

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION

NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING
CONCERNING
THIRD-PARTY PROPOSITION PLAYER SERVICES AND GAMBLING BUSINESS
LICENSE RENEWALS
CGCC-GCA-2009-07-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the action proposed at a public hearing to be held at 10:00 a.m. on August 20, 2009, at 2399 Gateway Oaks Drive, First Floor Hearing Room, Sacramento, CA 95833-4231.

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period, or may be received by the Commission at the above referenced hearing. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on August 20, 2009**. Written comments not submitted at the hearing should be directed to one of the individuals designated in this notice as a contact person. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

ADOPTION OF PROPOSED ACTION

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

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 19823, 19824, 19826, 19840, 19841, 19851, 19851(a)(3), 19853, 19867, 19868, 19870, 19876, 19951(a), and 19984 of the Business and Professions Code, and to implement, interpret or make specific sections 19851, 19853, 19853(a)(3), 19867, 19868, 19876, 19930, 19951, 19951(a), and 19984 of the Business and Professions Code; the Commission is proposing to adopt the following changes to Chapters 2.1, and 2.2 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The Commission is proposing regulations that would implement a renewal process for providers of Third-Party Proposition Player Services (TPPS) and Gambling Businesses.

Business and Profession Code section 19980 was established in September of 2000. It required the Division of Gambling Control (now the Bureau) to adopt emergency regulations that would establish a licensing or registration program for TPPS.¹ In September of 2002, section 19980 was renumbered to Business and Professions Code section 19984 and amended to require that the *Commission* establish these emergency regulations.² In November of 2003, the Commission adopted emergency regulations requiring TPPS to obtain a registration by March 31, 2004, and Gambling Businesses to register by March 5, 2004.³ In December of 2004, the Commission adopted additional regulations that required TPPS and Gambling Businesses to transition to a license, rather than a registration.⁴ This transition includes provisions that require TPPS and Gambling Business registrants to submit an application to convert a registration to a license when summoned to do so by the Bureau.

SPECIFIC PROPOSAL:

These proposed regulations would establish a new section in Chapter 2.1 and Chapter 2.2 of Division 18 to implement an ongoing renewal licensing program for TPPS, Gambling Businesses and their supervisors, players and other employees.

CURRENT REGULATION:

Existing regulation in the California Code of Regulations, Title 4, Division 18 is summarized as follows:

Chapter 2.1, Article 1, Section 12200.9 the review and approval of proposition player contracts.

Chapter 2.1, Article 1, Section 12200.10A the expedited review and approval of proposition player contracts.

Chapter 2.1, Article 1, Section 12200.11 the extension of proposition player contracts.

¹ Assembly Bill 1416 (2000 Stat. Ch. 1023)

² Assembly Bill 2431 (2002 Stat. Ch. 738)

³ California Code of Regulations, Title 4, Sections 12201 and 12221.

⁴ California Code of Regulations, Title 4, Sections 12205.1 and 12225.1.

Chapter 2.1, Article 1, Section 12200.13 the playing book requirements.

Chapter 2.1, Article 2, Section 12203.2(d)(2) the review of the applicants criminal history.

Chapter 2.1, Article 1, Section 12205.1 the transition to licensing for TPPS and their owners, supervisors, player and other employees.

Chapter 2.1, Article 1, Section 12218 the request to convert a registration to a license and required forms and fees.

Chapter 2.1, Article 1, Section 12218.7 the processing times for a request to convert a registration to a license.

Chapter 2.2, Article 1, Section 12220.13 the playing book requirements.

Chapter 2.2, Article 1, Section 12220.18 the grounds that the Commission may revoke a gambling business or license.

Chapter 2.2, Article 1, Section 12220.23 prescribes the owner-licensee of a gambling enterprise the ability to exclude any person believed to be conducting a gambling business without being registered or licensed by the Commission.

Chapter 2.2, Article 1, Section 12225.1 the transition to licensing for gambling businesses and their owners, supervisors, player and other employees.

Chapter 2.2, Article 1, Section 12233 the request to convert a registration to a license and required forms and fees.

Chapter 2.2, Article 1, Section 12235 the processing times for a request to convert a registration to a license.

EFFECT OF REGULATORY ACTION:

The proposed action will make the following changes to existing regulation:

1. Within Chapter 2.1 these regulations would amend Sections 12200.9(a)(2), (a)(3)(A), (E), and (c), 12200.10A, and 12000.11 to update the revision date of the contract application, change the contract application fee, and the contract term length.
2. Within Chapters 2.1 and 2.2 these regulations would add Sections 12200.13(c) and 12220.13(c) to add a playing book approval fee and form as follows, that is incorporated by reference therein:
 - Request for Approval of Playing Book Form (BGC-APP-036 (New 05/09))
3. Within Chapter 2.1 these regulations would amend Section 12203.2(d)(2) to update the subsection referenced.

4. Within Chapters 2.1 and 2.2 these regulations would amend Sections 12205.1(a), (c), 12225.1 (a), and (b) to change the required forms to transition into licensing and add an initial licensing application fee. The new forms as follows that are incorporated by reference therein:
 - Application for Third-Party Proposition Player Services License for Business Entities and Owners, CGCC-433 (New 05/09)
 - Application for Third-Party Proposition Player Services License for Supervisors, Players, or Other Employees, CGCC-434 (New 05/09)
 - Application for Gambling Business License for Business Entities and Owners, CGCC-533 (New 05/09)
 - Application for Gambling Business License for Supervisors, Players, or Other Employees, CGCC-534 (New 05/09)
5. Within Chapters 2.1 and 2.2 these regulations would amend Sections 12218(c), 12218.7(a), 12233(c), and 12235(a) to change the required forms and fees to transition to licensing and add the following form that is incorporated by reference in Section 12342 of Chapter 6:
 - Trust Supplemental Background Investigation Information BGC-APP-143 (Rev. 05/08)
6. Within Chapter 2.2 these regulations would amend Sections 12220.18(d), (e), and (g) to correct the referenced sections listed and add the word licensee.
7. Within Chapter 2.2 these regulations would amend Sections 12220.23(a) to add the words license, licensed or temporary where needed.
8. Within Chapters 2.1 and 2.2, these regulations would adopt Sections 12218.8, 12218.9, 12238, and 12239 to add the renewal process for TPPS and Gambling Business licenses.
9. Within both Chapters 2.1 and 2.2, this proposed action also includes several nonsubstantive conforming, grammatical or editorial changes which have no regulatory effect.

INCORPORATION BY REFERENCE

The incorporation by reference in Sections 12200.9(a)(2), 12200.13(c)(1), 12205.1(a), and 12225.1(a), of forms CGCC-433, CGCC-434, CGCC-533, CGCC-534, BGC-APP-030, and BGC-APP-036, is appropriate since publishing these documents in the California Code of Regulations would clearly be cumbersome, unduly expensive, impractical and unnecessary. These documents consist of multiple pages of text, tables and charts. They are 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. All the forms are available for viewing on the Commission's Web site, and are also available to anyone upon request to the Commission. These forms will also be available for review throughout this rulemaking process.

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

None.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

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

None.

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

None.

IMPACT ON BUSINESS:

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

IMPACT ON JOBS/NEW BUSINESSES:

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

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Commission are as follows:

The Commission has determined that this proposed action would establish an application fee for the conversion of a registration to a license. Currently no license application fee is required and no application fee for a license is paid to the Commission until renewal.

EFFECT ON HOUSING COSTS:

None.

EFFECT ON SMALL BUSINESS:

The Commission has determined that the proposed regulatory action may affect small businesses, if any TPPS or Gambling Businesses qualifies as a small business. The cost effect would be the same as that addressed under "Cost Impact on Representative Private Person or Business."

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

CONSIDERATION OF ALTERNATIVES

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

INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

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

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

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

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

CONTACT PERSONS

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

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

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

Joy Calkin, Staff Services Analyst
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-0700
Fax: (916) 263-0452
E-mail: Jcalkin@cgcc.ca.gov

WEB SITE ACCESS

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