

ADVISORY NOTICE

APPROVED REGULATIONS REGARDING:
**ISSUANCE OF INTERIM GAMBLING LICENSES FOR CONTINUED OPERATION;
CRITERIA; PROCESSING TIMES; CONDITIONS.**

(CGCC-GCA-2011-01-R)

On December 21, 2011, the Office of Administrative Law approved regulations that address the issuance of interim state gambling licenses. These regulations were filed with the Secretary of State on December 21, 2011, and will become effective January 20, 2012.

These regulations implement recent legislation¹ that requires the California Gambling Control Commission (Commission) to establish regulations, by December 31, 2011, that would allow a gambling enterprise to continue to operate subsequent to the occurrence of specified events. Those events include, but are not limited to, the death, insolvency, foreclosure, receivership, or incapacity of an owner-licensee. The regulations accomplish this through the establishment of an application process for the issuance of interim gambling licenses, including timelines, criteria and interim license conditions. The issuance of an interim gambling license will allow gambling operations to continue while the Commission considers the regular gambling license application of the successor in interest to, or legal representative of an owner-licensee.

This regulatory action establishes Section 12349 in Article 2, Chapter 6, Division 18, Title 4 of the California Code of Regulations. The regulations provide as follows:

- Subsection (a) provides definitions for the following words and terms that are unique to Section 12349:
 - (1) “Applicant” means a new owner of a gambling enterprise or individual in control of an ownership interest, who makes application to the Commission for an interim gambling license.
 - (2) “Interim gambling license” means a license issued by the Commission which permits the interim operation of a gambling enterprise following a qualifying event, during which time the Commission processes and considers an application for a regular gambling license from a new owner.
 - (3) “New owner” means an individual who is a trustee (other than a trustee in bankruptcy), beneficiary, successor in interest, or security interest holder for a gambling enterprise who becomes an owner of, or obtains an ownership interest in a gambling enterprise as a result of a qualifying event.
 - (4) “Qualifying event” means an event, such as those specified in Business and Professions Code Section 19841, subdivision (s), which results in a change in the ownership or in the control of the ownership interest of a gambling enterprise and prevents gambling operations from continuing because the new owner or individual in control does not hold a valid gambling license. A qualifying event does not include a planned or negotiated transaction, where a

¹ Chapter 233, Statutes of 2009 (AB 293, Mendoza)

current licensee retains the authority to continue gambling operations, but the transaction requires prior Commission approval. Those excluded transactions may include a sale, the transfer of shares, incorporation or similar transactions.

(5) “Regular gambling license” means a gambling license issued by the Commission pursuant to Section 12342.

- Subsection (b) allows gambling operations to continue following a qualifying event, provided that an owner or a licensed person affiliated with the gambling enterprise assumes control of the gambling operations, the Commission is notified of the qualifying event within 10 days, and the new owner, or individual in control of the ownership interest, submits a request for an interim gambling license, as specified. This subsection requires that gambling operations cease in the event that the interim license request is denied or withdrawn and no other person has applied for or been granted an interim or regular gambling license for that gambling enterprise.
- Subsection (c) establishes the application process for an interim gambling license. The process includes a requirement that the new owner or individual in control of the ownership interest submit the following to the Commission within 30 days of the qualifying event: a complete application package for a regular gambling license; a written request for an interim license; and documentation that evidences the qualifying event. The 30-day application submission requirement may be extended by the Commission or the Executive Director if the new owner or individual in control of the ownership interest can demonstrate good cause, which may include factors such as a lack of knowledge of the occurrence of a qualifying event. The length of any extension would be at the discretion of the Commission or Executive Director, based on the specific facts and circumstances of each request.
- Subsection (d) specifies that a request for an interim gambling license is ancillary to, and concurrent with, an application for a regular gambling license. This subsection also sets up various timelines for the interim license application process. It allows Commission staff 10 days to determine the completeness of a request for an interim gambling license. If the request is incomplete, this regulation allows the applicant another 10 days to send the additional documents or information. If the applicant fails to send the requested documents or information, the application shall be considered abandoned. When a request is considered complete, the Commission will have 60 days to schedule and conduct a meeting to grant or deny the request for an interim license.

This subsection requires that gambling operations be terminated if an application for an interim license is abandoned by the applicant and no other person has applied for or obtained an interim or regular gambling license. The Gambling Control Act² (Act) and Penal Code prohibit gambling operations if no person holds a gambling license.³

This subsection also prohibits the approval of a request for an interim gambling license if any factor is disclosed that would disqualify the applicant for a regular license.

² Business and Professions Code, Division 8, Chapter 5, section 19800 et seq.

³ Business and Professions Code, sections 19850 and 19855; Penal Code, section 337j (a)(1)

- Subsection (e) applies three criteria to the processing of a request for an interim gambling license. First, in the unlikely event that a regular license is issued before the interim license, the request for an interim license shall be deemed withdrawn. Second, if an applicant withdraws an application for a regular gambling license before the Bureau's recommendation is made, the request for an interim license shall be deemed withdrawn. Third, the denial or cancellation of a request for an interim gambling license shall not affect the continued processing of the regular license application.
- Subsection (f) applies the following conditions to the issuance of an interim gambling license:
 - (1) An interim gambling license shall be invalidated upon issuance or denial of the corresponding regular license.
 - (2) The term of an interim gambling license shall be determined by the Commission and be based in part on the time necessary to process and consider the application for a regular gambling license.
 - (3) The issuance of an interim gambling license does not obligate the Commission to grant the regular license. Issuance of a regular license shall be subject to specified criteria.
 - (4) The issuance of an interim gambling license does not create a vested right to a regular gambling license or an extension of the interim license.
 - (5) The issuance of an interim gambling license does not change the qualification requirements for a regular license.
 - (6) The holder of an interim gambling license shall notify the Commission within 30 days of hiring a new key employee or specified contractor.
 - (7) The holder of an interim gambling license shall pay all the applicable annual fees associated with a regular gambling license.
 - (8) The holder of an interim gambling license shall comply with the Act and its regulations.
 - (9) The proceeds of the gambling enterprise shall be held in an escrow account and not disbursed until the Commission approves the ownership transfer and issues a regular gambling license to the new owner(s). The payment of taxes, operating expenses, preexisting obligations, preexisting dependent support and any other distributions approved by the Commission are exempt from this restriction.
 - (10) The Commission may impose additional conditions upon individual applicants for an interim gambling license to address particular factual situations.
- Subsection (g) requires the new owner of a gambling enterprise to provide the Commission with written notification within 30 days of a qualifying event if he or she intends to sell his or her ownership interest without first obtaining an interim or regular gambling license.
- Subsection (h) establishes a process for the cancellation of an interim gambling license by the Commission when it is determined that the license holder is not qualified to hold a gambling license. The process includes an option for the license holder to request an evidentiary hearing, pursuant to existing regulations.⁴

⁴ California Code of Regulations, Title 4, Section 12050, subsection (b)

- Subsection (i) ensures that the interim gambling license process does not preclude the Commission from issuing temporary licenses, as authorized by Business and Professions Code section 19824(f).

Regulation Text

A copy of the recently approved regulations is attached, or may be obtained from the Commission's website at www.cgcc.ca.gov under "Laws and Regs."

Questions, Concerns, Suggestions

For any questions, concerns, or suggestions regarding the adoption of these regulations, please contact James Allen, Regulatory Actions Manager, at (916) 263-4024. Questions regarding the licensing process should be directed to the Commission's Licensing Division at (916) 263-0700.