

## NOTICE OF PUBLIC HEARING

The Arkansas Racing Commission will meet on February 21, 2019, at 11:00 a.m. in the Commission office located in the 1515 Building, 1515 West Seventh Street, Suite 500, Little Rock, Arkansas, to consider the adoption of the following rules governing casino gaming in Arkansas pursuant to Amendment 100 to the Arkansas Constitution:

- (1) CGR 1. Issuance of Rules; Construction; Definitions. Defines the terms used in the Rules.
- (2) CGR 2. Casino License Application. Defines an applicant, casino gaming, minimum qualifications for licenses, and letters of support, and sets the application fee amount.
- (3) CGR 3. Service Industry License and Service Industry Employee License. Defines persons who require a service industry license, license requirements, license fees, and requirements for independent testing labs.
- (4) CGR 4. Operation of Gaming Establishments. Contains the requirements for operation of casinos, grounds for disciplinary actions, requirements for surveillance systems, and prohibits unauthorized games.
- (5) CGR 5. Operation of Interactive Gaming. Sets initial and renewal license fees, investigative fees, requirements for house rules, and grounds for disciplinary action.
- (6) CGR 6. Accounting Regulations. Sets the State's requirements for licensee accounting, audited financial statements, gross revenue computations, and calculation of taxes.
- (7) CGR 7. Transfer of Ownership; Loans. Prohibits transfer of an ownership interest to strangers to a license, and defines the requirements for persons to participate as an owner of licensee.
- (8) CGR 8. Enforcement of Security Interests. Requires lienholders to apply to the Commission for enforcement of security interests in casino assets.
- (9) CGR 9. Closing of Business, Death or Disability; Insolvency. Sets the requirements for licensees in cases of death, disability or insolvency.
- (10) CGR 10. Miscellaneous. Prohibits public officials from holding casino gaming licenses.
- (11) CGR 11. Chips. Sets the requirements for approval, redemption and destruction of chips.
- (12) CGR 12. Manufacturers, Distributors, Operators of Inter-Casino Linked Systems, Gaming Devices, New Games, Inter-Casino Linked Systems, On-Line Slot Metering Systems, Cashless Wagering Systems, Mobile Gaming Systems, Interactive Gaming Systems and Associated Equipment. Sets the standards for gaming devices, new games, cashless wagering systems, and equipment.
- (13) CGR 13. Corporate Licensees. Contains the disclosure requirements for corporate licenses.
- (14) CGR 14. Limited Partnership Licensees. Contains the disclosure requirements for limited partnerships.
- (15) CGR 15. Limited Liability Company Licensees. Contains the disclosure requirements for limited liability companies.



(16) CGR 16. Private Investment Companies. Contains the disclosure requirements for private investment companies.

(17) CGR 17. Publicly Traded Corporations and Public Offerings of Securities. Contains the disclosure requirements for publicly traded corporations.

(18) CGR 18. Supervision. Sets the requirements for the Commission to determine if an independent supervisor of a casino is necessary because of issues with the casino licensee's operation of the casino.

(19) CGR 19. Disseminators. Addresses disseminators of racing and sporting events contracted with casino licensees.

(20) CGR 20. Race Books and Sports Pools. Requires patrons to be on the premises of a casino to place bets on racing and sporting events.

(21) CGR 21. Card Games. Establishes the rules for card games at a casino.

(22) CGR 22. Off Track Pari-Mutuel Wagering. Requires patrons to be on the premises of a casino to place bets.

(23) CGR 23. Off-Track Pari-Mutuel Sports Wagering and Off-Track Pari-Mutuel Other Event Wagering. Requires Commission approval for off-track wagers and requires patrons to be on the premises of a casino to place bets.

(24) CGR 24. Off-Track Pari-Mutuel Horse Race Account Wagering. Sets the requirements for account wagering and defines prohibited wagers.

(25) CGR 25. Exclusions. Sets the requirements for excluding patrons for cheating and criminal activity.

Any persons wishing to speak for or against any of the above proposed Rules should appear at the meeting on Thursday, February 21, 2019, and they will be given the opportunity to express their views. Persons wishing to submit written comments on the above proposed Rules should send them to the Arkansas Racing Commission via regular mail at P.O. Box 3076, Little Rock, Arkansas 72203, or via email to [smokey.campbell@dfa.arkansas.gov](mailto:smokey.campbell@dfa.arkansas.gov) and [nikki.langston@dfa.arkansas.gov](mailto:nikki.langston@dfa.arkansas.gov) prior to the close of business on Monday, February 18, 2019. Copies of the complete text of the proposed Casino Gaming Rules can be obtained from the Racing Commission office during normal business hours and from the Secretary of State's office / website.



## **RULE 18 SUPERVISION**

**18.010 Authority.**

**18.020 Policy.**

**18.030 Determination to seek supervisor.**

**18.040 Qualifications of supervisor.**

**18.050 Termination.**

**18.060 Distribution of earnings to former legal owners.**

**18.020 Policy.** The Commission finds and hereby declares that the continuation of a Casino gaming establishment's gaming operation following surrender, lapse, suspension or revocation of a license essential to such operation presents significantly enhanced dangers to the public health, safety, morals, good order and general welfare of the inhabitants of the State of Arkansas and should only be permitted when:

1. The possible adverse economic impact of closure of the gaming operations upon the specific community in which the establishment is located and upon the state generally is significant; and
2. Continued gaming operation pursuant to a supervisorship would facilitate speedy transfer of ownership of the establishment in a manner that does not unreasonably endanger the public health, safety, morals, good order and general welfare.

### **18.030 Determination to seek supervisor.**

1. Only the Commission is empowered to petition ex parte for court appointment of a supervisor if the license of any person whose license is essential to the operation of a gaming establishment:

- (a) Is revoked by the Commission;
- (b) Is suspended by the Commission;
- (c) Lapses; or
- (d) Is surrendered because the gaming establishment or the ownership thereof has been conveyed or transferred to a secured party who does not possess the licenses necessary to operate the establishment.

2. The decision to file such a petition is discretionary with the Commission, and in determining whether such a petition shall be filed, the Commission shall consider, at any time following issuance of an order revoking, suspending or allowing surrender or lapse of a Casino license:

- (a) The nature of the violation which resulted in the revocation, suspension, surrender or lapse;
- (b) The ability and actions taken, if any, for a removal by licensees in good standing of persons who committed the violation;
- (c) The involvement during a proposed supervisorship in any operation of the establishment of persons whose licenses were revoked, suspended, surrendered or lapsed;
- (d) The economic impact of closure of the gaming operations upon the community in which the establishment is located;
- (e) The economic impact of closure of the gaming operations upon the State of Arkansas;
- (f) The prior efforts, if any, to sell the establishment;
- (g) The involvement, if any, of undisclosed interests in the establishment;

(h) The presence, if any, of a publicly traded holding company and the public trading that would occur during a supervisorship;

(i) The current status of all fees and taxes applicable to the operation;

(j) The adequacy of existing financing for the operation, if continued, and the suitability of the source of such financing;

(k) The impact upon public confidence and trust that gaming operations in Arkansas are conducted honestly, competitively and free from criminal and corruptive elements;

(l) The ownership of the gaming establishment premises or an interest therein by persons other than the offending, surrendering or lapsed licensee;

(m) Any other matter material to a full and complete consideration of the particular circumstances presented;

(n) The availability of two or more persons qualified and willing to assume the position of supervisor for the establishment in question, unless, in the opinion of the Commission, only one person is available who is qualified to serve, in which case the Commission may name only that person.

3. The Commission may decline to petition for appointment of a supervisor if satisfied that because of any or all of the above considerations or for any other reason, a continuation of the gaming operation would not be in the best interest of the State of Arkansas, the gaming industry, or both.

4. The Commission will not petition for a supervisor to continue gaming operations at any establishment if:

(a) A rehearing has been granted by the Commission to the licensee on the revocation or suspension of his or her license and the rehearing has not been concluded; or

(b) The gaming establishment has never been in operation and opened to the public; or

(c) The gaming establishment is, or reasonably appears to be, insolvent; or

(d) Gaming operations ceased at the establishment for any reason prior to revocation, suspension or lapse of an essential license.

#### **18.040 Qualifications of supervisor.**

1. Should the Commission petition for appointment of a supervisor, the Commission shall include the names of two or more persons who the Commission believes are suitable and qualified to manage the gaming establishment involved and who are available for appointment by the court, unless, in the opinion of the Commission, only one person is available who is qualified to serve, in which case the Commission may name only that person.

2. The Commission shall not petition for appointment of any person unless first satisfied that the person meets the following qualifications:

a) An application to receive a license or be found suitable must not be granted unless the Commission is satisfied that the applicant is:

i. A person of good character, honesty and integrity;

ii. A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this State or to the effective regulation and control of gaming or charitable lotteries, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto; and

- iii. In all other respects qualified to be licensed or found suitable consistently with the declared policy of the State.
- b) A license to operate a gaming establishment or an inter-casino linked system must not be granted unless the applicant has satisfied the Commission that:
  - i. The applicant has adequate business probity, competence and experience, in gaming or generally; and
  - ii. The proposed financing of the entire operation is:
    - A. Adequate for the nature of the proposed operation; and
    - B. From a suitable source.

Any lender or other source of money or credit which the Commission finds does not meet the standards set forth in subsection 2 may be deemed unsuitable.

3. The Commission may petition for the appointment of more than a single individual, such as a management team, association or company, where such an appointment would better meet the circumstances and the needs of the establishment.

#### **18.050 Termination.**

1. Once a license essential to a continuation of the gaming operations has been revoked, suspended, surrendered or has lapsed, there is no right or interest in any person to further conduct gaming at the establishment, and the Commission may seek termination of a supervisorship for any cause deemed reasonable by the Commission.

- 2. Without limiting the foregoing, the Commission may seek termination whenever:
  - (a) License fees and taxes are not paid when due;
  - (b) The establishment enters into voluntary or involuntary bankruptcy proceedings;
  - (c) The establishment's debts exceed the value of its assets or the establishment cannot meet its debts as they become due;
  - (d) The Commission determines that a violation of the regulations enacted pursuant thereto, relating to the establishment has occurred subsequent to the supervisorship;
  - (e) A former owner, the former owner's agent, employee or representative are determined by the Commission to have violated any statute or regulation relating directly or indirectly to gaming or the administration of the supervisorship, other than the violation, if any, which resulted in the revocation, suspension, surrender or lapse;
  - (f) The death, disability, or removal of the supervisor;
  - (g) Closure of gaming operations at the establishment for any reason, regardless of fault; or
  - (h) Any circumstances which, in the determination of the Commission, renders continued operations under the supervisorship impractical or detrimental to the interests of the State of Arkansas, or licensed gaming, or both.

#### **18.060 Distribution of earnings to former legal owners.**

1. A supervisor shall not distribute earnings of the gaming establishment to the former licensed owners thereof, until deduction is made for:

- (a) The costs of the supervisorship, including compensation and expenses incurred by the supervisor and those engaged by the supervisor to aid in the supervisor's duties, then due and owing;
- (b) Amounts deemed necessary by the supervisor for continuing the operation of the establishment, including, but not limited to, bankroll, salaries, and foreseeable operating expenses;

(c) Amounts deemed necessary by the supervisor to preserve the assets of the gaming establishment; and

(d) A reserve fund sufficient, in the determination of the supervisor, to facilitate continued operation in light of pending civil litigation, disputed claims, contractual obligations, taxes, fees and any other contingency known to the supervisor which may require payment by the establishment.

2. The supervisor is subject to the provisions of these Rules, and shall not distribute any earnings of the gaming establishment in contravention of any provision thereof.

**End – Rule 18**