

ANNUAL FEES: PHASE II

CGCC-GCA-2025-01-R

COMMENTS AND RESPONSES FOR PROPOSED REGULATIONS

I. 45-DAY WRITTEN COMMENTS

The Commission received the following written comments/objections/recommendations regarding the text of the proposed action during the 45-day written comment period that commenced May 16, 2025, and ended on June 30, 2025.

A. COMMENTS MADE ON THE PROPOSAL IN GENERAL.

These comments are made on the proposed action and are not directed at any specific regulatory section.

1. **Alan Titus, on behalf of Artichoke Joe's**: Mr. Titus expressed concern that the calculation method for annual fees is unconstitutional and inconsistent with the authorization provided under Business and Professions Code section 19951. Mr. Titus noted that the apportionment of the annual fees based on revenue does not allow for the required distribution of fees based on each licensee's burden on the regulatory system and is characteristic of a tax.

Recommended Response: This comment was considered but was not incorporated. The calculation method used to determine the annual fee amounts provided in Sections 12252.2 and 12386.2 are not a subject of this proposed action. While this proposed action does include these sections, it is only for the purposes of moving the already adopted annual fee amounts from their current sections to Section 12094.

B. AMEND SECTION 12002. GENERAL DEFINITIONS.

1. **Alan Titus, on behalf of Artichoke Joe's**: Mr. Titus expressed concern that the definition for "active licensee" lacked clarity, in part, because it fails to specify how specified businesses would be defined in cases of partial operation and fails to clarify what period is referred to as "the last year."

Recommended Response: This comment was accepted, in part. While the full definition refers to Section 12313 to provide context in both timeframe and in who is considered to have been operating within that timeframe (the requirement to prepare financial statements), Section 12313 does refer to fiscal year and so the following amendment is proposed:

- (a) "Active licensee" means a valid cardroom business licensee or TPPPS business licensee who has generated revenue for at least the last fiscal year as reported pursuant to Section 12313.

2. **Alan Titus, on behalf of Artichoke Joe's**: Mr. Titus expressed concern that the definition of "application cost" is vague and does not "sufficiently convey that the fee must be related to costs incurred to process the application." To correct his concerns, Mr. Titus suggested the definition to be rewritten like the definition for "non-application costs." Additionally, Mr. Titus noted that referring to the funds collected by the Bureau for its investigatory costs as "the deposit" was inappropriate as the deposit is not a cost but rather an advance payment toward the fee.

Recommended Response: This comment was accepted, in part. As noticed, this proposed action is not proposing to alter or amend the purpose or categorization of "application cost" but is instead moving the definition and amending it only as necessary to combine two existing definitions. However, the following amendments are proposed:

(f) "Application cost" means all costs *borne by the Commission and the Department of Justice*, ~~including the deposit, related to~~ *directly associated with the processing of an specific application, and funded pursuant to Section 12090 or Title 11, CCR, Section 2037.*

3. **Alan Titus, on behalf of Artichoke Joe's**: Mr. Titus generally expressed concern about the inclusion of "pledge" and "hypothecation" as types of dispositions covered by the proposed regulations, see I.C.1 below. While not specifically commented on, the definition of "non-operational licensee," it applies here as well.

Recommended Response: This comment is accepted and the following amendment proposed:

(an) "Non-operational licensee" means a cardroom business licensee or TPPPS business licensee that maintains a valid cardroom business license or TPPPS business license and has not generated revenue in the past year as reported pursuant to Section 12313. Where there is a sale, assignment, transfer, ~~pledge, hypothecation,~~ or other disposition of a cardroom business licensee or its entire gambling operation, or TPPPS business licensee or its entire operation, the consideration of the past year's revenue data will be based on the transferor and the transferee's combined consecutive gross revenue.

4. **Alan Titus, on behalf of Artichoke Joe's**: Mr. Titus expressed concern that the definition of "surrendered or revoked license" is vague. Specifically, Mr. Titus expressed concern that the definition refers to "the year the invoices are created" is vague. Additionally, Mr. Titus questions whether a license that is surrendered or revoked between September 1 and December 31 would meet the definition of a "surrendered or revoked license."

Recommended Response: This comment was accepted, in part. The purpose of this definition, as currently effective in Sections 12250 and 12360, is to determine which licensees, or in this case former licensees, are not to be included in the annual fee billing

conducted October 5th (pursuant to Sections 12252 and 12368, and in this proposed action combined in Section 12092). The original adoption, and maintained in this proposed action, includes a cutoff date of August 31st for this determination, as the Commission requires sufficient time to calculate, generate, and prepare the invoices for mailing. While it might be true that a cardroom or TPPPS might cease holding a valid license after that August 31st date, they will not be considered such for the determination of annual fees.

However, to provide additional clarity, the following amendment is proposed:

(~~vat~~) “~~Surrendered or revoked~~ *Former business licensee*” means a ~~former~~ cardroom business licensee or TPPPS business licensee who ~~stopped operating and~~ ceased to ~~maintain~~ *hold* a *valid cardroom business license or TPPPS business license* prior to August 31 of the *same year in which* the *annual fee* invoices are ~~created~~ *provided pursuant to Section 12092*.

[Note: Other necessary changes will be included in the modified text.]

C. AMEND SECTION 12003. GENERAL REQUIREMENTS.

1. **Alan Titus, on behalf of Artichoke Joe’s**: Mr. Titus raises three issues with the proposed amendment that documents required to be maintained by a licensee be transferred as part of any transaction resulting in the sale, assignment, transfer, pledge, hypothecation, or other disposition of a cardroom business licensee or its entire gambling operation, or a TPPPS business licensee or its entire TPPPS operation.
 1. Mr. Titus expressed concern that the proposal would exceed the Commission’s authority. Mr. Titus notes that while the Commission’s authority to adopt regulations includes record keeping and record retention, there is no authority that authorizes the Commission to mandate the use of terms or conditions between the parties to a contract or to require the transfer of business records.
 2. Mr. Titus expressed concern that pledges and hypothecations are covered by this regulation. Mr. Titus suggested that it is not appropriate for them to be included because the terms do not apply to the types of transactions that should be covered as they do not involve the transfer of title.
 3. Mr. Titus expressed concern that the term “entire gambling operation” is unclear.

Recommended Response: This comment was accepted, in part.

1. The Commission disagrees that the Gambling Control Act does not provide the Commission with the necessary authority to require the maintenance of records to be included in transaction documents. The Gambling Control Act provides, in many cases, that it is unlawful for a person to affect a transaction dealing with the ownership of a business without prior approval of the Commission (an example of which is Business and Professions Code section 19901). These provisions provide the

Commission with the authority to define a process and provide clarity to the standards under which the Commission will consider these approvals. The Gambling Control Act itself does not provide sufficient specificity for the Commission to consider transactions without such regulations. Additionally, there is no prohibition in the Gambling Control Act limiting the Commission's authority when considering transactions that would prevent the Commission from including such a requirement. Therefore, the Commission does have the authority to support this proposal.

2. The Commission accepts this comment and proposes the following amendment:

(2) Whenever there is a sale, assignment, transfer, ~~pledge, hypothecation,~~ or other disposition of a cardroom business licensee or its entire gambling operation, or TPPPS business licensee or its entire TPPPS operation, the transaction document must provide that the transferee must receive and maintain the transferor's records in accordance with (b)(1) until the expiration of the relevant maintenance period, pursuant to paragraph (1).

3. The use of the phrase "entire gambling operation" refers to the sale of the operation without the sale of the LLC or Corporation that currently holds a license. While it is more common for the sale of a gambling operation or TPPPS operation to include the purchase of the licensed entity, it is possible that a transaction can just be for the bare minimum moratorium asset, that being the legal allowance to be licensed. For this purpose, the term "gambling operation," as defined in Business and Professions Code section 19805(q)¹ or proposed definition for "TPPPS operation" in Section 12002(bc)² is appropriate.

In the case of cardrooms, where there is a moratorium, the previous licensee would not be able to maintain a license with the Commission regardless of whether the entity maintained some of the assets. So, in that way, the inclusion of "entire" may appear to be unnecessary. However, it has been included for two reasons: (1) A TPPPS operation can be bifurcated and therefore it is necessary that "entire" be included and so including it with gambling operation is consistent; and, (2) while the moratorium has effectively been in place since the adoption of the Gambling Control Act, it is possible that one day it will expire, in which case the inclusion of "entire" will be necessary.

D. ADOPT SECTION 12091. ANNUAL FEES IN TRANSACTIONS.

1. **Alan Titus, on behalf of Artichoke Joe's**: Mr. Titus repeated his comment in I.C.1, above, pertaining to the inclusion of pledges and hypothecations as covered dispositions.

¹ (q) "Gambling operation" means exposing for play one or more controlled games that are dealt, operated, carried on, conducted, or maintained for commercial gain.

² (bc) "TPPPS operation" means the totality of third-party proposition player services provided by a TPPPS business licensee to all cardroom business licensees for which the TPPPS business licensee has approved contracts.

Recommended Response: This comment is accepted and the following amendment proposed:

Whenever there is a sale, assignment, transfer, ~~pledge, hypothecation,~~ or other disposition of a cardroom business licensee or its entire gambling operation, or TPPPS business licensee or its entire TPPPS operation, the transaction document must state whether any annual fees due by the transferor will be paid by the transferee prior to the transaction closing. If the transaction does not require the transferee to pay any annual fees due, then the transferor must pay all annual fees due prior to the transaction closing. The transaction cannot provide any extension for when annual fees are due pursuant to Section 12092.

E. ADOPT SECTION 12092. ANNUAL FEE.

1. **Alan Titus, on behalf of Artichoke Joe's:** Mr. Titus expressed two concerns about the language of subsection (a).

1. The reference to “by October 5, 2024” is outdated.
2. The regulation does not provide the period covered by the fee and should make it clear that the invoices are for the following calendar year.

Recommended Response: This comment was considered but was not incorporated.

1. The full refence to the dates an invoice will be provided is “...by October 5, 2024, and each October 5 thereafter...” Additionally, the provision goes on to specify that they are payable upon receipt and unless installment payments are approved are delinquent after January 5. Together, there is sufficient clarity to inform a licensee when the invoices will be provided, when they are due, and when they are delinquent.
2. With the structure of the provision, there is no applicable reference to indicate calendar year, as suggested.

2. **Alan Titus, on behalf of Artichoke Joe's:** Mr. Titus repeated his comment in I.C.1, above, pertaining to the inclusion of pledges and hypothecations as covered dispositions in reference to Section 12092(g)(3).

Recommended Response: This comment is accepted and the following amendment proposed:

(3) Subsection (g) does not apply when there has been a sale, assignment, transfer, ~~pledge, hypothecation,~~ or other disposition of a cardroom business licensee or its entire gambling operation, or TPPPS business licensee or its entire TPPPS operation.

- 3. Alan Titus, on behalf of Artichoke Joe's:** Mr. Titus repeated his comment in I.C.1, above, pertaining to the inclusion of pledges and hypothecations as covered dispositions in reference to Section 12092(h)(3).

Recommended Response: This comment is accepted and the following amendment proposed:

(3) Where there is a sale, assignment, transfer, ~~pledge, hypothecation,~~ or other disposition of a cardroom business licensee or its entire gambling operation, or TPPPS business licensee or its entire TPPPS operation, the 3 years of gross revenue data will be based on the transferor and transferee's combined consecutive gross revenue.

E. ADOPT SECTION 12094. ANNUAL FEE AMOUNTS.

- 1. Alan Titus, on behalf of Artichoke Joe's:** Mr. Titus repeated his comment that the method of determining the annual fees is unconstitutional and suggested that the calculations should be based on the number of tables.

Recommended Response: This comment was considered but was not incorporated. The calculation method used to determine the annual fee amounts provided in Sections 12252.2 and 12386.2 are not a subject of this proposed action. While this proposed action does include these sections, it is only for the purposes of moving the already adopted annual fee amounts from their current sections to Section 12094.

- 2. Alan Titus, on behalf of Artichoke Joe's:** Mr. Titus noted that prior to this rulemaking action, the Commission noticed another rulemaking action, Update to Annual Fees (GCA-2024-04-R), that proposed to amend the fees and that the proposal is not reflected in this rulemaking action.

Recommended Response: This comment was considered but was not incorporated. Mr. Titus is correct in his assertion that the Commission has proposed to amend the regulatory sections covered here in another rulemaking action. At the time of the notice of this rulemaking action, the process requires the use of the regulations in effect at that time. Should the Update to Annual Fees (CGCC-GCA-2024-04-R) rulemaking become effective prior to this rulemaking action becoming effective, non-substantive corrections will be made to ensure that the final effective regulations include both the new numbers provided in Update to Annual Fees (CGCC-GCA -2024-04-R) and the new organization proposed in this rulemaking action.

F. AMEND SECTION 12312. RECORD RETENTION AND MAINTENANCE; GENERAL PROVISIONS.

- 1. Alan Titus, on behalf of Artichoke Joe's:** Mr. Titus expressed two concerns in this section:

1. Mr. Titus repeated his comment in I.C.1, above, pertaining to the inclusion of pledges and hypothecations as covered dispositions.
2. Mr. Titus repeated his comment in I.C.1, above, pertaining to the Commission's authority that requires records are transferred as part of a transaction.

Recommended Response: This comment was accepted, in part.

1. This suggested amendment was accepted and the following amendment proposed:

(2) Whenever there is a sale, assignment, transfer, ~~pledge, hypothecation,~~ or other disposition of a cardroom business licensee or its entire gambling operation or TPPPS business licensee or its entire TPPPS operation, the transaction document must provide that the transferee must receive and maintain the transferor's records in accordance with (a)(1) until the expiration of the seven year period.

2. This suggested amendment was considered but was not incorporated. See response to comment I.C.1 for additional discussion about the Commission's authority.

G. AMEND SECTION 12396. SURVEILLANCE.

1. Mr. Titus repeated his comment in I.C.1, above, pertaining to the inclusion of pledges and hypothecations as covered dispositions.
2. Mr. Titus repeated his comment in I.C.1, above, pertaining to the Commission's authority that requires records are transferred as part of a transaction.

Recommended Response: This comment was accepted, in part.

1. This suggested amendment was accepted and the following amendment proposed:

(B) Whenever there is a sale, assignment, transfer, ~~pledge, hypothecation,~~ or other disposition of a cardroom business licensee or its entire gambling operation, the transaction document must provide that the transferee must receive and maintain the transferor's recordings in accordance with (7)(A) until disposal is authorized.

2. This suggested amendment was considered but was not incorporated. See response to comment I.C.1 for additional discussion about the Commission's authority.