

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION
NOTICE OF PROPOSED REGULATORY ACTION
Southern California Gambling Control Act Hearings
CGCC-GCA-2021-04-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections, and recommendations received concerning the proposed action. Comments, objections, and recommendations may be submitted as follows:

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on **OCTOBER 5, 2021**. Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than midnight on OCTOBER 5, 2021. 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.**

PUBLIC HEARING

The Commission has not scheduled a public hearing on this matter. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the person(s) listed under Contact Persons no later than 15 days prior to the close of the written comment period.

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 19811, 19823, 19824, 19840, and 19841 of the Business and Professions Code; and to implement, interpret or make specific sections 19816, 19823, 19824, 19824.5, 19825, 19868, 19870, 19871, and 19876, Business and Professions Code; Section 11512, Government Code of the Business and Professions Code, the Commission is proposing to adopt the following changes to Chapters 1 and 2 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The Commission is the state agency charged with the administration and implementation of the Gambling Control Act (Act).¹ The Commission is authorized to adopt regulations governing applications for licenses, permits, registrations, findings of suitability, or other approvals,² including the consideration of an application at an evidentiary hearing.³

The Commission's regulations provide comprehensive procedures for evidentiary and non-evidentiary hearings and related topics. At a non-evidentiary hearing meeting the Commission may, among other actions, issue a license, temporary license, interim license, registration, permit, finding of suitability, renewal or other approval; or it may elect to hold an evidentiary hearing if issues are identified that require additional information or consideration related to an applicant's suitability for licensure. For evidentiary hearings on applications, the regulations require the hearing be conducted as a Gambling Control Act hearing (GCA hearing), which is most common, unless the Commission determines the hearing should be conducted as an Administrative Procedure Act hearing (APA hearing).

EXISTING LAW:

Gambling Control Act

Business and Professions Code section 19819, subdivision (a), requires the Commission establish and maintain a general office for the transaction of its business in Sacramento and provides that the Commission may hold meetings at any place within the state when the interests of the public may be better served.

Business and Professions Code section 19819, subdivision (c), specifies that a majority of the membership of the Commission is a quorum and requires a concurring vote of three members for any official action of the Commission.

Business and Professions Code section 19871 provides authority for promulgating regulations pertaining to the evidentiary hearing process, and provides a list of items that must be part of the process.

¹ Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

² Business and Professions Code section 19824, subdivision (a)

³ Business and Professions Code section 19870

EFFECT OF REGULATORY ACTION:

This proposed action has been prepared to modify existing GCA hearing regulations including the Notice of Defense form, CGCC-CH1-03, to establish specific criteria and requirements associated with determining when an applicant is eligible to request their GCA hearing be held at a location in Southern California. The criteria consists of requirements concerning the location of an applicant's primary residence, the estimated length of an applicant's GCA hearing, whether the hearing promotes judicial economy, and other requirements.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

The proposed regulations are anticipated to improve GCA hearing attendance of applicants that reside in the Southern California area by providing them the opportunity to be heard closer to their home. Improving access to an applicant's right to due process and thorough evidentiary hearing by reducing travel burdens for these applicants should result in a decrease in the amount of withdrawn hearing requests and failures to appear, both of which result in default denial decisions.

SPECIFIC PROPOSAL:

This proposed action will make changes within California Code of Regulations, Title 4, Division 18 as follows:

General Notes

A general change throughout has been made in all references to the current version of the Notice of Defense form, CGCC-CH1-03 (~~New 05/20~~[Rev. 08/21](#)), as amendments to the form are being proposed as part of this regulatory package.

CHAPTER 1. GENERAL PROVISIONS.

ARTICLE 1. DEFINITIONS AND GENERAL PROCEDURES.

Amend Section 12006. Service of Notices, Orders, and Communications.

Subsection (b) is amended to reference the new version of the Notice of Defense form, CGCC-CH1-03 (Rev. 08/21). See General Notes above.

ARTICLE 2. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS.

Amend Section 12052. Commission Meetings; General Procedures; Scope; Notice; Rescheduling of Meeting.

This section provides general procedures regarding the hearing process that is required for the consideration of any license, permit, finding of suitability, renewal, or other Commission approval.

1. **Subparagraphs (c)(2)(B) and (C)** contain non-substantive amendments to align with the re-numbering of the subsections in Section 12060.
2. **Subparagraph (c)(2)(E)** is amended to include a new version of the Notice of Defense form, CGCC-CH1-03 (Rev. 08/21). This form is provided to the applicant to complete, and once returned to the Bureau and Commission, provides important information to the Commission concerning the evidentiary hearing process. Section 1 of the form is being amended to provide an applicant the ability to request a GCA hearing be held at a

Southern California location. The applicant is required to acknowledge that there may be a significant delay in concluding a Southern California hearing and confirms that their primary residence is in one of the following California counties: Imperial, Kern, Los Angeles, Orange, Riverside, San Diego, San Luis Obispo, San Bernardino, Santa Barbara, or Ventura.

Amend Section 12057. Default Decisions and Uncontested Applications.

Subsection (a) is amended to reference the new version of the Notice of Defense form, CGCC-CH1-03 (Rev. 08/21). See General Notes above.

Amend Section 12060. GCA Hearings.

This section implements the evidentiary hearing process pursuant to Business and Professions Code sections 19870 and 19871. This process provides a clear method for the applicant to show the Commission that he, she, or it meets the requirements of the Act and is of good character, honesty, and integrity.

1. **New subsection (c)** provides that an applicant may request his, her, or its GCA hearing be held at a Southern California location on the Notice of Defense form under specified conditions (see below).
2. **New paragraph (c)(1)** provides that the Executive Director (or designee), as defined in Section 12002(w), will approve an applicant's request to have a Southern California GCA hearing if specified criteria are met (identified below).
 - a. **New subparagraph (c)(1)(A)** specifies that the hearing must not be estimated by Commission staff to exceed four hours in length.
 - b. **New subparagraph (c)(1)(B)** specifies that the applicant's primary residence must be located in one of the following counties: Imperial, Kern, Los Angeles, Orange, Riverside, San Diego, San Luis Obispo, San Bernardino, Santa Barbara, or Ventura.
 - c. **New subparagraph (c)(1)(C)** specifies that a GCA hearing will be noticed for a Southern California location only when doing so is in the best public interest, promotes judicial economy, and comports with the Commission's availability.
3. **New paragraph (c)(2)** authorizes Commission staff to cancel a Southern California GCA hearing and issue a new notice of hearing for the Commission's Sacramento office if at any time before the hearing the Executive Director determines that the criteria in subparagraphs (c)(1)(A) through (C) are no longer met.
4. **Subsection (e)** [formerly (d)] specifies that if a request for a continuance of a Southern California hearing is granted, the hearing may be relocated to the Commission's office in Sacramento if the criteria specified in subparagraphs (A) through (C) of paragraph (1) of subsection (c) are no longer met.

5. **Subsections (f), (g), (h), (i), (j), (k), (l), (m), and (n)** [formerly (e), (f), (g), (h), (i), (j), (k), (l), and (m) respectively] contain non-substantive amendments to align with the re-lettering of the subsections in Section 12060.

CHAPTER 2. LICENSES AND WORK PERMITS.

ARTICLE 2. INITIAL AND RENEWAL LICENSES AND WORK PERMITS.

Amend Section 12118. Objection to Local Work Permits.

Paragraph (c)(3) contains a non-substantive amendment to align with the re-lettering of the subsections in Section 12060.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS:

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

The proposed action is intended to reduce travel costs and other disproportionate burdens for applicants residing in Southern California that have been scheduled for a GCA hearing by establishing a process with specific criteria for said applicants to request that their GCA hearing be held at a location in Southern California determined by the Commission.

COMPARABLE FEDERAL LAW:

There are no existing federal regulations or statutes comparable to the proposed regulations.

FISCAL IMPACT ESTIMATES

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

The proposed action is estimated to result in a minor fiscal impact to the Commission and the Department of Justice's Bureau of Gambling Control (Bureau) and Indian Gaming Law Section (IGLS). Total costs for all agencies associated with traveling to Southern California for attending the GCA Hearings is estimated to increase by \$63,278 per year, which would be absorbed within the agencies' existing budget and resources. The total cost to the State consists of expenses for parking, incidentals, hotel accommodations, flights, meals, and ground transportation associated with conducting Gambling Control Act Hearings in Southern California 15 days per year (five days per trip, three times per year).

Each agency identified below, provided its costs based on the number of staff needed to attend the hearings as follows:

- Commission (\$32,771 per year):
 - Five Commissioners
 - One Executive Director
 - Two Attorney IIIs
 - One Tech Support staff member
- Bureau (\$23,224 per year):
 - One Assistant Director

NOTICE OF PROPOSED REGULATORY ACTION
SOUTHERN CALIFORNIA GAMBLING CONTROL ACT HEARINGS
CGCC-GCA-2021-04-R

- Three Staff Services Manager IIs
- Three Staff Services Manager Is

- IGLS (\$7,283 per year):
 - Two Attorneys

There would be no costs or savings in Federal funding to the State.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

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

None.

EFFECT ON HOUSING COSTS:

None.

IMPACT ON BUSINESS:

The Commission has determined that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination is based on the following facts or evidence/documents/testimony: This proposed action imposes no mandatory requirement on businesses. The proposed regulations only provide an optional process for individual applicants to request their GCA hearing be held in Southern California if specified conditions are met.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission has determined there would be no increase in costs to representative private person or business as a result of complying with the proposed action. The proposed regulations only provide a process for individual applicants to request their GCA hearing be held in Southern California if specified conditions are met.

The proposed action would result in a cost savings to applicants residing in Southern California that meet specified criteria as defined in the regulations and are approved and scheduled to have their hearing held in a Southern California location based on meeting said criteria. It is difficult to quantify the total amount of benefit this regulation would provide as the benefits to individual applicants are primarily non-monetary in nature (e.g., improved access to an applicant's right to due process by having the hearings held locally). Further, there is derivative benefit in that it may also assist employers and the families of employees in maintaining an incumbent (employee

subject to evidentiary hearing) in a position that may otherwise not have remained without the improved access to an applicant's right to due process and thorough evidentiary hearing.

From a strictly monetary perspective, said applicants would be relieved from long distance travel expenses (airfare, airport transportation, parking, hotel accommodations, extended childcare or caretaking arrangements, lost wages, etc.) and only incur negligible costs to travel locally using their personal vehicle or public transportation. Due to the individual cases of each applicant, the amount of monetary benefit the regulations will have on these individuals is contingent on the following unpredictable circumstances:

- How far the applicants will need to travel by car or public transportation from their residence to the hearing location;
- The cost of gasoline and the amount of traffic which would affect fuel economy;
- Whether the regulations will increase GCA hearing attendance (and by how much) for qualifying applicants and any of their witnesses residing in Southern California by improving the applicant's right to due process. Notwithstanding, assuming a 1 hour distance and a vehicle at 20 miles per gallon going an average of 60 mph (reduced mileage per hour to account for some traffic). This would essentially equate to three gallons per way. This is then multiplied by the current cost of gasoline (\$4.00 per gallon), essentially making the trip approximately \$24.00 per applicant.

EFFECT ON SMALL BUSINESS:

The Commission has made a determination that the proposed regulatory action would have no significant impact on small businesses as the proposed action only impacts individual applicants and will not create or eliminate any businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California. For this purpose, the consolidated small business definition provided in Government Code section 11346.3, subdivision (b), paragraph (4) was utilized.

The basis for this determination is that this proposed action imposes no mandatory requirement on businesses or individuals and does not significantly change the Commission's current practices and procedures. Licenses and Commission work permits are portable and the proposed action only increases access to an applicant's right to due process and thorough evidentiary hearing by providing a different means of hearing attendance for qualifying Southern California applicants. The proposed action may cause a minor and insignificant increase in business for the following types of businesses as a result of holding GCA hearings in Southern California over a four day period, three times per year: Airlines, hotels, restaurants, and ground transportation businesses.

The Commission does not have an established hearing location in Southern California and

location choices will be limited due to space requirements and availability. However, the Commission has been in contact with the Department of General Services' Building Management Division, which has provided information on several state owned facilities located in Southern California that are available to reserve and rent at no additional cost to any state agency.

BENEFITS OF PROPOSED REGULATION:

The proposed regulations are anticipated to improve GCA hearing attendance of applicants that reside in the Southern California area by providing them the opportunity to be heard closer to their home. Improving access to an applicant's right to due process and thorough evidentiary hearing by reducing travel burdens for these applicants should result in a decrease in the amount of withdrawn hearing requests and failures to appear, both of which result in default denial decisions.

HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

It has been determined that the proposed action will protect the health, safety, and general welfare of California residents by aiding and preserving the integrity of controlled gambling and providing increased access to an applicant's right to due process and a thorough evidentiary hearing, which will better serve the public.

WORKER SAFETY:

It has been determined that the proposed action will not affect worker safety because it does not pertain to working conditions or worker safety issues.

STATE'S ENVIRONMENT:

It has been determined that the proposed action will not affect the State's environment because it has nothing to do with environmental issues.

CONSIDERATION OF ALTERNATIVES

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 be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 primary contact person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Website listed below.

CONTACT PERSONS

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

Alex Hunter, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 263-1301
Fax: (916) 263-0499
E-mail: ahunter@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:

Joshua Rosenstein, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 274-5823
Fax: (916) 263-0499
E-mail: jrosenstein@cgcc.ca.gov

WEB SITE ACCESS

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