



ADVISORY NOTICE

APPROVAL OF EMERGENCY REGULATIONS COMMISSION FEES MODERNIZATION PROJECT III

(CGCC-GCA-2022-03-E)

On August 1, 2022, the Office of Administrative Law approved emergency regulations which update the California Gambling Control Commission's (Commission) regulations providing annual fee calculations for cardroom business licensees. The approved regulations were filed with the Secretary of State on August 1, 2022, and became effective the same day. The initial adoption of these emergency regulations will remain in effect for 180 days and is currently set to expire on January 31, 2023. The Commission does intend to make these emergency regulatory changes permanent and is taking the steps necessary to pursue permanency via the certificate of compliance process.

Approved Regulations

This regulatory action has made changes in Chapter 7 of Division 18 of Title 4 of the California Code of Regulations. Those changes are as follows:

ARTICLE 1. GENERAL PROVISIONS.

Amend 12360. Definitions.

Section 12360 provides the definitions that pertain only to Chapter 7. The Commission is proposing to add 13 new definitions to this section.

Subsection (b) provides the following new definitions:

- Paragraph (1) provides the definition of "Active Licensee" to mean a TPPPS business licensee or cardroom business licensee who has generated revenue for at least the last year as reported in Section 12313.
- Paragraph (2) provides the definition of "Annual Fee" to mean the amount a cardroom business licensee is required to pay to cover Non-Application Costs pursuant to Section 12368.1.
- Paragraph (3) provides the definition of "Application Cost" to mean all costs, including the deposit, an applicant pays for the processing of their application.
- Paragraph (7) provides the definition of "Cost Pool 1" or "Even Across All" to mean a cost allocation for all non-application costs that are not directly attributed to an application fee or deposit, and allocated as a cost to all TPPPS business licensees and cardroom business licensees equally.

- Paragraph (8) provides the definition of “Cost Pool 2” or “Application Split” to mean a cost allocation for all non-application costs on a per-application basis that relate to both TPPPS business licensees and cardroom business licensees that have a direct connection to the processing of applications for the controlled gambling industry, and are not directly attributed to an application fee or deposit.
- Paragraph (9) provides the definition of “Cost Pool 3” or “Entity Split” to mean a cost allocation for all non-application costs generated by non-Commission actions that relate to both TPPPS business licensees and cardroom business licensees.
- Paragraph (10) provides the definition of “Cost Pool 4” or “Commission Actions” to mean a cost allocation for all non-application costs generated by matters requiring Commission action that relates to TPPPS business licensees or cardroom business licensees.
- Paragraph (11) provides the definition of “Cost Pool 5” or “Cardroom Only” to mean a cost allocation for all non-application costs that are specific to cardroom business licensees but not directly linked to a Commission approval, such as, compliance reviews of games, reviews of reports, and local ordinance reviews.
- Paragraph (12) provides the definition of “Cost Pool 6” or “TPPPS Only” to mean a cost allocation for all non-application costs that are specific to TPPPS business licensees but not directly linked to a Commission approval, such as, contract renewal notices and non-investigation industry inquiries or correspondence.
- Paragraph (16) provides the definition of “New Business Licensee” to mean a TPPPS business licensee or cardroom business licensee who first became licensed prior to August 31 of the year the invoices were created.
- Paragraph (17) provides the definition of “Non-Application Cost” to mean all costs other than application costs borne by the Commission, Department of Justice, and all other State operations expenditures for the administration and enforcement of the Act.
- Paragraph (18) provides the definition of “Non-Operational Licensee” to mean a TPPPS business licensee or cardroom business licensee that maintains a valid license but did not generate revenue in the past year as reported in Section 12313.
- Paragraph (20) provides the definition of “Surrendered or Revoked Licensee” to mean a former cardroom business licensee who stopped operating and ceased to maintain a valid license prior to August 31 of the year the invoices are created.

Amend 12368. Cardroom Business License Annual Fee.

Section 12368 provides the process and timelines for a cardroom business licensee to submit their annual fee. Section 12368 is proposed be repealed and replaced as follows:

Subsection (a) provides that no later than October 1 of each year an invoice in an amount determined by the Commission pursuant to Section 12368.1(a) will be sent by the Bureau to each cardroom business licensee and the cardroom business licensee will have until January 1 of the following year to submit the invoiced annual fee to the Bureau.

Subsection (b) provides that the annual fee may be paid in installments if the cardroom business licensee submits a written request to the Bureau within 30 days from the date the invoice was mailed.

Subsection (c) provides that if approved for installment payments, a cardroom business licensee will provide its payments January 1, April 1, and June 30 of the payment year.

Subsection (d) provides that the cardroom business license certificate will not be issued until the Bureau has received the cardroom annual fee, or has approved the cardroom business licensee for installment payments.

Subsection (e) provides that that any renewal application for a cardroom business licensee may not be approved if the cardroom business licensee has any outstanding annual fees.

Subsection (f) provides that no application for a contract may be approved by the Bureau for a TPPPS to operate at this cardroom until any delinquent annual fees have been paid in full.

Subsection (g) provides the invoice amounts for cardroom business licensees when they first receive their licenses.

- Paragraph (1) provides that upon the first issuance of a cardroom business license, either as a temporary or a permanent license, the Bureau will issue an invoice in the amount determined in Section 12368.1(b), the cardroom business licensee must submit to the Bureau the annual fee within 30 days from the date the invoice was mailed.
- Paragraph (2) provides that for the first full calendar year of licensure, a cardroom business licensee will be invoiced the unadjusted annual fee, as if they were a cardroom business licensee whose average gross gaming revenue was less than \$1.5 million as determined in Section 12368.1(a)(6)(A)(1).

Adopt 12368.1. Cardroom Business License Annual Fee Calculation.

Section 12368.1 provides the calculation method of the cardroom annual fee. The cardroom annual fee is determined using a step-by-step calculation method that begins with the Commission's and Bureau's operation costs, which are not directly related to any charged fee or deposit, to determine how each type of operation cost relates to the cardroom industry and divides the costs into cost pools dependent on the average annual revenue of a cardroom business licensee to determine an annual fee.

Subsection (a) provides the calculation method for determining a cardroom business licensee's annual fee. This six-step calculation method provides a clear, specific method for the Commission to follow when determining the cardroom annual fee amounts.

- Paragraph (1) provides the first step in the calculation method. The Commission and Bureau will collect their cost data from the previous and current fiscal years. The Commission will analyze the information and divide the allocation of costs into the six cost pools, as they are defined in Section 12360. If necessary, other costs may be included in specific cost pool(s) as the Commission determines is required for administration and enforcement of the Act based on the responsibilities of the Commission and Bureau pursuant to BPC sections 19823 and 19826. Additionally, should it be determined, for whatever reason, a previous year's cardroom annual fees were inaccurate, an additional sum either added to or subtracted from the appropriate cost pool(s) will be included as a carry forward to reconcile the previous year(s).

- Paragraph (2) provides the second step of the calculation method. The Commission will calculate the percentage of total applications for cardroom business licensees compared to the total of all applications for TPPPS business licensees and cardroom business licensees and multiply it by cost pool 2. This ratio allows cost pool 2 to be divided between the two industries to determine the percentage of workload that was spent on cardroom business licensees.
- Paragraph (3) provides the third step of the calculation method. The Commission will determine the percentage of active and non-operational cardroom business licensees compared to the total of all active and non-operational TPPPS business licensees and cardroom business licensees and multiply it by cost pool 3. This ratio allows cost pool 3 to be divided between the two industries to determine the general percentage of workload spent on each industry.
- Paragraph (4) provides the fourth step of the calculation method. The Commission will determine the percentage of total Commission actions for TPPPS business licensees and cardroom business licensees using the average number of applicable Commission actions over the previous three fiscal years and multiply the percentages by cost pool 4. This ratio allows cost pool 4 to be divided between the two industries to determine the general workload spent on each industry.
- Paragraph (5) provides the fifth step of the calculation method. The Commission will add the cardroom business licensee values determined in steps 2 through 4 along with the value of cost pool 5. This is the total fee to be paid by all active and non-operational cardroom business licensees. The Commission will then divide the total annual fee by the total average annual number of Commission actions from the last three fiscal years for cardroom business licensees to determine the unadjusted annual fee amount.
- Paragraph (6) provides the sixth step of the calculation method. The Commission will determine for each cardroom business licensee if they are an active licensee, surrendered or revoked licensee, or non-operational licensee. Additionally, for each active licensee, the Commission will determine their annual average gross gaming revenue based upon the cardroom business licensee's previous three fiscal years as reported pursuant to Section 12313. If three years of gross gaming revenue data is unavailable, such as if the cardroom business licensee has not been operating for the previous three years, the Commission will utilize however many years are available to create the average. Using this average, the Commission will separate the active licenses into two groups, those whose average is below \$1,500,000 and those whose average is equal to or above \$1,500,000.
 - Subparagraph (A) provides the instructions to the Bureau for the final determinations of the amounts to be invoiced by the Bureau pursuant to subsection (a) of Section 12368.
 - Clause 1 provides that active cardroom business licensees whose average gross gaming revenue was determined to be below \$1,500,000 will be billed an amount equal to the baseline per-licensee annual fee determined in paragraph (5).
 - Clause 2 provides that non-operational cardroom business licensees pay half the amount of the baseline per-licensee annual fee determined in paragraph (5).
 - Clause 3 provides that surrendered or revoked cardroom business licensees will not receive an invoice.

- Clause 4 provides that active cardroom business licensees, who had previously been identified to have an average gross gaming revenue equal to or above \$1,500,000, will be invoiced an annual fee that is a proportional amount of the remainder of the total fees to be paid based upon the cardroom business licensee's proportional three-year average gross gaming revenue when compared to all other active cardroom business licensees who had previously been identified to have an average gross gaming revenue equal to or above \$1,500,000.

Subsection (b) provides that for new cardroom business licensees who receive an approval of their application for licensure, either temporary or permanent, they will be required to pay a proportional amount of the unadjusted annual fee required of cardroom business licensees whose three-year average gross gaming revenue is less than \$1,500,000 based on the number of months remaining in the current calendar year.

Regulation Text

A copy of the recently approved regulations is attached. That document is also available on the Commission's Web site under "Regulations/Recently Approved Regulations" at www.cgcc.ca.gov.

Questions, Concerns, Suggestions

For any questions, concerns, or suggestions regarding the adoption of this regulation, please contact lawsandregs@cgcc.ca.gov.