

**TITLE 4.**  
**CALIFORNIA GAMBLING CONTROL COMMISSION**  
CGCC-GCA-2009-02-E

**STATEMENT CONCERNING EMERGENCY REGULATIONS FOR THE  
IMPLEMENTATION OF THE CALIFORNIA REMOTE CALLER BINGO ACT  
(INTERIM LICENSES)**

**CHAPTER 748, STATUTES OF 2008 (SB 1369, Cedillo and Battin et al.)**

The California Gambling Control Commission (Commission) is proposing to readopt emergency regulations that establish processes for recognizing organizations authorized to conduct remote caller bingo, issuing interim remote caller bingo licenses and work permits for individuals conducting remote caller bingo for authorized organizations, and issuing interim licenses for manufacturers and distributors of remote caller bingo equipment, supplies, and bingo card-minding devices. Sections 12480, 12492, 12494, 12496, 12498, 12499, 12501, 12502 and 12504, Title 4, Division 18, Chapter 8, California Code of Regulations, were initially adopted or amended as emergency regulations effective April 24, 2009.<sup>1</sup> Section 12480 was subsequently amended in another emergency filing, effective May 8, 2009.<sup>2</sup> OAL File No. 2009-0414-02 E and that portion of OAL File No. 2009-0508-02 E regarding the amendment of Section 12480, are hereby incorporated by reference as if fully set forth herein. The emergency re-adoption of these regulations will implement several of the licensing elements of the California Remote Caller Bingo Act (CRCBA),<sup>3</sup> as mandated by Business and Professions Code section 19850.6 and Penal Code section 326.3.

**DEEMED EMERGENCY**

The Commission has been specifically directed, pursuant to Business and Professions Code section 19850.6, subdivision (a), to adopt emergency regulations to implement the CRCBA as soon as possible. Subdivision (a) also expresses the intent of the Legislature to “provide the Commission with full authority and sufficient flexibility to adopt all needed regulations,” and “finds and declares that it is necessary to provide the Commission with limited exemption from normal rulemaking procedural requirements” for reasons specified. Pursuant to subdivision (b) of section 19850.6, the adoption, amendment, or repeal of a regulation implementing the CRCBA is deemed to address an emergency for the purposes of sections 11346.1 and 11349.6 of the Government Code. Further, subdivision (b) of section 19850.6 provides the Commission an express exemption from the requirements of subdivision (b) of section 11346.1.

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<sup>1</sup> See OAL File No. 2009-0414-02 E

<sup>2</sup> See OAL File No. 2009-0508-02 E

<sup>3</sup> Chapter 748, Statutes of 2008 (SB 1369, Cedillo and Battin, et al.)

## **AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 19840, 19850.5, and 19850.6 of the Business and Professions Code, and sections 326.3, 326.4, and 326.5 of the Penal Code; and to implement, interpret or make specific Sections 19850.5 and 19850.6 of the Business and Professions Code, and sections 326.3, 326.4, and 326.5 of the Penal Code; the Commission is proposing to adopt the following amendments to Chapter 8 of Division 18 of Title 4 of the California Code of Regulations:

## **INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW**

### **INTRODUCTION:**

Senate Bill (SB) 1369 authorizes “remote caller bingo” as a game that would allow specific nonprofit organizations to use audio or video technology to remotely link designated in-state facilities to conduct live bingo games, if authorized pursuant to a local ordinance and approved by the Commission. The Commission is required to regulate remote caller bingo, including but not limited to, the development of regulations for licensure and registration of persons who conduct remote caller bingo games, or who manufacture and distribute remote caller bingo equipment, supplies, and bingo card-minding devices. This bill created several entirely new regulatory programs with major elements to be developed by the Commission in the rulemaking process.

The bill directs the Commission to adopt appropriate emergency regulations as soon as possible, with the initial regulatory action to be filed with the Office of Administrative Law (OAL) by May 1, 2009. The initial regulatory action was filed with OAL on December 18, 2008 for the interim approval of bingo card-minding devices. SB 1369 provides a partial exemption from certain provisions of the Administrative Procedure Act through December 31, 2009 and authorizes the Commission to adopt regulations in a series of subsequent regulatory actions. The authority to adopt emergency regulations is necessary to implement the program in a timely manner.

According to the author, SB 1369 is intended to provide nonprofit organizations an opportunity to increase their fundraising ability by authorizing remote caller bingo, which will allow charities across the State to combine their games and offer larger prizes than allowed under current law. The author states, “The demand for services from California charities is increasing due to the economy, unemployment and our state budget cuts. At the same time, charitable donations are down and charities are faced with turning away people for whom it is their mission to serve. Charities desperately need new tools to increase their ability to raise funds to keep up with the demand for their services.”

### **EXISTING LAW:**

Effective January 1, 2009, Penal Code section 326.3, subdivision (b), specifies the requirements that nonprofit organizations must meet in order to be eligible to conduct remote caller bingo. Subdivision (p) requires that any person who conducts remote caller bingo games and any person who directly or indirectly manufactures or distributes remote caller bingo equipment, supplies, and bingo card-minding devices must be licensed by the Commission. In addition, subdivision (q) specifies that persons employed by an authorized organization performing “administrative,”

“managerial,” “technical,” “financial,” and “security” duties must have work permits issued by the Commission. Penal Code section 326.3(p)(3)(A), gives the Commission the authority to adopt regulations specifying the nonrefundable fee for every application for a license or approval.

**EFFECT OF REGULATORY ACTION:**

This proposed action will amend Article 1 and add Articles 2, 3, and 4 to Chapter 8 of Division 18 of Title 4 of the California Code of Regulations, as follows:

- Amend Article 1 to change the title from “Bingo Equipment, Devices and Supplies” to “Definitions and General Provisions.”
- Add Section 12480, titled “Definitions,” as follows:
  - a. Subsection (a) clarifies that the definitions in Business and Professions Code section 19805 and Penal Code sections 326.3 and 326.5(p)(3)(B) shall govern the construction of regulations contained in the chapter, in addition to those definitions contained in the subsection (b) of section 12480.
  - b. Subsection (b), for purposes of clarity, defines specific terminology as it relates to the recognition of authorized organizations conducting remote caller bingo, interim remote caller bingo licenses and work permits, and interim licenses of manufacturers and distributors of remote caller bingo equipment, supplies, and bingo card-minding devices.
- Add Article 2, to be titled “Bingo Equipment, Devices and Supplies,” which was previously Article 1.
- Renumber Section 12482 as 12486, “Approval of Card-Minding Devices,” in Article 2.
- Add Article 3, to be titled “Manufacturers and Distributors of Bingo Equipment, Devices and Supplies,” which describes the interim licensing requirements for manufacturers and distributors of bingo equipment, supplies, and bingo card-minding devices. This article is added as required by section 326.3(p)(1)(A) and (B), and section 326.5(p)(3)(B) and (C) of the Penal Code which states that the California Gambling Control Commission shall regulate remote caller bingo and shall require the licensure and registration of any person that directly or indirectly manufactures and distributes remote caller bingo equipment, supplies, and bingo card-minding devices.
- Add Section 12492 in Article 3, to be titled “Interim Licenses; Initial and Renewal; Conditions.” This section establishes the requirements for interim licenses and the associated conditions, for manufacturers and distributors of remote caller bingo equipment and supplies, and bingo card-minding devices.
  - a. Subsection (a) indicates that the interim approval process is established to avoid disruption of fundraising efforts by nonprofit organizations as expressed in Business and Professions Code section 19850.6.

- b. Subsection (b) requires any person who manufactures or distributes remote caller bingo equipment, supplies, or bingo card-minding devices in this state to have a valid interim license issued by the Commission, as provided in section 326.3(p)(1)(B) of the Penal Code.
- c. Subsection (c) requires that any manufacturer or distributor providing remote caller bingo equipment, supplies, or bingo card-minding devices in this state on the initial effective date of the section to apply for an interim license within 30 days of the effective date of the section. The 30 day time period should allow the manufacturer or distributor time to learn of the licensing requirement, prepare the application, and submit the application package to the Commission.
- d. Subsection (d) establishes a process for requesting an interim license as a manufacturer and distributor business. This section requires the owner licensee to submit an “Application for Interim License for Bingo Equipment Manufacturers and Distributors, CGCC-610 (New 03/09),” a nonrefundable application fee in the amount of \$500.00, and, if an individual, either a completed “Request for Live Scan Service, California Department of Justice Form BCII 8016 (Rev 03/07),” confirming that the applicant has submitted his/her fingerprints to the BCII for an automated criminal history check, or two FBI fingerprint cards if the applicant is not a resident of California. This regulation is added as required by section 326.3(p)(2)(A) and section 326.5(p)(4) of the Penal Code, which states the Department of Justice shall conduct a background investigation of all persons required to be licensed.

The application form is needed in order to obtain the necessary information regarding the business, its organization structure, its authorized representative, and the equipment and supplies the business provides. In order for the Department of Justice to conduct a criminal history background on individual owner applicants, the Live Scan form or two FBI fingerprint cards must be submitted. There are Live Scan providers located throughout California that scan the fingerprints electronically for submission to the BCII. The FBI fingerprint cards are needed for individuals that may reside outside of California. In this case the applicant would need to submit the fingerprint cards to the Commission with their application.

In addition, the Commission has determined that the \$500.00 application fee is consistent with the current \$500.00 application fee assessed for the registration of Class A Gambling Equipment Manufacturers and Distributors, pursuant to section 12008(f)(1). The registration for Gambling Equipment Manufacturers and Distributors is valid for one year and must be renewed annually with the Commission. This registration process has not yet been expanded to full licensure of the business and its owners; however, the staff workload and administrative costs would be the same.

- e. Subsection (e) establishes a process for requesting an interim license as an owner of a manufacturer or distributor business. The owner shall submit an “Application for Interim License for Bingo Equipment Manufacturers and Distributors, CGCC-610 (New 03/09),” a nonrefundable application fee in the amount of \$500.00, and, if an individual, either a completed “Request for Live Scan Service, California Department of Justice Form BCII

8016 (Rev 03/07),” confirming that the applicant has submitted his/her fingerprints to the BCII for an automated criminal history check, or two FBI fingerprint cards if the applicant is not a resident of California. This regulation is added to include interim licensure of persons who have a 10 percent or greater ownership interest in the manufacturer or distributor business and as required by section 326.3(p)(2)(A) and section 326.5(p)(4) of the Penal Code, which states the Department of Justice shall conduct a background investigation of all persons required to be licensed. The requirement that owners with a 10 percent or greater ownership interest must apply for an interim license lessens the burden on the shareholders and still allows for a review of owners with substantial holdings and significant influence over the business.

The application form is needed in order to obtain the necessary information regarding the applicant to determine suitability for an interim license. In order for the Department of Justice to conduct a criminal history background on the individual owner applicant, the Live Scan form or two FBI fingerprint cards must be submitted. There are Live Scan providers located throughout California that scan the fingerprints electronically for submission to the BCII. The FBI fingerprint cards are needed for individuals that may reside outside of California. In this case the applicant would need to submit the fingerprint cards to the Commission with their application.

In addition, the Commission has determined that the \$500.00 application fee is consistent with the current \$500.00 application fee assessed for the registration of Class A Gambling Equipment Manufacturers and Distributors pursuant to section 12008(f)(1). The registration for Gambling Equipment Manufacturers and Distributors is valid for one year and must be renewed annually with the Commission. This registration process has not yet been expanded to full licensure of the business and its owners; however, the staff workload and administrative costs would be the same for the owners of the bingo equipment manufacturers and distributors.

- f. Subsection (f) provides that interim license approvals are valid for one-year and are subject to specific conditions, including that the interim license may be renewed if regulations have not been adopted that specify the criteria for a regular license; the holder of an interim license must submit a regular application package within 30 days after the effective date of the adopted regulations and that if no response is received the interim license will not be eligible for renewal; an interim license does not obligate the Commission to issue a regular license nor does it create a vested right in the holder to either a renewal of the interim license or the granting of a subsequent regular license; the issuance of an interim license has no bearing on whether the holder will qualify for issuance of any Commission permit, registration, or license. This section also establishes a process to be followed in the event the Commission subsequently determines the holder is disqualified and provides a due process and an opportunity to be heard before the interim license is cancelled.
- g. Subsection (g) establishes a process for a manufacturer or distributor owner licensee to request to renew an interim license by submitting an “Application for Interim License for Bingo Equipment Manufacturers and Distributors, CGCC-610 (New 03/09)” and a nonrefundable application fee of \$500.00 no later than 90 days prior to the expiration

date of the interim license. This section is added to establish a renewal process in the event the regular regulations are not adopted by the time the initial interim license expires.

The Commission has determined that the \$500.00 application fee is consistent with the current \$500.00 annual application fee assessed for the registration of a Class A Gambling Equipment Manufacturers and Distributors pursuant to section 12008(f)(1).

- h. Subsection (h) establishes a process for manufacturer and distributor owners to request to renew an interim license by submitting an “Application for Interim License for Bingo Equipment Manufacturers and Distributors, CGCC-610 (New 03/09)” and a nonrefundable application fee of \$500.00 no later than 90 days prior to the expiration date of the interim license. This section is added to establish a renewal process in the event the regular regulations are not adopted by the time the initial interim license expires.

The Commission has determined that the \$500.00 application fee is consistent with the current \$500.00 application fee assessed for the registration of Class A Gambling Equipment Manufacturers and Distributors pursuant to section 12008(f)(1). The registration for Gambling Equipment Manufacturers and Distributors is valid for one year and must be renewed annually with the Commission. This registration process has not yet been expanded to full licensure of the business and its owners; however, the staff workload and administrative costs would be the same for the owners of the bingo equipment manufacturers and distributors.

- i. Subsection (i) provides that each application for initial or renewal interim license shall be reviewed and if found to be complete and correct, be set for consideration at a Commission meeting; but if found to not satisfy the requirements for interim licensure, the applicant will be provided with a written list of deficiencies.
  - j. Subsection (j) specifies that a renewal interim license shall be valid for one year from the date of approval or from the expiration of the prior interim license, whichever is later. This section is added in the event the regular license regulations are not adopted by the time the initial interim license expires.
- Add Section 12494 in Article 3, to be titled “Interim License Denial; Applicant Disqualification.”

This section provides that an interim license shall be denied by the Commission if the applicant meets any of the criteria in subdivisions (b) through (f) of section 19859 of the Business and Professions Code or if the applicant is less than 18 years of age. This is added to ensure that individual manufacturer and distributor business owners are suitable for an interim license based on a review of their criminal history, if any, and that the applicant is not a minor, as specified in section 326.3(f) of the Penal Code.

The requirements and procedures for issuance of remote caller bingo interim licenses and work permits follow the same general pattern as the procedures for approving temporary

cardroom employee work permits (4 CCR §§ 12120 and 12122) and temporary third-party proposition player registrations (4 CCR §§ 12203.1 and 12203.2) – both of which rely on only select provisions from Business and Professions Code section 19859, specifically subdivisions (b), (e), (f) or (g). In the case of the interim remote caller bingo licenses and work permits, the Commission is relying on subdivisions (b) through and including (f) of section 19859. Subdivision (g) is not applicable since it establishes the minimum age requirement at 21 years and Penal Code section 326.3 (f) simply provides that “[n]o minors shall be allowed to participate in any remote caller bingo game.”

For the purposes of issuing interim licenses and interim work permits, it is not only sufficient and appropriate to rely on somewhat abbreviated grounds for denial in order not to delay implementation of the CRCBA, but also to avoid any unnecessary disruption of fundraising efforts by nonprofit organization. Waiting for the completion or near completion of detailed background investigations conducted by the Bureau of Gambling Control (Bureau) in order to apply the standards specified in Business and Professions Code sections 19857 (a) or 19859 (a) would not be practical given the express legislative intent set forth in Business and Professions Code section 19850.6.

This regulation specifies that an individual “less than 18 years of age” is not eligible for licensure. While this reference to an individual’s age may at first seem inconsistent with subdivision (g) of Business and Professions Code section 19859, subdivision (g) is not being cited as a basis for denial. Business and Professions Code section 19850.5 specifies that the provisions of the Gambling Control Act apply to the regulation of remote caller bingo, only to the extent expressly made applicable by Penal Code section 326.3. It is noted that subdivision (g) of section 19859 has not expressly been made applicable to remote caller bingo by section 326.3. However, even if section 19859 were applicable and was determined to be in conflict with subdivision (f) of section 326.3, the provision that most directly applies to the subject program should prevail – in this case subdivision (f) of section 326.3.

Furthermore, because subdivision (f) of section 326.3 uses the term “minors,” and the term “minor” in this context is commonly understood to mean individuals “under 18 years of age,” the age 18 minimum specified in the proposed regulation is appropriate. This is supported by the definitions of “minor” found in Welfare and Institutions Code section 101, subdivision (b), and in Family Code section 6500.

- Add Section 12496 in Article 3, to be titled “Change of Business Location.”
  - a. This section requires that manufacturers and distributors notify the Commission in writing of new California business locations, or terminations of existing business locations within 15 days following the change. This information is needed for communication purposes and for services of notices.
- Add Article 4, to be titled “Remote Caller Bingo Interim Licenses and Interim Work Permits,” which describes the requirements for remote caller bingo interim licenses and work permits and for organizations to become recognized by the Commission as being eligible to conduct remote caller bingo.

- Add Section 12498 in Article 4, to be titled “Interim Licenses; Initial and Renewal; Conditions.”
  - a. Subsection (a) indicates that the interim approval process is established to avoid disruption of fundraising efforts by nonprofit organizations as expressed in Business and Professions Code section 19850.5.
  - b. Subsection (b) stipulates that persons performing the duties of a “fiduciary,” “site manager,” or “caller” must have a valid interim license issued by the Commission. This subsection is added pursuant to section 326.3(p)(1)(A) of the Penal Code.
  - c. Subsection (c) requires that any “fiduciary,” “site manager,” or “caller” applying for an initial interim license submit an “Application for Interim License for Remote Caller Bingo, CGCC-620 (New 03/09),” a nonrefundable application fee in the amount of \$50.00, and a completed “Request for Live Scan Service, California Department of Justice Form BCII 8016 (Rev 03/07)” confirming that the applicant has submitted his/her fingerprints to the BCII for an automated criminal history check and response. This regulation is added as required by section 326.3(p)(2)(A) of the Penal Code, which states the Department of Justice shall conduct a background investigation of all persons required to be licensed.

The application form is needed in order to obtain the necessary information regarding the applicant to determine suitability for an interim license. In order for the Department of Justice to conduct a criminal history background on the applicant, the Live Scan form must be submitted. There are Live Scan providers located throughout California that scan the fingerprints electronically for submission to the BCII. The Commission has determined that the \$50.00 application fee is adequate to cover the interim application processing costs. This fee may be reassessed upon development of regulations establishing the regular licensing criteria.

- d. Subsection (d) provides that interim license approvals are valid for one year from the date of approval and are subject to specific conditions, including that the interim license may be renewed if regulations have not been adopted that specifies the criteria for a regular license; the holder of an interim license must submit a regular application package within 30 days after the effective date of the adopted regulations and that if no response is received the interim license will not be eligible for renewal; an interim license does not obligate the Commission to issue a regular license nor does it create a vested right in the holder to either a renewal of the interim license or the granting of a subsequent regular license; the issuance of an interim license has no bearing on whether the holder will qualify for issuance of any Commission permit, registration, or license. This section also establishes a process to be followed in the event the Commission subsequently determines the holder is disqualified and provides due process and an opportunity to be heard before the interim license is cancelled.
- e. Subsection (e) requires any “fiduciary,” “site manager,” or “caller” applying to renew an interim license to submit an “Application for Interim License for Remote Caller Bingo, CGCC-620 (New 03/09),” and a nonrefundable application fee of \$50.00 no later than 90

days prior to the expiration date of the license. The Commission has determined that the \$50.00 application fee is adequate to cover the interim application processing costs. This fee may be reassessed upon development of regulations establishing the regular licensing criteria.

- f. Subsection (f) provides that each application for initial or renewal interim license shall be reviewed and if found to be complete and correct, be set for consideration at a noticed Commission meeting; but if found to not satisfy the requirements for interim licensure, the applicant will be provided with a written list of deficiencies.
  - g. Subsection (g) specifies that a renewal interim license shall be valid for one year from the date of approval or from the expiration of the prior interim license, whichever is later. This section is added in the event the regular license regulations are not adopted by the time the initial interim license expires.
- Add Section 12499 in Article 4, to be titled “Interim License Denial; Applicant Disqualification.”

This section provides that an interim license shall be denied by the Commission if the applicant meets any of the criteria in subdivisions (b) through (f) of section 19859 of the Business and Professions Code or if the applicant is less than 18 years of age. This is added to ensure that persons conducting remote caller bingo are suitable based on a review of their criminal history, if any, and that the applicant is not a minor as specified in section 326.3(f) of the Penal Code.

The requirements and procedures for issuance of remote caller bingo interim licenses and work permits follow the same general pattern as the procedures for approving temporary cardroom employee work permits (4 CCR §§ 12120 and 12122) and temporary third-party proposition player registrations (4 CCR §§ 12203.1 and 12203.2) – both of which rely on only select provisions from Business and Professions Code section 19859, specifically subdivisions (b), (e), (f) or (g). In the case of the interim remote caller bingo licenses and work permits, the Commission is relying on subdivisions (b) through and including (f) of section 19859. Subdivision (g) is not applicable since it establishes the minimum age requirement at 21 years and Penal Code section 326.3 (f) simply provides that “[n]o minors shall be allowed to participate in any remote caller bingo game.”

For the purposes of issuing interim licenses and interim work permits, it is not only sufficient and appropriate to rely on somewhat abbreviated grounds for denial in order not to delay implementation of the CRCBA, but also to avoid any unnecessary disruption of fundraising efforts by nonprofit organization. Waiting for the completion or near completion of detailed background investigations conducted by the Bureau of Gambling Control (Bureau) in order to apply the standards specified in Business and Professions Code sections 19857 (a) or 19859 (a) would not be practical given the express legislative intent set forth in Business and Professions Code section 19850.6.

This regulation specifies that an individual “less than 18 years of age” is not eligible for licensure. While this reference to an individual’s age may at first seem inconsistent with

subdivision (g) of Business and Professions Code section 19859, subdivision (g) is not being cited as a basis for denial. Business and Professions Code section 19850.5 specifies that the provisions of the Gambling Control Act apply to the regulation of remote caller bingo, only to the extent expressly made applicable by Penal Code section 326.3. It is noted that subdivision (g) of section 19859 has not expressly been made applicable to remote caller bingo by section 326.3. However, even if section 19859 were applicable and was determined to be in conflict with subdivision (f) of section 326.3, the provision that most directly applies to the subject program should prevail – in this case subdivision (f) of section 326.3.

Furthermore, because subdivision (f) of section 326.3 uses the term “minors,” and the term “minor” in this context is commonly understood to mean individuals “under 18 years of age,” the age 18 minimum specified in the proposed regulation is appropriate. This is supported by the definitions of “minor” found in Welfare and Institutions Code section 101, subdivision (b), and in Family Code section 6500.

- Add Section 12501 in Article 4 to reflect title “Interim Work Permits; Initial and Renewal; Conditions.”
  - a. Subsection (a) states that no person may act in the capacity of an employee of an authorized organization conducting remote caller bingo games without a valid work permit issued by the Commission. This is added pursuant to the requirement in section 326.3(q) of the Penal Code.
  - b. Subsection (b) requires any person applying for an initial interim work permit to submit an “Application for Remote Caller Bingo Work Permit, CGCC-622 (New 03/09),” which requires the applicant to state his/her category of duties as “administrative,” “managerial,” “technical,” “financial,” or “security.” The application fee is established at \$50.00. A Request for Live Scan Service, California Department of Justice, Form BCII 8016 (Rev. 03/07) is also required to confirm the applicant has submitted his/her fingerprints to the BCII for an automated criminal history check and response. This is added as required by section 326.3(p)(2) of the Penal Code.

The application form is needed in order to obtain the necessary information regarding the applicant to determine suitability for an interim work permit. In order for the Department of Justice to conduct a criminal history background on the applicant, the Live Scan form must be submitted. There are Live Scan providers located throughout California that scan the fingerprints electronically for submission to the BCII. The Commission has determined that the \$50.00 application fee is adequate to cover the interim application processing costs. This fee may be reassessed upon development of regulations establishing the regular work permit criteria.

- c. Subsection (c) provides that interim work permit approvals are valid for one year from the date of approval and are subject to specific conditions, including that the interim work permit may be renewed if regulations have not been adopted that specifies the criteria for a regular work permit; the holder of an interim work permit must submit a regular application package within 30 days after the effective date of the adopted regulations and that if no response is received the interim work permit will not be eligible for renewal; an

interim work permit does not obligate the Commission to issue a regular work permit nor does it create a vested right in the holder to either a renewal of the interim work permit or the granting of a subsequent regular work permit; the issuance of an interim work permit has no bearing on whether the holder will qualify for issuance of any Commission permit, registration, or license. This section also establishes a process to be followed in the event the Commission subsequently determines the holder is disqualified and provides due process and an opportunity to be heard before the interim work permit is cancelled.

- d. Subsection (d) requires any holder of an interim work permit applying for a renewal of an interim work permit to submit an “Application for Interim Work Permit for Remote Caller Bingo CGCC-622 (New 03/09),” and a nonrefundable application fee of \$50.00 no later than 90 days prior to the expiration date of the interim work permit. The Commission has determined that the \$50.00 renewal application fee is adequate to cover the interim application processing costs. This fee may be reassessed upon development of regulations establishing the regular work permit criteria.
  - e. Subsection (e) establishes that each application for initial or renewal interim work permit shall be reviewed and if found to be complete and correct, be set for consideration at a noticed Commission meeting; but if found to not satisfy the requirements for interim work permit, the applicant will be provided with a written list of deficiencies.
- Add Section 12502 in Article 4 to reflect title “Interim Work Permit Denial; Applicant Disqualification.”

This section provides that an interim license shall be denied by the Commission if the applicant meets any of the criteria in subdivisions (b) through (f) of section 19859 of the Business and Professions Code or if the applicant is less than 18 years of age. This is added to ensure that persons conducting remote caller bingo are suitable based on a review of their criminal history, if any, and that the applicant is not a minor as specified in section 326.3(f) of the Penal Code.

The requirements and procedures for issuance of remote caller bingo interim licenses and work permits follow the same general pattern as the procedures for approving temporary cardroom employee work permits (4 CCR §§ 12120 and 12122) and temporary third-party proposition player registrations (4 CCR §§ 12203.1 and 12203.2) – both of which rely on only select provisions from Business and Professions Code section 19859, specifically subdivisions (b), (e), (f) or (g). In the case of the interim remote caller bingo licenses and work permits, the Commission is relying on subdivisions (b) through and including (f) of section 19859. Subdivision (g) is not applicable since it establishes the minimum age requirement at 21 years and Penal Code section 326.3 (f) simply provides that “[n]o minors shall be allowed to participate in any remote caller bingo game.”

For the purposes of issuing interim licenses and interim work permits, it is not only sufficient and appropriate to rely on somewhat abbreviated grounds for denial in order not to delay implementation of the CRCBA, but also to avoid any unnecessary disruption of fundraising efforts by nonprofit organization. Waiting for the completion or near completion of detailed background investigations conducted by the Bureau of Gambling Control (Bureau) in order

to apply the standards specified in Business and Professions Code sections 19857 (a) or 19859 (a) would not be practical given the express legislative intent set forth in Business and Professions Code section 19850.6.

This regulation specifies that an individual “less than 18 years of age” is not eligible for licensure. While this reference to an individual’s age may at first seem inconsistent with subdivision (g) of Business and Professions Code section 19859, subdivision (g) is not being cited as a basis for denial. Business and Professions Code section 19850.5 specifies that the provisions of the Gambling Control Act apply to the regulation of remote caller bingo, only to the extent expressly made applicable by Penal Code section 326.3. It is noted that subdivision (g) of section 19859 has not expressly been made applicable to remote caller bingo by section 326.3. However, even if section 19859 were applicable and was determined to be in conflict with subdivision (f) of section 326.3, the provision that most directly applies to the subject program should prevail – in this case subdivision (f) of section 326.3.

Furthermore, because subdivision (f) of section 326.3 uses the term “minors,” and the term “minor” in this context is commonly understood to mean individuals “under 18 years of age,” the age 18 minimum specified in the proposed regulation is appropriate. This is supported by the definitions of “minor” found in Welfare and Institutions Code section 101, subdivision (b), and in Family Code section 6500.

- Add Section 12504 in Article 4, to be titled “Recognition of Organizations Conducting Remote Caller Bingo Games,” which describes the requirements for organizations to conduct remote caller bingo games.
  - a. Subsection (a) indicates that no organization may conduct remote caller bingo games in California unless they have been recognized by the Commission as being eligible. This establishes a process for the Commission to ensure that remote caller bingo games are being conducted only by organizations that are eligible pursuant to section 326.3(b)(1) through (5).
  - b. Subsection (b) indicates that any organization requesting recognition must meet the requirements specified in section 326.3(b)(1) through (5) of the Penal Code and submit a “Statement of Eligibility to Conduct Remote Caller Bingo, CGCC-618 (New 03/09)” with a nonrefundable fee of \$50.00. The form is needed in order to uniformly collect eligibility information from the organization. In addition, the Commission has determined that the \$50.00 processing fee is adequate to cover the processing costs.
  - c. Subsection (c) requires any organization recognized by the Commission to annually submit a “Statement of Eligibility to Conduct Remote Caller Bingo, CGCC-618 (New 03/09)” specifying any changes in the information included in the organization’s previous statement of eligibility and a nonrefundable fee of \$25.00 no later than 120 calendar days after the close of the organization’s fiscal year. It is anticipated that this will coordinate with the submission to the Commission of audit reports required pursuant to section 326.3(v)(2) of the Penal Code. The Commission has determined that the \$25.00 processing fee is reasonable and adequate to cover the processing costs.

- d. Subsection (d) establishes that each statement shall be reviewed and if found to be complete and correct, be set for consideration at a noticed Commission meeting; but if found not to satisfy the requirements, the applicant shall be provided a letter declining to recognize the organization along with a written list of deficiencies.
- The re-adoption of these emergency regulations also includes various minor technical, grammatical or editorial changes that have no regulator effect.

### **FISCAL IMPACT ESTIMATES**

**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.

**NONDISCRETIONARY COST OR SAVINGS IMPOSED ON ANY LOCAL AGENCY:** None.

**FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:** The Commission has determined that this regulatory proposal will not have a significant fiscal impact on state agencies.