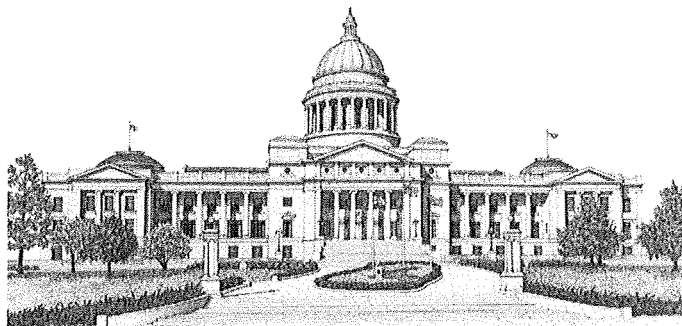


ARKANSAS REGISTER

Transmittal Sheet

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Racing Commission

Department Department of Finance and Administration

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Statutory Authority for Promulgating Rules Amendment 100 to Arkansas Constitution

Rule Title: Rule 8 Enforcement of Security Interests

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other March 14, 2019
(Must be more than 10 days after filing date.)

Legal Notice Published 01-15-19

Final Date for Public Comment 02-21-19

Reviewed by Legislative Council 02-25-19

Adopted by State Agency 02-21-19

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Byron Freeland bfreeland@mwlaw.com 03-01-19
Contact Person E-mail Address Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Byron Freeland
Signature

501-688-8810 bfreeland@mwlaw.com
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Title

03-01-19
Date

RULE 8
ENFORCEMENT OF SECURITY INTERESTS

8.010 Definitions.

8.020 Approvals required; applicability; scope of approval.

8.030 Application for approval to enforce security interest; investigation; recommendation of the Commission.

8.040 Enforcement of a security interest in personal property gaming collateral.

8.010 Definitions. As used in this Rule:

1. "Commission" means the Arkansas Racing Commission or the Commission's designee.
2. "Enforce a security interest" means the transfer of possession ownership or title pursuant to a security interest.
3. "Operating license" means the Casino license issued to a person for the conduct of gaming. The term does not include licenses issued to officers, directors, holders of securities or other ownership interest, key employees, or others who have been licensed due to their relationship to or involvement with the gaming operation.
4. "Personal property gaming collateral" means property subject to a security interest that is composed of:
 - (a) A security issued by a corporation which is a holder of a Casino license in this state;
 - (b) A security issued by a holding company that is not a publicly traded corporation;
 - (c) A security issued by a holding company that is a publicly traded corporation, if the enforcement of the security interest will result in the creditor acquiring control as set forth in these Rules; or
 - (d) A security issued by a partnership which is a holder of a Casino license in this state.
5. "Secured party" means a person who is a lender, seller, or other person in whose favor there is a security interest or judgment.
6. "Security" means security as that term is defined in Rules 13 and 14.
7. "Security agreement" means an agreement that creates or provides for a security interest.
8. "Security interest" means an interest in property that secures the payment or performance of an obligation or a judgment.

8.020 Approvals required; applicability; scope of approval.

1. A person may not enforce a security interest in personal property gaming collateral except as provided by this Rule. The purported enforcement of such security interest without the secured party having complied with the requirements of this Rule is void.
2. The provisions of this Rule do not apply to the enforcement of a security interest in real property.
3. Notwithstanding any other provision of this Rule, approval is not required under this Rule to enforce a security interest in a security issued by a holding company, or by a corporation, general partnership, or limited partnership licensee, if the gaming operation has ceased and the

operating license has been surrendered to the Commission prior to the enforcement of such security interest.

4. The granting of an approval pursuant to this Rule does not constitute a determination by the Commission as to the validity or enforceability of the security interest.

5. The granting of an approval pursuant to this Rule does not constitute licensing, registration, or finding of suitability of the secured party, nor approval for further sale, transfer, or other disposition of the gaming collateral subsequent to the enforcement of the security interest.

8.030 Application for approval to enforce security interest; investigation; recommendation of the Commission.

1. Except as otherwise specifically provided herein, a secured party shall apply for approval to enforce a security interest in personal property gaming collateral using such forms as the Commission may prescribe. The application shall include a complete schedule and description of the gaming collateral that is the subject of the security interest, copies of the security agreement and documents evidencing the obligation secured, a statement by the secured party identifying the act of default by the debtor that is the basis for seeking to enforce the security interest, including a copy of any notice of default sent to the debtor, and any other information requested by the Commission.

2. The Commission shall investigate the facts and circumstances related to the application for approval to enforce a security interest. The investigation by the Commission may include:

- (a) A review of all pertinent documents;
- (b) An analysis of the impact upon the debtor of approving the enforcement of the security interest, including an evaluation of the effect of enforcement of the security interest upon the continued operation of the licensed gaming establishment;
- (c) A review of the transaction to determine whether the security interest was given in violation of these Rules, or in an attempt to evade the requirements of the Rules adopted by the Commission regarding the sale, assignment, transfer or other disposition of an interest in a gaming operation or in the type of property subject to this Rule; and
- (d) Any other data or information the Commission deems relevant to the application.

8.040 Enforcement of a security interest in personal property gaming collateral.

1. The enforcement of a security interest in personal property gaming collateral requires the affirmative approval of the Commission. The Commission shall not approve the enforcement of such security interest if such enforcement will result in any person becoming subject to mandatory licensing, registration, or finding of suitability, unless all persons have been licensed, registered, or found suitable by the Commission, as applicable. The Commission may grant a temporary or permanent waiver of the requirement of prior licensing, registration, or finding of suitability, or may grant delayed licensing, registration, or finding of suitability, upon written request by the secured party.

2. Where an operating license is surrendered, the Commission may, upon its own initiative or upon a request by the secured party, petition a court of competent jurisdiction for the appointment of a supervisor pursuant these Rules to ensure the continuation of the gaming operation upon lapse of the license.

3. The Commission may permit the licensee or holding company to register or record the securities in its books or records in the name of the secured party pursuant to these Rule. The Commission may grant such permission only if the secured party has filed an application for approval to enforce a security interest in such securities. Such permission shall be conditioned upon and require that the secured party not exercise any voting rights or other control over the licensee or holding company, and that all dividends payable or other beneficial interest in the securities be held in escrow, pending final action on the application to enforce the security interest.

End – Rule 8