

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION
CGCC-GCA-2021-05-E

FINDING OF EMERGENCY
REGULATIONS FOR THE IMPLEMENTATION OF
COMMISSION FEES MODERNIAZATION PROJECT

The California Gambling Control Commission (Commission) finds it necessary to adopt regulations on an emergency basis to reduce specified licensing fees in alignment with the costs for providing regulatory oversight and related services pursuant to the fee study, which was approved by the Department of Finance (DOF) on September 16, 2021. Moreover, the COVID-19 pandemic has affected the California cardroom industry significantly, which has seen a significant decrease in revenue due to forced closures and reduced occupancy within cardrooms. In turn, this has caused a decrease in workforces, impacting employees within the cardrooms themselves. Economic and job recovery for the cardrooms and their employees is now underway but it will take significant time for the industry to fully rehire full staffing needs and recover lost income and revenue. While Executive Order (EO) N-08-21 did provide much needed due date extensions for Commission licensing fees, the EO expires September 30, 2021. Emergency regulations to continue similar relief to initial license or permit applicants in order to protect public safety and welfare, as the expiring EO has accomplished, are necessary. Submittal of the regulations via the regular rulemaking process logically inhibits certain applicants' abilities to afford fees associated with license and permit applications. It is critical employees be allowed to pay reduced fees rather than the current fee schedules, especially when the State is aware that such fees, which are being proposed for reduction herein, exceed regulatory costs. The legality of these fees were also part of the Commission fees questioned by the California State Auditor (Report 2018-132). As such, emergency rulemaking action is necessary to avoid unnecessary harm to the public's general welfare.

SECTION 48 STATEMENT:

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

EMERGENCY FACTS:

California State Auditor Report

As directed by the Joint Legislative Audit Committee, the California Bureau of State Audits (State Auditor) began conducting its audit of the Commission and the Department of Justice's (DOJ) Bureau of Gambling Control (Bureau) in 2018. The audit focused on each entity's

regulatory duties that the Gambling Control Fund (GCF)¹ supports, which includes the licensing of individuals who own or work in cardrooms. The State Auditor’s Report (Audit Report)² released on May 16, 2019, found that to varying degrees, the fees charged have resulted in unequal treatment of license applicants, which do not align with the costs for providing regulatory oversight and related services. This has resulted in an excessive surplus in the GCF.

To better align the revenue in the GCF with the costs of the activities that the fund supports, the Audit Report recommended the Commission and the Bureau conduct cost analyses of those activities by July 2020, which include at a minimum, the following:

- The entities’ personnel costs, operating costs, and any program overhead costs.
- Updated time estimates for their core and support activities.
- The cost of their enforcement activities.

Further, the Audit Report recommended that in using such information, the Commission and the Bureau should reset their regulatory fees to reflect their actual costs.

Cost and Fee Study

Pursuant to the State Auditor’s recommendation, in late 2019 the Commission and the Bureau contracted with MGT Consulting Group (MGT), a third-party consulting company, to complete a cost and fee study. The study’s primary objective was to conduct a cost analysis to determine if the revenue collected and deposited into the GCF aligned with the costs of the activities that the fund supports. The study details the full cost of services provided by the Commission and the Bureau and presents full cost fee adjustments including their fiscal impact. MGT presented the fee study recently, which was submitted to the DOF and State Auditor. The DOF provided their approval of the fee study on September 16, 2021, and as such, precipitated these emergency regulations.

MGT used its standard approach for analyzing a majority of the costs of providing fee-related services, which is commonly referred to as a “bottom up” approach. With the exception of annual fees for cardroom and TPPPS businesses, all other regulatory fees were analyzed using the bottom-up approach. This bottom-up approach incorporated personnel costs, operating costs, and any program overhead costs, which allowed MGT to determine the individual per unit cost for these services. The study provides fee recommendations to align the revenue collected and deposited into the GCF with the costs of the activities provided by the Commission and the DOJ that the fund supports. The report is the culmination of an extensive analysis conducted by MGT in collaboration with both the Bureau and the Commission’s management and staff.

Executive Orders N-83-20 and N-08-21

On March 4, 2020, Governor Newsom proclaimed a State of Emergency as a result of the COVID-19 pandemic. Related emergency public health orders required non-essential businesses such as cardrooms to temporarily close their doors to the public. Since, several EOs have been issued providing relief to various businesses, including cardrooms experiencing financial hardship due to public health orders concerning isolation, stay-at-home, telework, and physical distancing requirements.

¹ Gambling Control Fund (0567)

² State Audit Report 2018-132

On October 28, 2020, Governor Newsom released EO N-83-20, which provided additional relief to the industry related to reporting requirements and fees and specific application and reporting timeframes. Among other forms of relief this EO provided, all of the Bureau and Commission's application and background fees that were currently outstanding or would otherwise become due between March 17, 2020 and June 29, 2021, were extended to be due no later than June 30, 2021. Subsequently, the Commission worked with the Governor's Office to extend the due date for certain industry fees that would have otherwise been due by June 30, 2021 (see below).

On June 11, 2021, Governor Newsom released EO N-08-21, which in part, further extends the due date for all application fees and background deposits until September 30, 2021, or per existing requirements, whichever date is later. If the Commission were to update its fees via the regular rulemaking process, the changes would not become effective in time to meet the September 30, 2021 deadline.

With the extension provided by the most recent EO set to expire soon, along with the recently approved fee study determining many fees charged by the Commission should be reduced, and because the regular rulemaking process would significantly delay financial relief to licensees and would result in the Commission charging fees that are in excess of the associated regulatory costs, the Commission finds it necessary to adopt regulations on an emergency basis to reduce specified licensing fees. The proposed emergency regulations will avoid further and unnecessary harm to the public's general welfare.

AUTHORITY AND REFERENCE:

Statutes of Authority

Business and Professions Code (B&P) section 19811. This provision provides the Commission jurisdiction, including jurisdiction over operation and concentration, and supervision over gambling establishments in this state and over all persons or things having to do with the operations of gambling establishments.

B&P section 19823. This provision provides it is the responsibility of the Commission to ensure that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

B&P section 19824. This provision provides the Commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of the Gambling Control Act (Act).³

B&P section 19841. This provision provides the regulations adopted by the Commission shall prescribe the manner and method of collection and payment of fees and issuance of licenses.

B&P section 19876. This provision provides if an owner licensee submits an application for renewal of the gambling license after the deadline set in subdivision (b) but before the original

³ Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

expiration date of the license, the commission may assess reasonable delinquency fees not to exceed three times the usual application fee.

B&P section 19915. This provision provides the fee for a Commission issued work permit will not be less than \$25 or more than \$250.

B&P section 19951. This provision provides every application for a license or approval shall be accompanied by a nonrefundable fee adopted by regulation and must not exceed \$1,200. The fee for initial issuance of a state gambling license will be an amount determined by the Commission in accordance with regulations adopted pursuant to the Act. The provision also provides fee schedules for the renewal of a state gambling license and the annual fee for holding said license.

B&P section 19984. This provision provides the Commission shall establish reasonable criteria for, and require the licensure and registration of, any person or entity that provides proposition player services at gambling establishments pursuant to this section, including owners, supervisors, and players. Those employed by a third-party provider of proposition player services (TPPPS), including owners, supervisors, observers, and players, shall wear a badge which clearly identifies them as proposition players whenever they are present within a gambling establishment. The Commission may impose licensing requirements, disclosures, approvals, conditions, or limitations concerning a TPPPS as it deems necessary to protect the integrity of controlled gambling in this state, and may assess, and the Bureau may collect, reasonable fees and deposits as necessary to defray the costs of providing this regulation and oversight.

Reference Statutes

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B&P section 19876. This provision provides if an owner licensee submits an application for renewal of the gambling license after the deadline set in subdivision (b) but before the original expiration date of the license, the commission may assess reasonable delinquency fees not to exceed three times the usual application fee.

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identifies them as proposition players whenever they are present within a gambling establishment. The Commission may impose licensing requirements, disclosures, approvals, conditions, or limitations concerning a TPPPS as it deems necessary to protect the integrity of controlled gambling in this state, and may assess, and the Bureau may collect, reasonable fees and deposits as necessary to defray the costs of providing this regulation and oversight.

POLICY STATEMENT OVERVIEW:

The Commission is the state agency charged with the administration and implementation of the Act. In accordance with the Act, the Commission is authorized to adopt regulations governing the application for a license, permit, registration or approval,⁴ and adopt regulatory fees that are reasonably related to the costs of the regulation involved. This proposed emergency regulatory action would reduce specified licensing fees in accordance with the Commission’s extensive cost and fee analysis study recently conducted and released by MGT.

In summary, the regulations provide for a reduction in various fees associated with the Commission’s applications for licenses and approvals in accordance with the fee study. While the study has determined a limited number of fees should be increased, those fee increases have not been included in the proposed regulations, as the purpose of this emergency rulemaking is to provide emergency financial relief to the Commission’s licensees. The GCF has a surplus of \$44,952,000⁵ in Fiscal Year 2021-22 as a reserve for economic uncertainties and the operational expenditures per year are only approximately \$20,000,000. As such, there is adequate funding to cover the proposed reduction in fees without including the fees that will be proposed to be increased at a later date via the regular rulemaking process.

Pursuant to the authority vested by sections 19811, 19823, 19824, 19841, 19876, 19915, 19951, and 19984 of the Business and Professions Code, and to implement, interpret, or make specific sections 19841, 19876, 19915, 19951, and 19984, the Commission is proposing to adopt the amendments to Chapters 1, 2, 3, and 7 of Division 18 of Title 4 of the California Code of Regulations, as described below. The Commission finds the adoption of regulations on an emergency basis is necessary to reduce specified licensing fees in accordance with its recently approved fee study to provide immediate financial relief to licensees without further delay.

INFORMATIVE DIGEST:

CHAPTER 2. LICENSES AND WORK PERMITS

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section 12108(a)(2) is proposed for amendment to update the form, Badge Replacement Request, CGCC-CH2-01, located in Appendix A of this chapter. The form version has been updated accordingly to reflect the revisions.

Amendments to Badge Replacement Request, CGCC-CH2-01 (Rev. 09/21)

On page one, last sentence of the introductory paragraph, the \$25 replacement badge fee for all license and permit types is being reduced to \$8.

⁴ Business and Professions Code section 19824, subdivision (a)

⁵ California Department of Finance – Fund Condition Statement: Gambling Control Fund (0567), FY 2021-22

The proposed change to reduce the fee amount on the form provided in this section has been determined pursuant to the data provided in the Commission's cost/fee analysis and approved by the DOF as of September 16, 2021. These changes are necessary to align with the Commission's current cost to process the applications and to provide immediate financial relief to the Commission's licensees without unnecessary delay via the regular rulemaking process.

ARTICLE 2. INITIAL AND RENEWAL LICENSES AND WORK PERMITS

Section 12112(a) is proposed for amendment to update the forms, Application for Employee Category License, CGCC-CH2-04 and Application for Owner Category License, CGCC-CH2-05, located in Appendix A of this chapter. The versions of the forms have been updated accordingly to reflect the revisions.

Amendments to CGCC-CH2-04 (Rev. 09/21), Application for Employee Category License
SECTION 2(B)

Initial Application: The application fees listed under the Initial Application checkbox for a Key Employee License (\$750), TPPPS Supervisor License (\$750), TPPPS Worker License (\$500), and Commission Work Permit (\$250) have all been reduced to \$164.

Renewal Application: The application fees listed under the Renewal Application checkbox for a Key Employee License (\$750), TPPPS Supervisor License (\$750), TPPPS Worker License (\$500), and Commission Work Permit (\$250) have all been reduced to \$164.

Additional Request for a Temporary License: The \$25 fee listed under the Additional Request for a Temporary License checkbox for all temporary employee category licenses has been reduced to \$4. Pursuant to the recent licensing regulations, which became effective while the Commission's fee study was already well underway, the process for requesting any temporary employee category license is now streamlined into a single checkbox on this form. This has reduced the Commission's cost to process requests for all types of temporary employee category licenses to \$4.

Amendments to CGCC-CH2-05 (Rev. 09/21), Application for Owner Category License
SECTION 1(B)

Initial Application: The \$1000 application fee listed under the Initial Application checkbox has been reduced to \$164 for all owner category license types (Cardroom Business License, Cardroom Endorsee License, TPPPS Business License, and TPPPS Endorsee License).

Initial Application with Request for Temporary License: The \$1000 application fee listed under the Initial Application with Request for Temporary License checkbox has been reduced to \$164 for all owner category license types (Cardroom Business License, Cardroom Endorsee License, TPPPS Business License, TPPPS Endorsee License). Additionally, the \$25 additional application fee required for a temporary license when submitting an initial application is proposed to be reduced to \$0 and repealed entirely.

Renewal Application: The \$1000 application fee listed under the Renewal Application checkbox has been reduced to \$164 for all owner category license types (Cardroom Business License, Cardroom Endorsee License, TPPPS Business License, and TPPPS Endorsee License).

Bullet 2 under the Renewal Application checkbox contains a non-substantive clarifying amendment to correct an existing error by removing the duplicative language, “Cardroom business licensee, Cardroom endorsee licensee.”

Additionally, B&P Code section 19876(g) specifies the Commission may assess reasonable delinquency fees not to exceed three times the usual application fee. As such, the current \$1000 delinquency fee for submitting a renewal application is proposed to be reduced to \$492 (three times the proposed \$164 application fee), which is necessary to not exceed the statutory limit.

Badge Replacement Request (formerly “Badge Required”): Amendments are proposed to this checkbox as the cost for a badge is now included in the application fee (\$164) pursuant to the fee study. In the event the applicant for an initial, initial with temporary, or renewal owner category license also needs a replacement badge, the applicant may request one using this form by simply checking this box and submitting the additional \$8 fee, consistent with the fee study. Because only one checkbox is necessary, the two additional checkboxes are proposed to be removed, which is a non-substantive change.

The proposed changes to reduce the fee amounts on the forms provided in this section have been determined pursuant to the data provided in the Commission’s cost/fee analysis and approved by the DOF on September 16, 2021. These changes are necessary to align with the Commission’s current cost to process the applications and to provide immediate financial relief to the Commission’s licensees without unnecessary delay via the regular rulemaking process.

Section 12114(c) is proposed for amendment to update the versions of the forms Application for Employee Category License, CGCC-CH2-04 and Application for Owner Category License, CGCC-CH2-05, to reflect the revisions.

CHAPTER 3. CONDITIONS OF OPERATION FOR TPPPS BUSINESSES

ARTICLE 2. PLAYING BOOKS

Section 12261(b) is proposed for amendment to correct the outdated number of the form Application for Playing Book Approval, located in Appendix A of this chapter. The version of the correct form number, CGCC-CH3-01 (Rev. 09/21), has been added to reflect the revisions. Additionally, subsection (b)(1) has been revised to clarify the \$75 application fee is for the review of an initial or amendment hard copy playing book application. This is necessary for purposes of clarity and consistency to distinguish between the two different types of applications for approval of a hard copy playing book.

Amendments to CGCC-CH3-01 (Rev. 09/21), Application for Playing Book Approval

As part of this proposed emergency action, only the \$1200 application fee for requesting approval of an amendment to an electronic playing book system is being proposed to be reduced to \$94. Fees for the three other approval types will be proposed to be increased at a later date via the regular rulemaking process in accordance with the fee study.

SECTION 1

Section 1 of the form is being amended to remove the stated fee amounts, some of which are proposed for amendment, and to avoid unnecessary duplication of the information in Section 7.

SECTION 7

Section 7 of the form is being amended to add two checkboxes and new language under the Application Fee portion to differentiate between requests for an initial or amendment to a hard copy playing book form or an initial or amendment to an electronic playing book system. This is necessary because application fees for each of the four types of approvals will have their own unique fee in accordance with the fee study. As previously stated, only the application fee for requesting approval of an amendment to an electronic playing book system has been included as part of this proposal as fees for the three other approval types will be proposed to be increased at a later date via the regular rulemaking process in accordance with the fee study.

The proposed change to reduce the fee amount on the form provided in this section has been determined pursuant to the data provided in the Commission's cost/fee analysis and approved by the DOF on September 16, 2021. These changes are necessary to align with the Commission's current cost to process the applications and to provide immediate financial relief to the Commission's licensees without unnecessary delay via the regular rulemaking process.

Section 12264(a) is proposed for amendment to update the version of the form Application for Playing Book Approval, CGCC-CH3-01. Additionally, subsection (a)(1) is being revised to specify the difference between the initial and amendment application fees for an electronic playing book system as the fee for an amendment application is proposed to be reduced from \$1200 to \$94 in accordance with the fee study for the reasons stated Section 12261(b) above.

ARTICLE 3. TPPPS CONTRACTS

Section 12272(a)(2) is proposed for amendment to updated the version of the form, Contract Approval to Provide Proposition Player Services, CGCC-CH3-02, located in Appendix A of this chapter to reflect the revisions. Additionally, the nonrefundable application fee for approval of a new TPPPS contract has been reduced from \$1000 to \$57 in accordance with the fee study.

Amendments to CGCC-CH3-02 (Rev. 09/21), Application for Contract Approval to Provide Proposition Player Services

SECTION 3

For a New Contract or the Extension of an Existing Contract: The \$1000 application fees for approval of a new contract or the extension of an existing contract are being reduced to \$57.

For an Amended Contract: The \$500 application fee for approval of an amended contract is being reduced to \$57.

The expedited review processing fee for review of a new contract remains unchanged in accordance with the fee study.

The proposed changes to reduce the fee amounts provided in this section and the form have been determined pursuant to the data provided in the Commission's cost/fee analysis and approved by

the DOF on September 16, 2021. These changes are necessary to align with the Commission's current cost to process the applications and to provide immediate financial relief to the Commission's licensees without unnecessary delay via the regular rulemaking process.

Section 12274(c) is proposed for amendment to update the version of the form, Contract Approval to Provide Proposition Player Services, CGCC-CH3-02, located in Appendix A of this chapter, to reflect the revisions. Additionally, the nonrefundable application fee for approval of a TPPPS contract has been reduced from \$1000 to \$57 in accordance with the fee study for the reasons specified in 12272(a)(2) above.

Section 12276(a) contains a non-substantive amendment to correct the reference to Section 12272(a)(3)(A) and replace it with 12272(a)(2)(A). Additionally, the nonrefundable application fee for the review and approval of an amendment to a TPPPS contract has been reduced from \$500 to \$57 in accordance with the fee study for the reasons specified in 12272(a)(2) above.

Section 12278(a) is proposed for amendment to update the version of the form, Contract Approval to Provide Proposition Player Services, CGCC-CH3-02, to reflect the revisions. Additionally, the application fee for approval to extend a TPPPS contract has been reduced from \$1000 to \$57 in accordance with the fee study for the reasons specified in 12272(a)(2) above.

CHAPTER 4. GAMBLING EQUIPMENT MANUFACTURERS OR DISTRIBUTORS

Section 12309(a) is proposed for amendment to update the version of the form Application for Registration of Manufacturers or Distributors of Gambling Equipment, BGC-025, to reflect the revisions. A non-substantive correction is also being made to correct the form number to match the number on the existing form (BGC-025). Additionally, subsection (c)(1) is proposed for amendment to reduce the application fee for an initial or renewal registration as a Class A equipment manufacturer or distributor from \$500 to \$32. Subsection (c)(2) is proposed for amendment to reduce the application fee for an initial or renewal registration as an antique collector from \$40 to \$32.

Amendments to Application for Registration of Manufacturers or Distributors of Gambling Equipment, BGC-025 (Rev. 09/21)

The form is proposed for amendment to update the version number. Additionally, under the list of required information, item 11 on page three is being amended to align with the fee changes in Section 12309(a) as discussed above.

The proposed changes to reduce the fee amounts provided in this section and the form have been determined pursuant to the data provided in the Commission's cost/fee analysis and approved by the DOF on September 16, 2021. These changes are necessary to align with the Commission's current cost to process the applications and to provide immediate financial relief to the Commission's licensees without unnecessary delay via the regular rulemaking process.

CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS
ARTICLE 10. GAMING TABLES

Section 12470(a)(2) is proposed for amendment to reduce the current \$500 application fee for a cardroom business licensee to request additional temporary tables for a tournament or special event to \$164.

The proposed change to reduce the fee amount provided in this section has been determined pursuant to the data provided in the Commission's cost/fee analysis and approved by the DOF on September 16, 2021. The change is necessary to align with the Commission's current cost to process the applications and to provide immediate financial relief to the Commission's licensees without unnecessary delay via the regular rulemaking process.

Section 12472(a)(2) is proposed for amendment to reduce the current \$500 application fee for a cardroom business licensee to request additional permanent tables for a tournament or special event to \$164.

The proposed change to reduce the fee amount provided in this section has been determined pursuant to the data provided in the Commission's cost/fee analysis and approved by the DOF on September 16, 2021. The change is necessary to align with the Commission's current cost to process the applications and to provide immediate financial relief to the Commission's licensees without unnecessary delay via the regular rulemaking process.

FISCAL IMPACT ESTIMATES:

MANDATE IMPOSED ON 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 STATE OR LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

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

DOCUMENTS RELIED UPON:

California Department of Finance – Fund Condition Statement: Gambling Control Fund (0567), Fiscal Year 2021-22

MGT Cost and Fee Study – Approved by the Department of Finance on September 16, 2021

California Bureau of State Audits – Audit Report 2018-132 – May 16, 2019

State of California – Office of Governor Gavin Newsom: Executive Order N-08-21 – June 11, 2021

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State of California – Office of Governor Gavin Newsom: Executive Order N-83-20 – October 28, 2020