignment was deleted. This section now specifies that an applicant provide an explanation if terminated from employment. This assists the Bureau when conducting the background investigation when considering whether the circumstances pertain to the past behavior and character of the applicant.

**Section 5: Military Experience**

This section was amended for clarity. It now asks the applicant to provide a copy of his/her "undeleted" Military Form DD-214 and further indicates that the copy is complete with no information blacked out. There are two versions of the DD 214, usually referred to simply as "short" (edited or deleted) copy and "long" (unedited or undeleted) copy. Service members receive both versions of this form when they are discharged. The long (undeleted) form includes the narrative reason for discharge, the discharge characterization, the three-letter or three-number discharge code corresponding to the reason for discharge, and a reenlistment code. This information is not included on the short (deleted) form. By obtaining the "undeleted" DD-214, it assists the Bureau when considering the past behavior and character of the applicant. The edited or "deleted" copy omits a great deal of information, thus the unedited or undeleted copy is generally desired by employers

The question about service in any branch of the U.S. armed forces was changed to delete "any branch of." The branch of service was found to be unnecessary. "Country of Service" was also deleted because it might be confusing if the applicant served in another country's armed services. The Bureau does not need to know if the service was other than the U.S. armed forces.

In the section that requests the applicant's "service number" an option to provide an "SSN" was added. The military does provide service numbers; however, they may be a distinct number or they may be the member's social security number.

The request to provide any disciplinary action taken while in the military was amended and now only requests disclosure of information that pertains to any court-martial convictions. This information assists the Bureau when considering the past behavior and character of the applicant.

**Section 6: Convictions, Litigation, and Arbitration**

The title of this section has been amended from "Criminal History Information" to "Criminal Convictions, Litigation, and Arbitration." This was necessary to reflect the additional information now being requested in this section.

The instructions and the requested information were revised for clarity. The information being requested is the same except that it now asks the applicant to indicate whether each offense for which they were convicted was a felony or misdemeanor. This information assists the Bureau during the criminal background review.

The following new questions have been added to this section to capture potential disqualifying information during the background investigation:

1) "Have you ever been removed from or prohibited from entering the premises of any gaming or pari-mutuel wagering establishment by any government representative, agency, or gambling establishment?"

   This question helps the Bureau in identifying any derogatory information related to previous gaming activities.

2) "Have you ever been found in violation of any campaign laws?"

   This question will allow the Bureau to identify potential grounds for denial based on violations of campaign finance laws, as stipulated in Business and Professions Code section 19982.

The question regarding whether the applicant has ever been a party to any litigation or arbitration was previously located in Section 9, but has been moved to Section 6 since it is more appropriate.

**Section 7: Other Licensing Information**

The question regarding whether the applicant has ever held or applied for a permit, license, etc. was revised to include "registration" and "finding of suitability." It also instructs the applicant to include any actions taken by the Commission. This section clarifies that action taken means, "issued, denied, suspended, pending, withdrawn, revoked, other." In cases where the action was

denial, suspension, withdrawal, or revocation, the applicant is required to explain the circumstances. This information assists the Bureau when considering the applicant's prior conduct and behavior.

The question related to other licenses, permits, etc. was revised; however, the revisions are non-substantive and provide more clarity.

**Section 8 and 9: Business Interests (Gaming and Non-Gaming Related)**

Section 8 has been divided into two sections. Section 8 now only requests business interest information related to gaming and Section 9 was added to obtain business interest information that is non-gaming related. The information requested in Sections 8 and 9 is the same information as was requested before, but the two sections simply distinguish between gaming and non-gaming related business interests. A new request for information has been added to both sections, which now asks the applicant to identify the source of monies for the investments. This assists the Bureau during the background investigation regarding the applicant's prior gaming activities and associations, and helps to ensure that the funds were obtained through legal means.

**Section 10: Personal Financial History**

The title of Section 10 (previously Section 9), has been renamed to, "Personal Financial History." The questions in this section have been revised and reformatted for clarity. If the applicant has filed for bankruptcy within the last 10 years, the applicant is requested to provide a copy of the bankruptcy petition or order, bankruptcy case number (if known), a request for the amount of debt discharged, and an explanation regarding the circumstances is added. This information is necessary for the Bureau to conduct a financial background review of the applicant.

A new question has been added to this section regarding whether the applicant has been a party to a foreclosure within the last 10 years. If the applicant has, then he or she must provide information disclosing the address of the foreclosed property, the date of foreclosure, the name of the lender, the balance owed, and the circumstances that led to the foreclosure. This information is necessary for the Bureau to conduct a financial background review of the applicant.

The existing question regarding whether the applicant has had a judgment or lien filed against them within the last 10 years has been expanded by asking for the date filed, the name of the person or entity that filed the lien or judgment, and to explain the circumstances. In addition, if the lien or judgment has not been satisfied the applicant is requested to attach a copy of the payment plan or explain how the applicant plans to satisfy the lien or judgment. This information is necessary for the Bureau to conduct a financial background review of the applicant.

The question regarding whether the applicant has been a party to any litigation or arbitration has been moved from this section and is now located in Section 6.

A new question has been added regarding whether the applicant has had any purchase, unpaid debt, or loan turned over to a collection agency, or found to be

uncollectable within the last 10 years. If the applicant has, then he or she must provide the name of the creditor, type of action taken, date of the action, and the current amount of money owed. In addition, an explanation and a copy of the payment plan or any documentation on how the debt will be satisfied is requested. This information is necessary for the Bureau to conduct a financial background review of the applicant.

The questions regarding whether the applicant owns or controls any assets outside the United States has been revised to include whether they "manage" any assets or "liabilities." This section now requests a description of the asset or liability, the date acquired, and location. This information is necessary for the Bureau to conduct a financial background review of the applicant.

The former Sections 10, 11, and 12 have been deleted. The information is now requested in Schedule A.

**Section 11: Supporting Documentation Checklist**

This section advises the applicant that any documentation that is required must be submitted with the Supplemental form in order to be deemed complete. It also provides a listing of the documents and forms required. The required information has been rearranged and names of the forms or required documents have been revised and correspond with the information required in the prior sections.

Language has also been added that notifies the applicant that additional documentation may be required by the Bureau of Gambling Control (Bureau) and that the applicant is responsible for all costs incurred by the Bureau related to its background investigation pursuant to Business and Professions Code section 19867. It also advises that any monies received in excess will be refunded and that a license will not be issued until the required background deposit(s) and application fee have been received.

**Section 12: Declaration**

This section was previously Section 14 and has only been revised by requesting the applicant's signature before the printed full name.

**Additional Space**

This page has been deleted since the instructions direct the applicant to use a separate sheet of paper if needed.

**Schedules A – J (Assets and Liabilities)**

The schedules which request the applicant to disclose their assets and liabilities have been revised. In general, the following changes were made to the schedules where applicable:

- Schedules which request account numbers have been revised to specify only the last 6 digits of the account number be disclosed. This was found to be adequate to identify the account and adds a level of security for the applicant rather than requesting the full account number.
- Columns that request the interest rate information have been deleted. The Bureau has determined that this information is unnecessary.

- The statement that appears on the schedules referring to Page 7 of the supplemental form which corresponded to the asterisk was deleted since the information is no longer requested on Page 7.
- Rows were deleted on several of the schedules to allow for additional space to accommodate the placement of two schedules on one page.
- Several of the schedules were renamed due to schedules being deleted and added.

In addition, the following substantive changes were made to the schedules:

**Schedule A – Assets (Gross Annual Household Income)**

This information was previously requested in Section 10, which was deleted and moved to Schedule A. The information being requested is the same, but is being requested in a schedule format rather than a section within the supplemental form. A column was added for the applicant to specify other income or a spousal income for each income category type. The spousal income information was previously requested in Section 10; however, the amount was not specific to each category. This assists the Bureau when conducting the financial portion of the background investigation by identifying other sources of income and provides consistency with other Bureau forms.

**Schedule B – Assets (Cash)**

This schedule was previously titled Schedule A, but is revised to Schedule B. This section requests information regarding cash assets including where the funds are held. An example was added to include disclosure of whether the cash is located at their house/office. This change provides consistency with the question regarding the exact location of the cash, in the event cash is not held in a bank or investment account.

**Schedule D – Assets (Accounts and Notes Receivable)**

Schedule D was previously titled, "Business Investments;" however, this information is no longer needed in a schedule format as it is now requested in Sections 8 and 9 of the supplemental form.

Language was added which specifies that "notes receivable" are monies owed to the applicant. In addition, this section now requires the applicant to submit copies of the loan agreements for loans between private parties that are not secured through a financial institution. This assists the Bureau during the financial background and to identify private parties that are providing funding to the applicant.

The last column was revised to delete the word "unpaid" and to now instead request the balance and the date. This assists the Bureau in determining how current the information is.

**Schedule E – Assets (Real Estate)**

This schedule now requests the amount of the down payment and requests the applicant to identify the source of the funds for the down payment. This is necessary to ensure that the funds were obtained through legal means.

**Schedule G - Liabilities (Accounts Payable)**

The request for the applicant to include information regarding leases on this schedule has been deleted. This information should now be provided on Schedule I.

**Schedule I – Liabilities (Notes Payable)**

The language has been revised to specify that all loans, leases, and notes should be disclosed. The column titled, "Collateral" has been deleted as it was found to be unnecessary. The disclosure of loans and leases ensures that the Bureau is informed of all types of notes payable, and thus assists in reviewing the applicant's financial background.

The authority to make the revisions to the supplemental information form is contained in Business and Professions Code sections 19811, 19824, 19826, 19827, 19841, 19850, 19851, 19854, 19856, 19857, 19859, 19865, 19866, and 19867.

**Section 12350 (Continued)**

- Paragraphs (5) and (6) of subsection (c) are forms that were previously required to be submitted by key employees and are listed in this section for clarity. These forms are general forms used for various license types and are incorporated by reference in Section 12342.
- Subsection (d) establishes the application and supplemental information processing timeframes. There were minimal changes from the previous regulations which were located in Sections 12342 and 12343.
- Paragraph (1) provides the Commission five working days for the initial review and response to the applicant as to whether the application is complete or deficient. This timeframe was previously 20 days; however, five days for this initial review was determined to be adequate for key employee applications. The initial application processing timeframes are adequate and reasonable to process a key employee application.
- Paragraph (2) provides the Commission five days to forward the key employee application package to the Bureau from the date that the Commission determines the application is complete. This is an adequate timeframe for this task.
- Paragraph (3) provides the Bureau 30 days to review the supplemental information submitted and notify the applicant if the information is complete or deficient. This timeframe is the same as the previous regulation in Section 12343 and is adequate to review the information.
- Paragraph (4) provides that the Bureau must submit a recommendation to the Commission within 180 days after the date the Bureau determines the supplemental information is complete and is in receipt of a completed application. In addition, this paragraph provides that the Bureau shall notify the applicant and Commission if additional time is needed and an approximate date the investigation is expected to conclude. The timeframe remains the same as the previous regulation in Section 12343.
- Paragraph (5) provides that the Commission shall grant or deny an application within 120 days after receiving the final recommendation from the Bureau. The

Commission can notify the applicant if additional time is needed, but not to exceed 30 days. This timeframe is the same as the previous regulation in Section 12343.

- Subsection (e) provides that the processing times may be exceeded if the applicant agrees to the extension of time or if the Commission must rely on another public or private entity for processing. This is consistent with the previous regulation in Section 12343 and allows for additional time in certain instances.

The requirements in this section conform to the provisions in SB 730 and are consistent with the previous regulations that were located in Sections 12340, 12342, and 12343.

**Section 12351**

Section 12351 would be added to describe the license renewal requirements for portable personal key employee licenses, including the required forms, documents, and timeframes. There were minimal changes to the previous regulations that were located in Sections 12344 and 12345.

- Paragraphs (1) and (2) of subsection (a) indicate that an application and nonrefundable fee must be submitted to the Commission. The amount of the fee is unchanged.
- Paragraph (3) of subsection (a) indicates that the key employee submit one two inch by two inch color passport-style photograph taken no more than 30 days before the submission of the application for renewal to the Commission. This is necessary for the Commission to create the license that contains the photograph of the key employee.
- Subsection (b) provides that the Bureau may request an additional sum of money if further investigation is needed. This is consistent with the language previously located in Section 12344 and with Business and Professions Code section 19867.
- Subsection (c) provides the timeframe for processing the key employee application for a renewal of their license. There were minimal changes from the previous regulations that contained the application processing timeframes for key employees, which were located in Section 12345.
- Paragraph (1) requires that the key employee submit an application for renewal no later than 120 days prior to the expiration of his or her license.
- Paragraph (2) provides the Commission five working days to notify the applicant whether the application is complete or deficient. The number of days was reduced from 10 days after receipt of the application in response to public request to reduce application processing times. The five working days is adequate to notify the applicant.
- Paragraph (3) provides that the Commission shall forward the application to the Bureau within five days. This is an adequate amount of time for this task.
- Paragraph (4) provides that if the Bureau conducts an investigation, it shall submit a written report no later than 45 days prior to the expiration of the current license. This also specifies that the report may include a recommendation pursuant to Business and Professions Code section 19826, subdivision (a). The timeframe is adequate to allow the Commission to consider the application prior to expiration of the license. In addition, the language regarding the written report provides further clarification that

the report may contain a recommendation pursuant to Business and Professions Code section 19826 (a).

**Section 12352**

Section 12352 would be added to describe the notification requirements when a key employee changes employers or when his/her employment status changes. In addition, this section describes the process to obtain a replacement license. The required forms, documents, and processing timeframes are also included in this section.

- Subsection (a) requires the key employee to notify the Commission within 10 days of accepting a job at a gambling establishment or termination of employment at a gambling establishment by submitting a new form, "Notification of Change in Employment Status, CGCC-033 (New 08/09)," which is attached in Appendix A. This requirement is needed to determine the employment status of the key employee to ensure the applicant is not employed by more than one gambling establishment at any given time.

  - **Notification of Change in Employment Status, CGCC-033 (New 08/09)**

    **Section 1 – Licensee Information**

    This section requests the licensee's information for proper identification and to ensure the address of the licensee is current.

    **Section 2 – Employment Status Information**

    - Subsection 1: Requests the licensee to indicate his/her prior employment status, which includes the name of the gambling enterprise and the date employment was terminated or for the licensee to indicate if he/she has not been working as a key employee since last submitting a notification.
    - Subsection 2: Requests the licensee to indicate his/her current employment status, which includes a checkbox to indicate he/she is not currently working as a key employee or to provide the date the licensee accepted employment and the name of the gambling enterprise.
    - Subsection 3: Requests a description of job duties, if the licensee is currently working as a key employee.

    **Section 3 – Declaration / Signature**

    This section requires the applicant to declare that the information provided is accurate by signing under penalty of perjury under the laws of the State of California. In addition, this section requires the current gambling enterprise employer representative to declare that the key employee has been offered a position and requires their signature, date, and title.

    The information required on this form is needed in order for the Commission to update its records accordingly and to ensure that the key employee is not working for more than one gambling establishment at a time.

**Section 12352 (Continued)**

- Subsection (b) allows the holder of a valid key employee license to request a replacement license under specific circumstances.

- Paragraph (1) of subsection (b) requires that a key employee submit a newly created form, "Request for Replacement of Key Employee License, CGCC-034 (New 08/09)." The form is needed to collect the licensee's information in order for the Commission to issue the key employee a replacement license. The information and documentation required for using this form is described below.

  - **Request for Replacement of Key Employee License, CGCC-034 (New 08/09)**

    **Section 1 – Licensee Information**

    This section requests the licensee's information for proper identification and to ensure that the address of the licensee is current.

    **Section 2 – Replacement Information**

    This section requests the licensee to indicate the reason for the replacement license. If the key employee has had a change of name, specific documentation is required in order to update the Commission's licensing records and issue a new license reflecting the name change. The documentation is needed to ensure that the license is issued to the correct person in his/her legal name. It also assists with avoiding the issuance of licenses obtained by providing fraudulent information.

    **Section 3 – Declaration / Signature**

    This section requires the applicant to declare that the information provided is accurate by signing under penalty of perjury under the laws of the State of California.

**Section 12352 (Continued)**

- Paragraph (2) requires the licensee to submit a two inch by two inch color passport-style photograph.
- Paragraph (3) requires the licensee to submit a $25 nonrefundable application fee. The fee is adequate to process the request.
- Subsection (c) provides that the Executive Director shall issue a replacement license as long as there is not any cause to revoke the license. This provides the Executive Director with the discretion to deny issuance of a replacement license for specific reasons in order to protect the public and integrity of gaming.
- Subsection (d) specifies that a license issued pursuant to Section 12352 shall be valid during the unexpired term of the replaced license.
- Subsection (e) specifies that the previously issued license shall become invalid.
- Subsection (f) provides the timeframes for the replacement license application processing, which provides the Commission five working days to review the application for completeness and 15 working days to either grant or deny the application. These timeframes are adequate to process the application

It is necessary to have regulations establishing a process to request a replacement license in order for the employee to continue working with a valid license.

**Section 12353**

Section 12353 would be added to specify the contents of the key employee license and to require that the key employee wear the license, in a visible and conspicuous manner, while on duty in the gambling establishment. In addition the key employee must present the license upon request. These requirements are necessary to verify that a key employee is licensed.

**Section 12354**

Section 12347 would be renumbered to Section 12354, and the title is amended to read, "Interim Key Employee Licenses; Processing Times."

Section 12354 is a separate topic and does not specifically pertain to the provisions in SB 730 in regard to the gambling license or key employee license; however, the amendments are being proposed to provide consistency and clarity to this section since it is related to key employees. This section will make the interim key employee requirements equivalent whether the employee is working at a corporate owned or non-corporate owned gambling establishment.

- Subsection (a) would be amended to indicate that an individual holding a valid work permit may immediately begin working as an interim key employee provided that the employee provides the necessary application form and documents within 10-days of hiring.
- Paragraph (1) requires the applicant to submit a newly created form, "Application for Interim Key Employee License, CGCC-035 (New 08/09)," which is attached in Appendix A.
  - **Application for Interim Key Employee License, CGCC-035 (New 08/09)**

    **Section 1 – Application Information**

    This section requests the applicant's information for proper identification for the Commission's records, issuance of an interim license, and the applicant's mailing address.

    **Section 2 – Employer Information**

    This section requests the name of the gambling establishment, the applicant's job title, date the applicant assumed the key employee duties and a description of the duties. This information is necessary to keep proper employer records and to ensure the duties being performed are within the scope of a key employee license.

    **Section 3 – Declaration / Signature**

    This section requires the applicant to declare that the information provided is accurate by signing under penalty of perjury under the laws of the State of California. In addition, this section requires the current gambling enterprise employer representative to declare the key employee has been offered a position and requires their signature, date, and title. This is necessary to ensure the applicant has been offered a key employee position and that the applicant is only working as an interim key employee at one gambling establishment.

**Section 12354 (Continued)**

- Paragraph (2) requires a nonrefundable application fee of $25. This fee is adequate to process the request and create an interim license.
- Paragraph (3) requires a copy of the employee's valid work permit. The work permit may be issued by the local governing agency or the Commission pursuant to Business and Professions Code section 19912.
- Paragraph (4) requires the applicant to provide a two inch by two inch color passport-style photograph within 10 days of hiring. This is necessary to create the license that contains a photograph of the applicant.
- Subsection (b) provides the timeframes that the Executive Director will process the application. This subsection requires the Executive Director to notify the applicant whether the application is complete or deficient within five working days and that the interim key employee license be granted or denied within 15 working days. These processing times are reasonable and allow for the interim key employee to be issued an interim license in a short period of time after assuming key employee duties.
- Subsection (c) provides the conditions which the interim license approvals are subject to.
- Paragraph (1) requires the interim key employee to submit an application package for an initial key employee license within 30 days of assuming a key employee position. This was previously required for interim key employees.
- Paragraph (2) specifies that an interim license shall be valid for a period of two years. The processing time for an initial key employee license is typically completed within three to six months. Subsection (b) of Section 12350 specifies that the subsequently issued initial key employee license shall be for the remaining unexpired term of the interim license. This process should allow the key employee to continue working while the initial application is being processed and avoids the need to establish a separate application fee for an interim license whereas the term may fluctuate based on the processing of the initial application. The proposed $25 application fee for an interim license covers the cost to create the license.
- Paragraphs (3) and (4) specify that the issuance of an interim license does not guarantee the issuance of any Commission permit, registration, or license, including a key employee license.
- Paragraph (5) specifies the reasons an interim key employee shall cease working in a key employee position. This includes when the initial key employee application is abandoned or denied, the interim key employee's work permit becomes invalid, or the Executive Director notifies the applicant and the gambling establishment employer that the interim license is cancelled pursuant to subsection (e). This is necessary to ensure protection of the public in the event any of these occur.
- Subsection (d) specifies that the interim license will become invalid upon issuance or denial of a regular key employee license.
- Subsection (h) specifies that this section applies to any individual employed in the capacity of a key employee whether employed in a gambling establishment owned by a non-corporate licensee or by a corporate owned licensee. This provides regulatory

consistency for all gambling establishment owners by allowing the immediate hiring and promoting of individuals. The requirement that an individual must have a government issued work permit provides a level of protection since he/she would have previously undergone a background review which assists to maintain the integrity of gaming since these individuals would have already have had a background review.

**Section 12355**

This section is consistent with the language previously located in Section 12348. The language is being restated in Article 3 as it still applies to key employees.

**INCLUDED FORMS:**

The following forms are included in the regulation text as Appendix A:

- CGCC-031 Application for Gambling Establishment Key Employee License (Rev. 08/09)
- CGCC-033 Notification of Change in Employment Status (New 08/09)
- CGCC-034 Request for Replacement Key Employee License (New 08/09)
- CGCC-035 Application for Interim Key Employee License (New 08/09)

**INCORPORATION BY REFERENCE:**

The incorporation by reference in paragraph (4) of subsection (c) of Section 12350 of the form "Key Employee Supplemental Background Investigation Information, BGC-APP. 016A (Rev. 08/09)" is appropriate since publishing this document in the California Code of Regulations would clearly be cumbersome, unduly expensive, impractical and unnecessary. This document consists of multiple pages of text, tables and charts. It is designed to be completed electronically, then printed and mailed to the Commission. It is unnecessary to print this information in the text of the regulation itself. Form BGC-APP. 016A is available for viewing on the Commission's Web site, and is also available to anyone upon request to the Commission or Bureau. This form will also be available for review throughout this rulemaking process.

## FACTUAL BASIS:

The Act provides the Commission with jurisdiction over the operation of gambling establishments in California.[10] The Act assigns the Commission 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.[11] The Act directs the Commission to issue licenses only to those persons of good character, honesty and integrity, whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this state.[12]

In carrying out this mission, the Commission must deny a gambling license to any applicant who is disqualified under a list of various criteria that include felony convictions, misdemeanor convictions involving dishonesty or moral turpitude within a preceding 10-year period, and

[10] Business and Professions Code, section 19811.
[11] Business and Professions Code, section 19823.
[12] Business and Professions Code, section 19857.

associations with criminal profiteering activity or organized crime.[13] As a result, the Commission and the Bureau have established license application and renewal processes that include detailed application forms and extensive applicant background investigations.[14] Although necessary, these processes can be burdensome for the license applicant, and time consuming for the Commission and Bureau. As a result, to renew a license, the licensee is required to file a renewal application with the Commission no later than 120 days prior to the expiration of the license.[15]

### UNDERLYING DATA:

Technical, theoretical, and empirical studies relied upon (if any): None.

## REQUIRED DETERMINATIONS:

### 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 regulations do 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.

[13] Business and Professions Code, section 19859.
[14] California Code of Regulations, Title 4, Sections 12342, 12343, 12344 and 12345.
[15] Business and Professions Code, section 19876, subdivision (b).