

CALIFORNIA GAMBLING CONTROL COMMISSION

CALIFORNIA CODE OF REGULATIONS
TITLE 4. BUSINESS REGULATIONS
DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION

TPPPS APPLICATION FORM CORRECTION CGCC-GCA-2018-02-N

SECTION 100. CHANGES WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(b)(3), of the California Code of Regulations (CCR), the California Gambling Control Commission (Commission) hereby submits this written statement explaining why the proposed change to CCR Title 4, Division 18, Section 12205.1,¹ has no regulatory effect.

CHANGE TO TEXT

Section 12205.1 is amended to revise the revision date of the Application for Third-Party Proposition Player Services License for Supervisors, Players or Other Employees, BGC-434. The revision date has been updated given the non-substantive changes to the form, as described below.

CHANGES TO FORMS INCORPORATED BY REFERENCE

All revision dates for the Application for Third-Party Proposition Player Services License for Supervisors, Players or Other Employees, BGC-434 form have been updated on the form. The revision date has been updated given the non-substantive changes to the form, as described below.

The title of the form, on the form, has been amended from Application for Third-Party Proposition Player Services License for Supervisor, Player, or Other Employee to Third-Party Proposition Player Services License for Supervisors, Players, or Other Employees. The form is incorporated and referenced in regulation five times but these five references use a different title than the one on the form itself. The revision of the name of the form, on the form, is non-substantive and makes the form match its incorporation and references.

The form has been modified to remove the requirement that a renewal request for a Supervisor license type must include a \$450 dollar background deposit. Additionally, the reference to player and other employee license types have been removed. These three references have been replaced with a reference to CCR Title 11, Section 2037 which is the regulation section adopted by the Bureau of Gambling Control (Bureau) within the Department of Justice to provide for background investigation deposits.

¹ All references to the California Code of Regulations hereinafter refer to Division 18 of Title 4, unless otherwise specified.

THE COMMISSION HAS NO DISCRETION TO ADOPT A CHANGE THAT DIFFERS IN SUBSTANCE

Authority to determine the background investigation deposit amount is vested with the Chief of the Bureau under Business and Professions Code section 19867(a). The Bureau, by regulation, fixed the deposit amount for supervisor renewals applications in CCR Title 11, Section 2037(a)(2)(J). This provision provides that a deposit is only required only upon request by the Bureau. The Commission included the information regarding the amount required as a deposit for a background investigation on form BGC-434 in order to simplify the application process for the regulated industry but the form implies the deposit must be paid in all instances. Because form BGC-434 suggests a deposit requirement inconsistent with CCR Title 11, Section 2037(a)(2)(J), changes must be made to Commission regulations, including forms incorporated by reference.

SPECIFIC FINDINGS

With respect to the foregoing, the Commission finds as follows:

NECESSITY:

In 2011, the Bureau promulgated regulations amending CCR Title 11, Section 2037 to, in part, create a minimum renewal deposit for third-party providers of proposition player services (TPPPS) supervisors² (OAL File number 2011-0203-2). In response, the Commission amended form CGCC-434 (later renamed BGC-434) to require the submittal of the deposit (OAL File number 2011-0818-02 N). This requirement incorrectly applied the Bureau's regulations, which limited the deposit requirement to applications "if notified by the Bureau that an investigation is needed," by requiring that all applications submit the \$450 deposit. This inadvertent inconsistency has had the effect of requiring deposits to be submitted when the Bureau has not required a deposit to be submitted. As the Commission does not have the authority to require the submittal of a background investigation deposit, this requirement must be removed.

CONSISTENCY:

The Bureau has indicated that information provided on the Application for Third-Party Proposition Player Services License for Supervisors, Players or Other Employees, BGC-434 form is inconsistent with duly adopted regulations promulgated by the Bureau. In order to prevent unnecessary confusion, Commission regulations must be changed to be consistent with Bureau regulations.

Without correcting the references to the form, the form requires the submittal of a background deposit inconsistent with the processing requirements of the Bureau, essentially requiring the Bureau to collect and then return a deposit it does not want. By correcting this requirement, the application will become consistent with the Bureau's regulations.

² CCR Title 11, Section 2037(a)(2)(J)

THE PROPOSED ACTION HAS NO REGULATORY EFFECT

The proposed change will not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision. This proposed change simply revises and corrects an inadvertent oversight and maintains the original intent of an existing requirement.