

Proposed Amendments: N.J.A.C. 13:69A-5.6B, 5.11, and 8.6; 13:69C-10.5; 13:69H-1.5; and 13:69J-1.2B, 1.14, and 1.14B

[Click here to view Interested Persons Statement](#)

Applications; Casino Licensees; Junket Enterprises Not Employed by a Casino or Applicant; Persons Doing Business with Casino Licensees

Authorized By: David Rebeck, Director, **Division of Gaming Enforcement**.

Authority: N.J.S.A. 5:12-69.a, 70.a, 76.g, 92.a, and 102.c.

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

Proposal Number: PRN 2017-133.

Submit written comments by September 15, 2017, to:

Charles F. Kimmel, Deputy Attorney General
Division of Gaming Enforcement
1300 Atlantic Avenue
Atlantic City, NJ 08401
or electronically at: rulecomments@njdge.org.

The agency proposal follows:

Summary

The **Division of Gaming Enforcement (Division)** is proposing to make amendments to [N.J.A.C. 13:69A](#), [13:69C](#), [13:69H](#), and [13:69J](#).

The proposed amendment to [N.J.A.C. 13:69A-5.6B\(b\)](#) eases the regulatory burden for institutional investor companies that hold shares in subsidiary funds by making it easier for them to qualify for waiver from licensure. The proposed amendments to [N.J.A.C. 13:69A-5.11](#) consolidate the process of filing different forms by a publicly traded company. The amendments further permit such companies to file a link to their SEC forms rather than having to print and mail the form to the **Division**. The amendments also codify the requirement that copies of a vendor's casino contracts be filed with the **Division**. Previously, investigations could be delayed while the **Division** waited to receive and review such contracts. As review of such contracts is routine, it is thus being added to the rule. The proposed amendment to [N.J.A.C. 13:69A-8.6\(d\)](#) clarifies that a casino hotel alcoholic

beverage license may be withdrawn the same as any other casino **service industry** enterprise license.

The proposed amendments to [N.J.A.C. 13:69C-10.5](#) provide regulatory relief for casino suppliers and companies that **service** casinos by broadening the available exemptions from licensure available to entities that receive payments from casinos. Exempted from licensure pursuant to these amendments would be: payments in lieu of litigation ([N.J.A.C. 13:69C-10.5\(b\)2](#)); payments made to or received from a sister [page=2183] subsidiary or holding company licensed by another **gaming** jurisdiction ([N.J.A.C. 13:69C-10.5\(b\)4](#)); payments to non-**gaming** related entities licensed by Federal agencies or, in the discretion of the **Division**, other State agencies ([N.J.A.C. 13:69C-10.5\(b\)5](#)); payments for the shipment of non-**gaming** goods, airport fees, fuel for company vehicles, or payments to commercial airlines for airfare ([N.J.A.C. 13:69C-10.5\(b\)8](#)); payments for medical, legal, accounting, and other non-Internet **gaming** professional **services** ([N.J.A.C. 13:69C-10.5\(b\)11](#)); and payments of \$ 25,000 or less for non-**gaming** off-the-shelf products ([N.J.A.C. 13:69C-10.5\(b\)12](#)).

The proposed amendment to [N.J.A.C. 13:69H-1.5](#) provides a license exemption for junket companies licensed by another **gaming** jurisdiction that receive less than \$ 25,000 in the same calendar year from New Jersey casinos. Such a change allows Atlantic City casinos to make a token payment to a junket company to attempt to convince it to bring more of its patrons to New Jersey. An initial payment for the junket company to consider doing additional business in Atlantic City will not trigger an immediate license requirement.

The proposed amendments to [N.J.A.C. 13:69J-1.2B](#) greatly simplify the process for obtaining a transactional waiver. **Gaming**-related casino **service industry** enterprises cannot conduct business with a New Jersey casino licensee prior to being licensed unless a transactional waiver is granted by the **Division**. Currently, waivers are granted for a period of six months. Each casino must seek its own waiver to conduct business with an applicant for licensure by filing a petition requesting such relief. The amendments would allow a simplified process for renewing such waivers beyond the initial six-month period.

The proposed amendments to [N.J.A.C. 13:69J-1.14](#) provide additional relief for institutional investors who invest in more than one company that supplies New Jersey casinos. A company that receives a waiver from licensure in connection with an investment in one casino supplier may apply the waiver to other such companies through a simplified process.

The proposed amendments to [N.J.A.C. 13:69J-1.14B](#) expand the opportunity to receive temporary qualification, thus allowing companies to be plenary licensed on a more expedited basis. [N.J.A.C. 13:69J-1.14B\(a\)3iii](#) specifically allows a person who holds between five and 10 percent of an entity that owns a portion of a license applicant, but does not otherwise qualify for an institutional investor exemption to qualify for an exemption. This is an increase from the current maximum ownership interest in the rule of five percent for such an exemption.

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. See [N.J.A.C. 1:30-3.3\(a\)5](#).

Social Impact

The proposed amendments provide regulatory relief by permitting certain companies to be exempted from licensure when they provide goods or **services** to a casino licensee and allow other companies to file a modified form of application. The waiver process for an institutional investor is also clarified. These amendments could allow New Jersey casinos to do business with a greater variety of companies and could thus allow casinos to offer a broader array of options and **services** to their customers.

Economic Impact

The proposed amendments may serve to lessen expenses for companies that provide goods and **services** to casinos, including junket **services**. The financial impact on casino licensees will be minimal. Casino licensees may financially benefit from these amendments by having a greater choice of suppliers, as the ability to be exempt from licensure for such suppliers is increased.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are authorized by the provisions of the Casino Control Act, [N.J.S.A. 5:12-1](#) et seq., and are not subject to Federal law.

Jobs Impact

The proposed amendments will not have any impact on the number of jobs in the State of New Jersey.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture **industry** in New Jersey.

Regulatory Flexibility Analysis

The proposed amendments will authorize reduced filing requirements and regulatory relief for casino suppliers and junket companies, many of which may be small businesses as that term is defined in the Regulatory Flexibility Act, [N.J.S.A. 52:14B-16](#) et seq. Such companies may be exempt from licensure all together, or may be able to file as a publicly traded company and provide a link to their SEC filings, such as a 10K or a 10Q. Thus, small businesses that are casino suppliers could see a reduction in costs, but will not see any type of increased regulatory burden as a result of these amendments. For small businesses that do not qualify for the expanded exemptions from licensure set forth in this rulemaking, no additional reporting, recordkeeping, or compliance requirements are imposed. For those entities that are exempted from licensure under this rulemaking, a reduction in reporting,

recordkeeping, and compliance requirements will result.

Housing Affordability Impact Analysis

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendments would evoke a change in the average costs associated with housing because the proposed amendments concern the licensure or exemption from licensure of casino **service industry** enterprises. Such proposed amendments impact the ability to enter into contracts to supply goods and **services** to casinos and should not have any impact on any State or local housing market in New Jersey.

Smart Growth Development Impact Analysis

The proposed amendments will not have an impact on smart growth and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment plan in New Jersey because the proposed amendments concern the licensure or exemption from licensure of casino **service industry** enterprises. The proposed amendments impact the ability of companies to offer goods and **services** to New Jersey casinos and have no impact on housing production.

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

CHAPTER 69A APPLICATIONS

SUBCHAPTER 5. FORMS

13:69A-5.6B Institutional Investor Certification

(a) (No change.)

(b) An institutional investor shall file a signed and dated certification that includes the following:

1.-4. (No change.)

5. The percentage of the issued and outstanding common or preferred voting stock that the number of shares held by the investment company constitutes; [and]

6. A statement as to the specific subsection of (a) above within which the investment company falls[.]; **and**

7. If the shares are held in subsidiary funds, confirmation that:

i. The institutional investor is the 100 percent beneficial owner of any and all subsidiary funds holding shares, or has complete managerial authority over any assets held by that subsidiary fund; and

ii. No individual subsidiary fund holds more than five percent of the issued and outstanding common or preferred voting stock.

(c)-(d) (No change.)

13:69A-5.11 Vendor Registration Form; Vendor Registration Supplemental Disclosure Form; and Vendor Registration Publicly Traded Corporation Form

(a)-(f) (No change.)

[page=2184] (g) [Within 30 days of a casino] **Contemporaneous with the filing of a completed Vendor Registration Publicly Traded Corporation Form to the Division, the vendor that is a publicly traded corporation shall submit directly to the Division, the most recently filed 10K or 10Q, whichever was filed last. Failure to do so will prevent the vendor registration process from being completed and the publicly traded vendor shall not be able to transact business with any casino applicant or licensee until such time as both the Vendor Registration Publicly Traded Corporation Form and its most recently filed 10K or 10Q are filed with the Division. The publicly traded vendor may submit a link to its most recently filed 10K or 10Q in lieu of submitting the 10K or 10Q.**

(h) If a publicly traded vendor fails to submit directly to the **Division** its most recently filed 10K or 10Q [within 30 days of the casino] **contemporaneously with the filing of a completed Vendor Registration Publicly Traded Corporation Form, the Division may administratively prohibit such publicly traded vendor from conducting business with a casino licensee or applicant without the need for a hearing before taking such action.**

(i) Pursuant to [N.J.S.A. 5:12-80](#), the **Division** may require any vendor [registrant under this section] or any vendor registrant conducting business with an Internet **gaming** permit holder, an Internet **gaming** provider licensed as a casino **service industry** enterprise [licensed] pursuant to paragraph 92.a(1) of the Act, or an applicant for either an Internet **gaming** permit or such casino **service industry** enterprise license, to supply additional information, in addition to that required in (b), (c), or (f) above. Such information may include, but not be limited to, **a copy of the vendor's contract with either the Internet gaming permit holder or casino service industry enterprise licensee or applicant, as well as** any and all information set forth pursuant to N.J.A.C. 13:69A-7. This subsection shall **also** apply to any entity required to file any vendor registration form required by this section[. This subsection shall also apply,] **or** in the discretion of the **Division**, to any individual employed by or affiliated with a vendor registrant.

SUBCHAPTER 8. APPLICATION AND RESUBMISSION

13:69A-8.6 Withdrawal

(a)-(c) (No change.)

(d) Any person or entity holding a credential issued by the **Division**, including, without limitation, a casino employee registration, vendor registration, **casino hotel alcoholic beverage license**, or casino **service industry** enterprise license, may offer to surrender such credential by written request signed by the credential holder or a person authorized to sign on behalf of an entity. Surrender shall be for a term of five years from the date the request is granted by the **Division**. No refund of any kind shall be authorized or granted in connection with the surrender of a credential. Surrender, **and any conditions imposed**, shall be granted at the sole discretion of the **Division**.

CHAPTER 69C
CASINO LICENSEES

SUBCHAPTER 10. REQUIREMENTS FOR DOING BUSINESS WITH VENDORS

13:69C-10.5 Exemption from registration

(a) The **Division** may, upon the written request of a casino licensee or applicant or on its own initiative, exempt a transaction from the filing requirements in [N.J.A.C. 13:69C-10.4](#) if the **Division** determines that the filing of a **Vendor Registration Form (VRF)** is not necessary to protect the public interest and further the policies set forth in Sections 1(b)6, 1(b)9, 92 and 104 of the Act. In making such a determination the **Division** shall consider, without limitation, the following:

1.-3. (No change.)

(b) The following transactions shall be deemed exempt pursuant to (a) above unless the filing of a VRF is otherwise directed by the **Division**:

1. (No change.)

2. Direct payments to guests or guests and their representatives pursuant to a court order or stipulation of settlement, [or] for settlement of guest losses or guest refunds, **or for payments in lieu of litigation**;

3. (No change.)

4. Payments received from an employee of the casino licensee or applicant for purchases of obsolete hotel property or supplies for personal use **or payments made to or received from sister subsidiary or holding companies that are licensed in other gaming jurisdictions**;

5. Payments to government agencies for goods or **services** provided under statutory or

other legal mandate, or for taxes, assessments, fines, garnishments, [or] **licensing** fees, [and] payments to public utilities, [having legal **service** monopolies] **or payments to non-gaming-related entities licensed by United States Federal agencies. Payments to non-gaming-related entities licensed by a New Jersey State agency or by any other State agency as the Division, in its sole discretion, may determine to be consistent with the public interest and policies of the Act;**

6.-7. (No change.)

8. Payments for freight charges to freight transporters selected by the vendor for delivering goods C.O.D. or freight collect[;], **payments for the shipment of non-gaming goods, payments for fuel for company vehicles, payments for airport fees, or payments to commercial airlines for airfare;**

9.-10. (No change.)

11. Payments to labor organizations, unions, and affiliates registered pursuant to [N.J.S.A. 5:12-93](#) for employee dues and benefits programs **or payments for non-Internet gaming related professional services, including, but not limited to, medical, legal, and accounting services;** and

12. Payments to the same vendor by an individual casino licensee or applicant for goods and **services** totaling less than [\$ 10,000] **\$ 25,000** in the same calendar year, made pursuant to a contract or purchase agreement with that vendor for less than [\$ 10,000] **\$ 25,000 or where the payment is for non-gaming commercial off-the-shelf products.**

CHAPTER 69H

JUNKET ENTERPRISES NOT EMPLOYED BY A CASINO LICENSEE OR APPLICANT

SUBCHAPTER 1. JUNKET ENTERPRISES NOT EMPLOYED BY A CASINO LICENSEE OR APPLICANT

13:69H-1.5 Junket enterprises and representatives

(a) Pursuant to N.J.S.A. 5:12-102.c, all junket enterprises and junket representatives not employed by a casino licensee or applicant or any person employed by a junket enterprise or junket representative in a managerial or supervisory position, shall be licensed in accordance with N.J.S.A. 5:12-92.a(3). **Payments totaling less than \$ 25,000 in the same calendar year from a New Jersey junket enterprise licensee or applicant to an individual or entity licensed or registered as a junket enterprise or junket representative in a United States gaming jurisdiction shall not require that junket enterprise or junket representative to be licensed in accordance with N.J.S.A. 5:12-92.a(3).**

(b) (No change.)

CHAPTER 69J
PERSONS DOING BUSINESS WITH CASINO LICENSEES

SUBCHAPTER 1. GENERAL PROVISIONS

13:69J-1.2B Permission to conduct business prior to issuance of a casino **service industry** enterprise license

(a) Notwithstanding any other provision contained in this chapter:

1. The **Division** may, upon the **initial** joint petition of a casino licensee or applicant and an applicant for a casino **service industry** enterprise license filed pursuant to N.J.S.A. 5:12-92.a(1) or (2), permit an applicant for a casino **service industry** enterprise license to transact business with [a] **such** casino licensee or applicant prior to the licensure of the casino **service industry** enterprise license applicant if:

i.-iv. (No change)

2. (No change.)

[page=2185] (b) Permission to conduct **initial** business pursuant to (a) above shall be for [an initial] **a** period of up to six months. [Upon a showing of good cause by the applicant, the]

(c) The Division may extend such **initial** relief for additional periods, in the Director's **sole** discretion, until licensure of the applicant is decided. **Upon the expiration of the applicant's first issued waiver to conduct business with any casino licensee or applicant, the applicant shall provide the Division with:**

1. A list of all casino licensees, casino applicants, and casino service industry enterprise licensees or applicants it currently has an initial waiver to transact business with and which it seeks to continue doing business with; and

2. Good cause why an extension should be granted.

(d) Pursuant to (c) above, the Division, in its sole discretion, may renew all existing waivers at the same time, without the need for a separate petition to be filed for each contractual relationship.

(e) Notwithstanding the foregoing, the **Division** may reconsider the granting of any approval issued pursuant to this section at any time.

13:69J-1.14 Persons required to be qualified

(a) (No change.)

(b) Notwithstanding (a) above, any of the following persons may request in writing that the **Division** waive their obligation to qualify as part of a casino **service industry** enterprise license issuance by making the appropriate showing required in (b)1 through 3 below.

1. (No change.)

2. If the person is required to qualify as an owner of the applicant or licensee or a holding or intermediary company thereof and requests a waiver as an institutional investor, the person shall be required to demonstrate compliance with the standards for institutional investor status set forth in [N.J.S.A. 5:12-27.1](#) and [N.J.A.C. 13:69A-5.6B\(a\)](#), as well as the standards for waiver set forth in [N.J.S.A. 5:12-\[85.1g\]85.1.g](#), as applied to the casino **service industry** enterprise applicant or licensee, regardless of whether such applicant or licensee is publicly traded or privately held. Such request shall include the certification required pursuant to [N.J.A.C. 13:69A-5.6B\(b\)](#).

i. For any institutional investor whose obligation to qualify was previously waived by the Division and is seeking to apply its previously issued waiver as an institutional investor to a different casino service industry enterprise applicant or licensee, the institutional investor shall provide the Division, in a writing from a corporate officer of the institutional investor, the name and license number of the applicant or licensee in connection with which the institutional investor's obligation to qualify was previously waived by Director order, as well as the information required by [N.J.A.C. 13:69A-5.6B\(b\)](#) and (c).

3. (No change.)

(c) Notwithstanding (a) and (b) above, the **Division** may require a casino **service industry** enterprise applicant or licensee to establish the qualifications of any person if the **Division** determines that the qualification of such person would further the policies of the Act. In making such determination, the **Division** shall consider, without limitation, the following:

1.-7. (No change.)

8. Criminal conduct or associations; [and]

9. Role in compliance and association or affiliation with the applicant company[.]; **and**

10. Role in Internet gaming and association or affiliation with the applicant company.

(d) (No change.)

13:69J-1.14B Temporary qualification at license issuance; pendent qualifiers during term of license; permission to exercise powers and perform duties prior to **Division** finding of plenary qualification

(a) Notwithstanding the provisions of [N.J.A.C. 13:69J-1.14\(a\)](#), a casino **service industry** enterprise license or ancillary casino **service industry** enterprise license may be issued by the **Division** without the applicant having first established the plenary qualification of each natural person otherwise required to qualify pursuant to [N.J.A.C. 13:69J-1.14\(a\)](#) or (c) provided that:

1.-2. (No change.)

3. None of the temporary qualifiers is:

i.-ii. (No change.)

iii. A person who directly or indirectly holds any beneficial interest [of] **between five and ten percent, and is not an institutional investor** [or more] of the applicant; or

iv. (No change.)

4. Notwithstanding the provisions of (a)3 above, the Division, for good cause and in the sole discretion of the Director, may issue a casino service industry enterprise license pursuant to N.J.S.A. 5:12-92.a provided that its qualifiers have:

i. Complied with the requirements of (b)1 through 3 below; and

ii. Submitted a certification establishing good cause on a form acceptable to the Director.

(b)-(g) (No change.)