

CALIFORNIA GAMBLING CONTROL COMMISSION

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

SPOUSAL FORM UPDATE #2 CGCC-GCA-2023-02-N

SECTION 100. CHANGES WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100, of the California Code of Regulations (CCR), the California Gambling Control Commission (Commission) hereby submits this written statement explaining why the proposed changes to CCR Title 4, Division 18, Chapter 2, Article 2, Section 12212¹ and Appendix A of Chapter 2 have no regulatory effect.

CHANGES TO TEXT

Section 12112, subsection (f), is amended to remove the word “the” before “Spousal Information” and to amend the form date from 07/22 to 10/23.

Commission form “Spousal Information,” CGCC-CH2-12, is amended as follows:

- The form date is amended from 07/22 to 10/23.
- Section 2, on page 2, is amended to replace all instances of the word “license” with “licensee.”
- Section 3, on page 2, certifications one, two, and seven are amended to add commas.
- Section 3, on page 2, certification seven is amended to remove a duplicated phrase, “may be,” which currently appears twice.
- Section 4, on page 3, is amended to remove one comma and to capitalize the reference to “Family Code.”

SPECIFIC FINDINGS

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

AMENDMENTS FOR GRAMMAR AND PUNCTUATION [SECTION 100(A)(4)]

The removal of the word “the” is a nonsubstantive revision to the grammar of subsection (f) of Section 12112 and provides greater consistency with references to other forms within Section 12112. Additionally, the amendment of the date of the Spousal Information form is necessary to ensure that a member of the public is able to properly identify the correct version of the form to be included in a complete application.

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

Commission form “Spousal Information,” has the following necessary grammar and punctuation amendments:

- Commas are added to certifications one, two, and seven, in Section 3, in order to provide proper punctuation and separation of clauses within each sentence.
- A duplicated phrase is removed in Section 3.
- One comma is removed in Section 4 to provide proper punctuation.
- The reference to Family Code in Section 4 is capitalized in order to provide proper reference to a statutory section.

OTHER AMENDMENTS WITHOUT REGULATORY EFFECT

The use of the term “license” is replaced with “licensee” in the descriptions for several checkboxes within Section 2. As currently provided in regulation, the use of the term “license” in these descriptions was an inadvertent error and is inconsistent with the other parts of this form, the Commission’s regulations, and the Gambling Control Act (Act). In order to make these descriptions consistent, the term must be “licensee,” and in fact, the only way to apply these provisions is to read them using “licensee.” This inconsistency can be observed in other aspects of this form, where discussion about ownership references “licensee,” including in the instructions for Section 2 and various similar statements in Sections 3 and 4 that correctly reference the “licensee” rather than the “license.” For instance, the title of Section 2 is “Relationship of Spouse to Business,” and the instructions for Section 2 indicate “Check all boxes that appropriately describe the spouse’s relationship to the owner category *licensee*” (emphasis added). Additionally, in Section 3, a spouse and applicant are acknowledge that they have the burden of establishing that the interest “in the owner category licensee” is the sole and separate property, if such is true. However, the descriptions for several of the checkboxes in Section 2 erroneously refer to the “owner category *license*,” the “cardroom business *license*,” and the “TPPPS business *license*” (emphasis added). These references are only valid and consistent with the existing title and instructions to Section 2, and acknowledgments in Section 3, if interpreted as “licensee,” rather than “license,” because they pertain to the “licensee” or the holder of the license (e.g., the business entity), not the license itself.

The distinction of ownership of a “licensee” and not a “license” is important in part because the requirements of the Act do not allow the sale or transfer of a license.² The Act defines “person” to include a natural person and non-natural persons such as a corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization.³ A person (which may be a non-natural business entity) is the holder of the license,⁴ known as the licensee, and a natural person (referred to as the applicant and possibly the applicant’s spouse in this form) owns, controls, or influences the licensee,⁵ not the license.

The correction of “license” to “licensee” has no actual effect on the implementation of the regulation. Since the only legal application of the descriptions in Section 2 is to consider the references as intended to mean “licensee” and not “license,” the process has moved apace despite

² Business and Professions Code section 19873

³ Business and Professions Code section 19805, subdivision (ae)

⁴ CCR Section 12002, subsection (ah); Business and Professions Code section 19851, subdivision (a)

⁵ Business and Professions Code section 1985 and 19852

the incorrect reference. As such, correcting the form not only brings the form in line with the requirements of the Act, but also current practice.

THE PROPOSED ACTION HAS NO REGULATORY EFFECT

The proposed changes will not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.