

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION

NOTICE OF PROPOSED REGULATORY ACTION
Commission Fees Modernization Project III
CGCC-GCA-2022-03-C

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 **January 17, 2023**. 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 January 18, 2023**. **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 19824, 19826, 19840, 19841, 19951, 19955 and 19984 of the Business and Professions Code; and to implement, interpret or make specific sections 19805, 19826, 19841, 19867, 19951, and 19984 of the Business and Professions Code,

the Commission is proposing to adopt the following changes to Chapters 2, 5, and 7 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT

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 as necessary to implement the Act.

Senate Bill (SB) 189 (Chapter 48, Statutes of 2022) was signed into law on June 30, 2022. SB 189, in part, significantly modified Business and Professions Code (BPC) section 19951. BPC section 19951 is the section that provides the Commission the authority to charge an annual fee to cardrooms. Prior to the adoption of SB 189, the provision provided a specific fee structure that each cardroom was required to pay. This fee structure was based on the number of tables the cardroom was licensed to operate or the gross revenue of the cardroom, as specified.

With the adoption of SB 189, this fee structure has been repealed and replaced with authority for the Commission to adopt regulations to collect a fee that is limited to the reasonable regulatory expenditures of the Bureau of Gambling Control within the Department of Justice (Bureau) and the Commission. As the Commission is aware that the existing fee structure in regulation is not limited to the reasonable regulatory expenditures of the Bureau and Commission, maintaining these regulations is inconsistent with the requirements of BPC section 19951.

EXISTING LAW:

BPC section 19805 provides the definitions used within the Act.

BPC section 19824 provides that the Commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of the Act.

BPC section 19826 provides the responsibilities of the Bureau, including to receive and process applications for any license, permit, or other approval, and to collect all related fees.

BPC section 19840 provides that the Commission may adopt regulations for the administration and enforcement of the Act. Additionally, the Commission's regulations, to the extent appropriate, shall take into consideration the operational differences of large and small businesses.

BPC section 19841 provides a list of regulations that the Commission must adopt, including regulations providing the manner and method of collection and payment of fees and implementing the provisions of the Act relating to licensing and other approvals.

BPC section 19951 provides that the Commission may collect fees sufficient to fund the reasonable regulatory expenditures of the Bureau and Commission to fully carry out their duties and responsibilities under the Act.

¹ Business and Professions Code, Division 8, Chapter 5, section 19800 et seq.

BPC section 19955 provides that if an owner licensee fails to make timely payments under BPC section 19951(b)(2), the Commission may order the temporary closure of the gambling establishment and if the fees remain unpaid after 90 days, the Commission may deem the license surrendered.

BPC section 19984 provides that the Commission shall establish regulations related to third-party providers of proposition player services (TPPPS), including the establishment of reasonable fees and deposits as necessary to defray the costs of providing regulation and oversight.

EFFECT OF REGULATORY ACTION:

This proposed action has been prepared to implement the annual fee calculation recommended by MGT Consulting Group in response to the State Auditor’s Report (Audit Report)² released on May 16, 2019, in regards to cardrooms.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of requiring cardroom business licensees to pay total annual fees in an amount necessary for the Commission and Bureau to maintain proper funding levels while removing any inappropriate additional payments.

SPECIFIC PROPOSAL:

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

CHAPTER 2. LICENSES AND WORK PERMITS

ARTICLE 2. INITIAL AND RENEWAL LICENSES AND WORK PERMITS

Amend 12112. Initial License Applications; Required Forms.

Section 12112 provides the forms and other information necessary for an application for an initial license to be considered complete. This section includes the attachment of many forms, including the Application for Owner Category License, CGCC-CH2-05. As part of submitting this form, applicants for cardroom business licenses and TPPPS business licenses are required to submit their annual fees. Section 12368 has been amended to provide a separate timeline for submitting annual fees.

CHAPTER 5. ACCOUNTING AND TRANSACTION APPROVALS

ARTICLE 1. ACCOUNTING AND FINANCIAL REPORTING

Adopt 12318. Cardroom Business License Gaming Revenue Report.

Subsection (c) of Section 12368 required the submittal of a completed Cardroom Business License: Annual Fee Calculation, CGCC-CH7-03, alongside the submittal of the current year’s annual fee (which itself is due no later than 120 calendar days following the end of the cardroom business licensee’s preceding fiscal year). This form includes information both to report the revenue for gambling activities, broken down by individual games and tournaments, and information for the determination of the cardroom business licensee’s annual fee. With the change to the annual fee payment structure, the section related to the annual fee schedule is

² State Audit Report 2018-132

inconsistent, no longer necessary, and is therefore repealed. The remainder of the form and the current submittal timeline was moved to this new section. Due to the move to Chapter 5 and the removal of part of the form, it has been renamed Cardroom Business License: Gaming Revenue Report, CGCC-CH5-01.

CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS

ARTICLE 1. GENERAL PROVISIONS

Amend 12360. Definitions.

Section 12360 provides the definitions that pertain only to Chapter 7. The Commission is proposing to add six new definitions to this section. All existing definitions are renumbered accordingly, which is a non-substantive change.

Paragraph (b)(1) provides the definition of “Active Licensee” to mean a cardroom business licensee who has generated revenue for at least the last year as reported in Section 12313. This means that if a cardroom business licensee has reported revenue in the previous year’s financial statement, they are considered active.

Paragraph (b)(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 12368.2.

Paragraph (b)(3) provides the definition of “Application Cost” to mean all costs, including the deposit, related to the processing of an application.

Paragraph (b)(10) 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 (b)(11) provides the definition of “Non-Operational Licensee” to mean a cardroom business licensee that maintains a valid license but did not generate revenue in the past year as reported in Section 12313. This means that if a cardroom business licensee has not reported revenue in the previous year’s financial statement, they are considered non-operational.

Paragraph (b)(13) 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. The current provision mirrors the previous process and fee schedule provided in BPC 19951, which has since been repealed. As such, all of the existing 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 12368.2 will be sent by the Bureau to each cardroom business licensee.

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 calendar days from the date the invoice was mailed.

Subsection (c) provides that a request for installment payments is to be considered approved unless, within 14 calendar days of receiving the request, the Bureau determines and notifies the cardroom business licensee that it has been disapproved. If not disapproved, a cardroom business licensee will provide its payments January 1, April 1, and June 30 of the payment year. If disapproved, or if not requested, the cardroom business licensee will pay the entire amount by January 1. The standard for disapproval by the Commission is based on if the cardroom business licensee has shown a history of failing to make installment payments as required or failed to submit the request within the required 30 calendar days.

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

Subsection (e) provides that that any renewal application for a cardroom business licensee will 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. Since the definition of an active licensee requires the submittal of fiscal information, it is likely that a newly approved cardroom business licensee will not have operated for a sufficient time to have completed a full fiscal year in the timeframe required for the calculation of an annual fee.

Paragraph (1) provides that upon the first issuance of a cardroom business license, either as a temporary or an initial license, the Bureau will issue an invoice in the amount required of an active licensee with a gross revenue under \$1,500,000, as provided in Section 12368.2, divided by 12, multiplied by the number of whole months remaining in the current calendar year, the cardroom business licensee must submit to the Bureau the annual fee within 30 calendar 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 required of an active licensee with a gross revenue under \$1,500,000, as provided in Section 12368.2 for the following calendar year.

Adopt 12368.2. Cardroom Business License Annual Fee Amounts.

Section 12368.2 provides the annual fee amounts required of cardroom business licensees. The fees required include:

- \$0 for surrendered or revoked licensees;
 - \$5,237 for non-operational licensees;
 - \$10,473 for active licensees with a three-year average gross revenue under \$1,500,000;
- or,

- 1.29% of the three-year average gross revenue for active licensees with a three-year average gross revenue of \$1,500,000 or more.

ARTICLE 10. GAMING TABLES

Amend 12470. Request for Additional Temporary Tables for Tournaments or Special Events.

Section 12470 provides the process by which a cardroom business licensee can request additional tables for use on a temporary basis. Currently, this process includes two fees, a fixed application fee to cover the costs of processing the application and an adjustment to the cardroom business licensee's annual fee to reflect the additional tables. Now that the annual fee payment is no longer linked to the number of tables operated by the cardroom business licensee, it is repealed.

Paragraph (3) of subsection (a) provides that the fee is required to be submitted with the application. Additionally, the form Cardroom Business License: Gaming Tables, CGCC-CH7-07, attached to the Appendix in this section, provides the same requirement. It is repealed from both the section and the form.

Subsection (f) provides the calculation for this fee. As this fee is no longer being collected, it is repealed.

Amend 12472. Request for Additional Permanent Tables.

Section 12472 provides the process by which a cardroom business licensee can request additional permanent tables. Currently, this process includes an adjustment to the cardroom business licensee's annual fees; however, as those fees are no longer being based on the total number of tables operated by the cardroom business license, this additional fee is being repealed.

Subsection (d) provides the timeline for the Bureau and Commission to review and consider the application for additional permanent tables. This includes a notification and submittal of additional annual fees. As this fee is no longer being collected, it is repealed.

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 make changes to the Commission's regulations to improve the Commission's existing processes and in so doing makes them more compatible and internally consistent.

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 Commission is anticipating an increase in annual fee collection of approximately \$4,726,704 in cardroom annual fees per state fiscal year when compared to what is currently being collected. To accommodate the additional workload, the Commission has already received additional budget authority for the 2022-2023 fiscal year of \$168,000 for one Staff Management Auditor position.

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 made a determination that the proposed regulatory action 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. This determination is based on the following facts or evidence/documents/testimony:

This proposed action imposes no new mandatory requirements on businesses.

The Commission is anticipating an additional statewide cost of \$4,726,704 in cardroom annual fees. This cost would directly impact cardroom businesses licensees. This is reflected in an average increase of \$764,801 in annual fees for a typical business and \$48,652 for a small business. The calculation method has been weighted to ensure that those businesses whose three-year average gross revenue is under \$1,500,000 per year pay a lower proportion of the total fees necessary in order to ensure that no cardroom business licensee is significantly impacted.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission is anticipating an impact on a typical cardroom business licensee resulting from the increase to their annual fee. As noted above, the Commission estimates the average increase to be \$764,801 per typical business. The proposed regulation will have no impact on a representative private person.

EFFECT ON SMALL BUSINESS:

The Commission is anticipating an impact on a small cardroom business licensee resulting from the increase to their annual fee. As noted above, the Commission estimates the average increase to be \$48,652 per small business.

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 definition of a small business as defined by the federal Small Business Administration was utilized.

The basis for this determination is that this proposed action only adjusts cardroom business licensees' annual fees to reflect actual costs incurred by the Commission and Bureau, which is unlikely to result in additional or reduced industry participation or performance.

BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of requiring cardroom business licensees to pay total annual fees in an amount necessary for the Commission and Bureau to maintain proper funding levels.

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.

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 does not pertain to 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 upon request to 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 also listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** 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](mailto:jrosenstein@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:

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](mailto:ahunter@cgcc.ca.gov)

WEBSITE ACCESS

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