

Part 2 Chapter 1: APPLICATIONS

Rule 1.3 Licenses And Other Commission Actions

(a) Gaming License. A license which authorizes the holder to operate a gaming establishment. A gaming license is granted for a period of no longer than three (3) years from the date of issue. A gaming license may be granted for a period of less than three (3) years within the discretion of the Commission. At the expiration of a license, if the Commission is satisfied, after careful review of the licensee's current report, verified by the affidavit of an officer of the licensee, that there has been no substantial change in the information provided in the application for the initial license, the Commission may, upon receipt of all prescribed fees and cost, continue the license for a period no longer than three (3) years. No more than two (2) continuances may be granted for each license and any continuance of a license is subject to the Commission's power to revoke, suspend, condition or limit as if it were the initial license.

(b) Manufacturer's License. A license which authorizes the holder to manufacture, assemble, or modify any gaming device in the State of Mississippi or for use or play in Mississippi. A manufacturer's license is granted for a period of no longer than three (3) years from the date of issue. A manufacturer's license may be granted for a period of less than three (3) years within the discretion of the Commission. At the expiration of a license, if the Commission is satisfied, after careful review of the licensee's current report, verified by the affidavit of an officer of the licensee, that there has been no substantial change in the information provided in the application for the initial license, the Commission may, upon receipt of all prescribed fees and cost, continue the license for a period no longer than three (3) years. No more than two (2) continuances may be granted for each license and any continuance of a license is subject to the Commission's power to revoke, suspend, condition or limit as if it were the initial license.

(c) Distributor's License. A license which authorizes the holder to lend, lease, sell, give, or distribute in any other manner any gaming device in the State of Mississippi or outside the State of Mississippi for use or play in Mississippi. A distributor's license is granted for a period of no longer than three (3) years from the date of issue. A distributor's license may be granted for a period of less than three (3) years within the discretion of the Commission. At the expiration of a license, if the Commission is satisfied, after careful review of the licensee's current report, verified by the affidavit of an officer of the licensee, that there has been no substantial change in the information provided in the application for the initial license, the Commission may, upon receipt of all prescribed fees and cost, continue the license for a period no longer than three (3) years. No more than two (2) continuances may be granted for each license and any continuance of a license is subject to the Commission's power to revoke, suspend, condition or limit as if it were the initial license.

(d) Registration. A commission action which authorizes an entity to be a holding company with respect to another entity which holds or applies for a state gaming license.

(e) Other Licenses Or Findings Of Suitability. The Act and these regulations require or permit the Commission to require that certain persons directly and actively involved in the administration or supervision of the gaming activities of gaming licensees be found suitable to hold a gaming license so long as that involvement continues.

1. The following persons shall apply for a finding of suitability and must be found suitable by the Commission in order to be involved with a licensee:

- i. each person who serves as Chairman of the Board of Directors of any corporation, public or private, licensed or registered by the Commission; and
 - ii. each person who has a vote on any issue before the Board of Directors of any corporation, public or private, licensed or registered by the Commission and who is also an employee of the corporation or any of its subsidiaries.
2. The following persons shall apply for a finding of suitability and may be found suitable by the Commission after review of the application:
 - i. each person who serves as the Chairman of the audit or compliance committees of any corporation, public or private, licensed or registered by the Commission, and
 - ii. any executive, employee, or agent of a gaming licensee that the Commission determines as having the power to exercise a significant influence over decisions concerning any part of the operation of a gaming licensee.
3. Whenever it is the judgment of the Commission that the public interest and the policies set forth in the Act will be served by requiring any employee to be found suitable, the Commission shall serve notice of such determination upon the licensee. The Commission shall not be restricted by the title of the job performed but shall consider the functions and responsibilities of the person involved in making its decision as to suitability status. Examples shall include, but are not limited to, persons acting in the capacity of a property level general manager, assistant general manager, or executive level personnel actively and directly engaged in the administration or supervision of the activities of a licensee. Grounds for requiring suitability of an executive, employee or agent which are deemed to serve the public interest and the policies of the Act include but are not limited to the following:
 - i. the individual is new to the industry, to the particular gaming establishment, or the position, and has significant influence and control and the Commission has little or outdated information concerning his or her character, background, reputation or associations; or
 - ii. information has been received by the Commission which, if true, would constitute ground for a finding of suitability to be associated with a gaming enterprise.
4. The licensee shall, within thirty (30) days of placing an employee into a position as described above shall present notification to the Executive Director who shall inform the licensee whether the application for a finding of suitability is necessary. Failure of the licensee to respond as required by this section shall constitute grounds for disciplinary action.
5. Any individual whose application for finding of suitability is required pursuant to this regulation may request the Commission in writing to review its determination of that individual's status within the gaming organization any time within ten (10) days following the filing of a completed application as required by this regulation. In the event the Commission determines that the applicant is not required to be found suitable or that the public interest and policies of the Act do not require the finding of suitability of the individual at the time, then the applicant shall be allowed to withdraw his application and he may continue in his employment.
6. An applicant for a finding of suitability has the burden of proving his qualification to receive and maintain a finding of suitability pursuant to Mississippi Code Annotated

§ 75-76-67. If the nature of the job changes from that for which the applicant is found suitable, he may be required to submit himself to a new determination of his suitability.

7. A finding of suitability is granted for a period of no longer than ten (10) years from the date of issue. A finding of suitability may be granted for a period of less than ten (10) years within the discretion of the Commission.
 - i. A holder of a finding of suitability must file with the Investigations Division of the Commission the “Investigations Division Annual Report”, providing all information requested on forms provided by the Commission, and any other information requested by the Executive Director. Such “Investigations Division Annual Report” shall be due by June 30th of each year, with the exception of the calendar year the license is granted.
 - ii. A holder of a finding of suitability shall immediately inform the Commission of any arrest or conviction.

(f) Any executive, employee, or agent of a gaming licensee who is listed or should be listed in the annual employee report may be required to apply for a finding of suitability at the direction of the Commission.

(g) Approvals. The Mississippi Gaming Control Act and these regulations require commission approval for certain acts of licensees or transactions directly or indirectly involving licensees. Such approvals by themselves do not constitute the licensing or a finding of suitability of any person involved, but merely an approval for the particular transaction involved. The Executive Director shall have complete discretion in determining whether to grant prior approval for a contract or agreement which would otherwise be prohibited under Miss. Code Ann. §75-76-61(5), or an employment relationship which would otherwise be prohibited under Miss. Code Ann. §75-76-61(6). Notwithstanding the foregoing, however, no such prior approval shall be granted unless the Commission has previously given unanimous approval of the contract, agreement or employment relationship.

(h) Gaming Site Approval and Approval to Proceed with Development. The Commission may, in its discretion, grant approval of gaming sites. The Commission has divided the approval process into two separate phases:

- i. Gaming site approval; and
- ii. Approval to proceed with development.

Source: *Miss. Code Ann.* § 75-76-63

Rule 1.5 Approval to proceed with development. With respect to obtaining the Commission’s approval to proceed with development, the following information, together with documentation to support this information, shall be submitted to the Commission:

(a) Architectural plans or renderings showing details of all proposed construction and renovation for the project, together with a footprint of the project. Include a description of the construction and type of parking facilities, as well as parking lot capacity. Commission approval requires that the project include a 500-car, or larger parking facility in close proximity to the casino complex, and infrastructure facilities shall include a 300-room, or larger hotel of at least a three diamond rating as defined by an acceptable travel publication to be determined by the Commission. In addition, infrastructure facilities must include a restaurant capable of seating at least 200 people and a fine dining facility capable of seating at least 75 people, and the casino floor must be at least 40,000 square feet. The project will also have or support an amenity that will be unique to the market and will encourage economic development and promote tourism. The Commission will have authority in determining the quality of the amenity and the ultimate approval of the amenity, and may in its discretion reduce the requirements above should it determine that there is a justification to do so in certain markets. The Commission will further determine, in its discretion, if the prerequisite hotel and dining facilities may be supplanted by an amenity of high value to the overall tourism market in that the amenity will likely encourage economic development and promote tourism. As used herein, infrastructure facilities are not such items as parking facilities, roads, sewage and water systems, or civic facilities normally provided by cities and/or counties. The qualifying infrastructure must be owned or leased by (i) the holder of the site approval, or (ii) an affiliated company of the holder of the site approval where both the affiliated company and the holder of the site approval have identical direct or indirect equity ownership. This regulation shall apply to any new applicant for a gaming license for a new gaming facility and to the acquisition or purchase of a licensee or gaming facility for which gaming operations have ceased prior to the time of acquisition or purchase. This regulation, however, shall not apply to any licensee which has been licensed by the Commission, or to any person which has received Approval to Proceed with Development from the Commission, prior to December 31, 2013. (or to such licensee upon any licensing renewal after such date). Any change to the plan, or placement or design of the establishment, cruise vessel or vessel, shall be submitted in advance to the Executive Director for determination of whether such a change constitutes a material change. If the Executive Director determines that a material change has occurred, Commission approval is required for the same.

(b) Statements reflecting the total estimated cost of construction or renovation of the establishment, vessel, or cruise vessel and shore and dock facilities, distinguishing between known costs and projections, and separately identifying:

1. Facility design expense;
2. Land acquisition costs;
3. Site preparation costs;
4. Construction costs or renovation costs;
5. Equipment acquisition costs;
6. Cost of interim financing;
7. Organization, administrative and legal expenses;
8. Projected permanent financing costs;
9. Qualified infrastructure costs; and
10. Non-qualifying infrastructure costs.

(c) A construction schedule for completion of the project, including an estimated date of project completion. Indicate whether a performance bond will be required by the applicant to be furnished by the contractor.

(d) Current financial statements, including, at a minimum, a balance sheet and profit and loss statement for the proposed licensee.

(e) A detailed statement of the sources of funds for all construction and renovation proposed by the site development plans. Any funding, whether equity or debt, to be obtained must be supported by firm written commitments satisfactory to the Commission. The applicant will have 120 days in which to close all financing and start construction or the approval is deemed void.

(f) Evidence that the following agencies (if applicable) were notified of the development and/or do not oppose the site development:

1. U.S. Corps of Engineers
2. U.S. Coast Guard
3. Mississippi Department of Transportation
4. Mississippi Department of Environmental Quality
5. Department of Marine Resources
6. Port and Harbor Commission
7. Levee Board
8. City and County government
9. Such other agencies as the Executive Director deems appropriate.

The application for a Gaming Operator's License shall be filed no later than ninety (90) days after the Commission grants approval to proceed with development. The gaming site approval will expire three (3) years from the date approval to proceed with development is granted unless the Commission grants an extension. Approval to proceed with development is not subject to sale, assignment or transfer.

Source: *Miss. Code Ann.* §§ 75-76-61, 75-76-77, 75-76-27, 75-76-45

Rule 1.7 Compliance review and reporting system.

(a.) Whenever the Commission is acting upon any application of a licensee or registrant, or pursuant to its powers provided in *Miss. Code Ann.* §75-76-103, and if the Commission determines that circumstances exist which require additional management review by a licensee or registrant, the Commission may impose a condition upon any license or order of registration to require implementation of a compliance review and reporting system by the licensee or registrant.

(b.) The terms of the condition may include, but shall not be limited to:

1. That the condition shall expire on a certain date or after a designated period of time without commission action;
2. That the condition may be administratively removed by the Executive Director should a specified activity cease or a specified event occur; or

That a periodic review shall be conducted by the Executive Director and upon such review the Executive Director may recommend and the Commission may remove or continue to require the condition.

(c.) Notwithstanding the provision of paragraph (b) above, upon application, a licensee or registrant may request modification or removal of the condition imposed and the Commission may, after considering the recommendation of the Executive Director, modify or remove the condition.

(d.) The compliance review and reporting system shall be created for the purpose of monitoring activities relating to the licensee's or registrant's continuing qualifications under the provisions of the Act and regulations of the Commission in accordance with a written plan to be approved by the Executive Director administratively or as otherwise ordered by the Commission.

(e.) The written plan must provide for the operation of the compliance review and reporting system and must designate who shall be responsible for said system. The plan must provide for involvement of at least one person knowledgeable of the provisions of the Act and the regulations of the Commission. The plan must require periodic reports to senior management of the licensee or registrant. Such reports shall be advisory and the licensee or registrant shall maintain responsibility for compliance with the Act and regulations of the Commission. Copies of the reports must be provided to the Commission.

(f.) The activities to be monitored must be set forth in the written plan and must be determined by the circumstances applicable to the licensee or registrant. Without limitation, the activities that may be required to be monitored pursuant to the compliance review and reporting system include the following:

1. Associations with persons denied licensing or other related approvals by the Commission or who may be deemed to be unsuitable to be associated with a licensee or registrant;
2. Business practices or procedures that may constitute grounds for denial of a gaming license or registration;
3. Compliance with other special conditions that may be imposed by the Commission upon the licensee or registrant;
4. Review of reports submitted pursuant to the Act and regulations of the Commission;
5. Compliance with the laws, regulations, or orders of duly constituted governmental agencies or entities having jurisdiction over the gaming affairs, or such other business activities which the
6. Executive Director or the Commission may deem necessary or proper, of the licensee, the registrant, or its affiliates; and
7. Review of such other activities determined by the Commission as being relevant to the licensee's or registrant's continuing qualifications under the provisions of the Act and the regulations of the Commission. (Adopted: 9/25/1991; Amended: 08/18/1994; Amended: 10/22/1998; Amended: 11/19/1998; Amended: 01/21/1999; Amended: 11/18/1999; Amended: 01/18/2001; Amended: 07/23/2003; Amended: 10/27/2005; Amended: 02/23/2006.)

Source: *Miss. Code Ann.* §§ 75-76-61, 75-76-63, 75-76-77 , 75-76-103

Rule 1.11 Application And Investigative Fees

(a) Simultaneously with the submission of its application for a gaming license, the applicant shall pay a non-refundable application fee of Five Thousand Dollars (\$5,000.00) along with all other fees provided for in the Gaming Control Act. These fees shall be payable to the Mississippi Department of Revenue.

(b) An applicant for any subsequent gaming license, continuance of a gaming license, finding of suitability, registration, approval, or other license pertaining to a particular establishment shall pay such investigative fees and costs as determined by the Executive Director. Any licensee which is the subject of a periodic compliance investigation shall pay such investigative fees and cost as determined by the Executive Director. The Executive Director shall estimate the investigative fees and costs and may require a deposit to be paid by the applicant or licensee in advance as a condition precedent to beginning or continuing an investigation. If, at any time, the Executive Director determines that the investigative fees and costs are likely to exceed the deposits paid by the applicant or licensee, the Executive Director may require additional deposits.

(c) The Executive Director and Commission will not take final action to approve any application unless all application and investigative fees and costs have been paid in full. The Executive Director may recommend denial and the Commission may deny the application if the applicant has failed or refused to pay all application and investigative fees and costs.

(d) Upon final action on the application, the Executive Director shall give to the applicant an itemized accounting of the investigative fees and costs incurred. The Executive Director shall refund to any applicant who made deposits pursuant to Subsection (b) of this Regulation, any balance remaining in the investigative account of the applicant after all investigative fees and costs have been paid.

(Adopted: 09/25/1991; Amended: 11/18/1999.)

Source: *Miss. Code Ann.* §§ 75-76-183, 75-76-189, 75-76-183, 75-76-177