

Casino Licensees; Application Requirements

Application for Casino License

Application for Interim Casino Authorization

Request for Statement of Compliance

Proposed Amendments: N.J.A.C. 19:43-5.1, 5.2, 5.3 and 5.5.

Proposed New Rules: N.J.A.C. 19:43-12.1.

Proposed Repeal: N.J.A.C. 19:43-5.4.

Authority: N.J.S.A. 5:12-63, 69, 80, 81, 82, 84, ,85, 85.1, 87, 95.12 and 95.16.

Calendar Reference: See Summary below for explanation of exception to Calendar requirement.

Submit written comments by July 15, 2011 to:

Dianna W. Fauntleroy, General Counsel

Casino Control Commission

Arcade Building

Tennessee Avenue and the Boardwalk

Atlantic City, New Jersey 08401

The agency proposal follows:

### **Summary**

The Casino Control Act (“the Act”), N.J.S.A. 5:12-1 et seq., was amended on February 1, 2011, effectuating significant changes in the structures and procedures for the regulation of casino gaming in New Jersey. Pub. L. 2011, c. 19. Among other things, the legislation reexamined the allocation of duties and responsibilities as between the Casino Control Commission (“Commission”) and the Department of Law and Public Safety, Division of Gaming Enforcement.

As amended, section 63 of the Act authorizes the Commission to, among other things, hear and decide all applications for a casino license, including applications filed by persons required individually to qualify in connection therewith; applications for interim casino authorization pursuant to *N.J.S.A. 5:12-95.12 et seq.*, including but not limited to

applications filed by persons required individually to qualify in connection therewith; statements of compliance pursuant to N.J.S.A. 5:12-81; and all applications for a casino key employee license. N.J.S.A. 5:12-63a. Section 69a of the Act specifically authorizes the Commission to adopt, amend or repeal such regulations as may be necessary for the conduct of hearings before the Commission under sections 63 and “for the matters within all other responsibilities and duties of the [C]ommission imposed by P.L. 1977, c.110 (C. 5:12-1 et seq).”

In accordance with that statutory mandate, the Commission is proposing new rules and amendments which set forth the procedural requirements for applications for casino licensure and interim casino authorization and requests for statements of compliance. The amended Act provides that no casino license shall issue unless the Commission determines that all persons designated by the Division as persons who must qualify meet all applicable qualification criteria. N.J.S.A. 5:12-85.1a. Each applicant must produce such information and documentation as may be required to establish by clear and convincing evidence that it meets the qualification criteria set forth in the Act. N.J.S.A. 5:12-84. Pursuant to section 87a , upon the filing of an application for a casino license and such supplemental information as may be required by the Commission or the Division, the Division shall conduct an investigation and report to the Commission, which will conduct a hearing as to the qualification of the applicant. N.J.S.A. 5:12-87a.

N.J.S.A. 5:12-43-5.2 is proposed for amendment to reflect the legislature’s repeal of section 88 of the Act, eliminating casino license renewals. New N.J.S.A. 5:12-85.1d provides for waiver of qualification by the Division Director; accordingly, N.J.A.C. 19:43-5.4 (Petitions for waiver) is proposed for repeal.

This notice of proposal is not required to be referenced in a rulemaking calendar since a public comment period of 60 days is being provided.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in boldface brackets [thus]):

## CHAPTER 43. CASINO LICENSEES

### SUBCHAPTER 5. APPLICATION [REQUIREMENTS] **FOR CASINO LICENSE**

#### 19:43-5.1 General information requirements

No casino license shall be issued [or renewed] by the Commission unless the applicant, and each person required to be qualified as part of the application, provides all information, documentation and assurances required by N.J.S.A. 5:12-80, **80.1, 80.2**, 82, 83, 84, 85, **85.1, 85.2**, 86 and 87, **as applicable**, or as otherwise may be required to establish its qualification pursuant to the Act and the rules of the Commission.

#### 19:43-5.2 [Duration of license;] **License** conditions

[(a) In accordance with N.J.S.A. 5:12-87e and 88, a casino license shall be issued by the Commission for an initial period of one year, and shall be renewable thereafter for a period of up to five years.]

[(b)](a) A casino license may be issued [or renewed] subject to such conditions, restrictions, limitations or covenants as the Commission, in its discretion, deems necessary.

#### 19:43-5.3 [Contents of application] **Application** for [initial] casino license

(a) An application for the [initial] issuance of a casino license shall **be initiated by the filing of a petition with the Division in accordance with the rules thereof.** [include, without limitation, the

following information, which shall be completed in accordance with the requirements of the Act and the rules of the Commission and any instructions included with the application materials:]

**(b) A completed application for a casino license shall consist of the following, without limitation, which shall be filed with the Division in accordance with the rules thereof:**

1. A Business Entity Disclosure Form[-Corporate (BED-Corporate as set forth in N.J.A.C. 19:41-5.6 or Business Entity Disclosure Form-Partnership (BED- Partnership))] as set forth in [N.J.A.C. 19:41-5.6A] **the rules of the Division**, for [each of the following:]

- [i. The] **the** casino license applicant[;] **and**
- [ii. Each] **each** holding company or intermediary company of the applicant **and any other entity** required to be qualified pursuant to [N.J.S.A. 5:12-85b, d or e] **N.J.S.A. 5:12-85.1a, b, c**; [and]
- [iii. Each entity required to be qualified pursuant to N.J.S.A. 5:12-85c;]

2. The appropriate Personal History Disclosure Form (PHDF) for [the following:]

- [i. For] each natural person required to be qualified pursuant to **N.J.S.A. 5:12-85.1** [N.J.S.A. 5:12-85c or e by virtue of his or her relationship to the applicant, the PHDF required by N.J.A.C. 19:43-2.6; and
- ii. For each natural person required to be qualified pursuant to N.J.S.A. 5:12-85c and d by virtue of his or her relationship to a holding company or intermediary company of the applicant, the PHDF required by N.J. A.C. 19:43-2.7];

3. Such information and documentation as may be required by the Commission or the Division to establish the qualification of any person required to be qualified as a financial source pursuant to [N.J.S.A. 5:12- 84b] **N.J.S.A. 5:12-85.1e**;

4. Such information and documentation as may be requested by the Commission or the Division to demonstrate the financial stability, integrity and responsibility of the casino license applicant and each holding company or intermediary company of the applicant required to be qualified **by the Division** pursuant to N.J.S.A. 5:12-84a and **85.1** [85 and N.J.A.C. 19:43-4], the integrity of its financial sources and adequacy of its financial resources pursuant to [N.J.S.A. 5:12-84b] **N.J.S.A. 5:12-85.1**, and sufficient business ability and the likelihood of successful and efficient casino operations pursuant to N.J.S. A. 5:12-84d;

**5. A copy of the corporate charter provisions, or comparable formation documents of any non-corporate applicant or qualifying entity in accordance with N.J.S.A. 5:12-82d and 105c;**

[5.]6. Such information and documentation as may be required by [the Commission or] the Division to establish compliance with N.J.S.A. 5:12-103, N.J.A.C. 19:50, Title 33 of the Revised Statutes (N.J.S.A. 33:1-1 et seq.), and the regulations, rulings and bulletins of the Division of Alcoholic Beverage Control. [This information and documentation shall include, without limitation, the following:

i. A description of each casino hotel alcoholic beverage location, including the floor or level and the type of location as set forth in N.J. S.A. 5:12-103(g) and N.J.A.C. 19:50-1.4; and

ii. Architectural blueprints, floorplans or other such drawings, drawn to one-eighth inch scale or such other scale approved by the Commission, highlighting and identifying by name each alcoholic beverage location on those floors or levels containing such locations;]

[6.]7. Such information and documentation as may be required by [the Commission or] the Division to establish compliance with N.J.S.A. 5:12-83[,] **and** 84e [ and all other relevant facilities requirements of the Act and the rules of the Commission including, without limitation, the following:

- i. A description of the proposed casino hotel site, including site plans, total acreage, total square footage, frontages and elevation;
- ii. A description of the proposed casino hotel, including floor plans; and the total number of qualifying and non-qualifying sleeping units pursuant to N.J.S.A. 5:12-27 and 83, the number of sleeping units on each floor, the square footage of each unit and the average size of all units;
- iii. A description of the casino room and casino simulcasting facility, including floor plans;
- iv. The construction program, including estimated construction time and anticipated date of opening; the status of all required governmental and regulatory approvals and any conditions thereto; the project budget; and the architect, general contractor, construction manager and primary subcontractors, environmental consultant and interior designer; and
- v. An impact statement and related material which establishes to the satisfaction of the Commission the suitability of the casino and related facilities in accordance with the standards set forth in N.J.S.A. 5:12-84e; ]

[7.]**8.** [The information required in N.J.A.C. 19:53-2.4, 2.5, 2.6, 4.6 and 6.7 and such other] **Such** information, documentation and assurances as may be requested by [the Commission or ]the Division to ensure compliance with the equal employment and business opportunity and affirmative action requirements of N.J.S.A. 5:12-134 and 135 [and N.J.A.C. 19:53];

[8.]**9.** The initial license fee required by [N.J.A.C. 19:41-9.4] **the rules of the Division;** [and]

[9.]**10.** [Any] **In accordance with N.J.S.A. 5:12-80b and 87a, an applicant for casino licensure shall provide such** other information or documentation which the Commission or the Division

may deem material to the qualification of the applicant, or of any person required to be licensed or qualified, pursuant to the Act and the rules of the Commission **and Division.**

**[(b)](c) Contemporaneously with the filings in (b) above, the [The] applicant shall provide to the Commission [file an original and three copies of each Personal History Disclosure Form] a copy of the information and documentation required by (a) and (b)1-5 and (b)10 above, [and an original and four copies of all other information required by (a) above, with the Commission in accordance with N.J.A.C. 19:40-3.5(b)] either by printed copy or electronic copy, which shall be directed to the following:**

**Casino Control Commission  
Office of the General Counsel  
Arcade Building, 2nd Floor  
Tennessee Avenue and the Boardwalk  
Atlantic City, New Jersey 08401**

19:43-5.4 [Petitions for waiver] **(RESERVED)**

[(a) Upon the petition of a casino license applicant, the Commission, with the concurrence of the Director, may waive compliance with the qualification requirements of N.J.S.A. 5:12-85d for an officer, director, lender, underwriter, agent, employee or security holder of a holding or intermediary company of a casino licensee pursuant to N.J.S.A. 5:12-85d(1), or for an institutional investor thereof pursuant to N.J.S.A. 5:12-85f. Such petition shall be in writing and shall include the following:

1. A description of all outstanding securities of the applicant and its holding companies and intermediary companies and a list of all holders thereof; and
2. A certification in support of the petition, including the following:

i. Compliance with the criteria for such waivers as set forth in N.J.S.A. 5:12-85d(1) or f; and

ii. A statement of compliance with the notice requirements set forth in N.J.A.C. 19:43-2.5(a) and (b).]

19:43-5.5 [Statements] **Request for statement** of compliance[; commitment to reserve a casino license]

(a) A casino **licensee, casino** license applicant, **or any person required to qualify in conjunction with a casino license or casino license application** may, pursuant to N.J.S.A. 5:12-81, [file a petition requesting] **request** that the Commission issue a statement of compliance that the applicant has established compliance with one or more of the eligibility criteria required by the Act or the rules of the Commission for a casino license. **Such application shall be initiated by the filing of a petition with the Division in accordance with N.J.S.A. 5:12-81a(1) and (3).**

**(b) Any person required to be qualified as the holder of the securities of a casino licensee or a holding or intermediary company thereof may, prior to the acquisition of such securities, request a statement of compliance by the Commission that the person is qualified to hold such securities. Such application shall be initiated by the filing of a petition with the Division in accordance with N.J.S.A. 5:12-81a(2).**

[(b) A statement of compliance certifying satisfaction of the requirements of N.J.S.A. 5:12-84e may be accompanied by a written commitment by the Commission to reserve a casino license in accordance with N.J.S.A. 5:12-81c.]

**SUBCHAPTER 12. [(RESERVED)] INTERIM CASINO AUTHORIZATION**

**19:43-12.1 Applications for interim casino authorization**

**(a) Any application for interim casino authorization pursuant to N.J.S.A. 5:12-95.12 et seq. shall be initiated by the filing of a petition with the Division in accordance with the rules promulgated thereby.**

**(b) A completed application for an interim casino authorization shall consist of the following, without limitation, which shall be filed with the Division in accordance with the rules thereof:**

- 1. The information required by N.J.A.C. 19:43-5.3(b);**
- 2. The appropriate Personal History Disclosure Form (PHDF) for the ICA trustee, which shall be filed with the Division in accordance with the rules thereof; and**
- 3. A fully executed trust agreement in accordance with N.J.S.A. 5:12-95.12 and 95.14.**

**(c) Contemporaneously with the filings in (a) and (b) above, the applicant shall provide to the Commission the following:**

- 1. A copy of the information and documentation required by (a) and (b)2-3 above and N.J.A.C. 19:43-5.3(b)1-5 and (b)10, either by printed copy or electronic copy, which shall be directed to the following:**

**Casino Control Commission  
Office of the General Counsel  
Arcade Building, 2nd Floor  
Tennessee Avenue and the Boardwalk  
Atlantic City, New Jersey 08401**