

LAW AND PUBLIC SAFETY

OFFICE OF THE ATTORNEY GENERAL

DIVISION OF GAMING ENFORCEMENT

Persons Doing Business with Casino Licensees

Proposed Repeal: N.J.A.C. 19:51

Proposed New Rules: N.J.A.C. 13:69J

Authorized By: David Rebuck, Acting Director, Division of Gaming Enforcement.

Authority: N.J.S.A. 5:12-69, 70, 92 and 94.

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

Proposal Number: PRN 2011-212.

Submit written comments by November 18, 2011 to:

Lon E. Mamolen, Deputy Attorney General
Division of Gaming Enforcement
1300 Atlantic Avenue
Atlantic City, NJ 08401

The agency proposal follows:

Summary

Effective February 1, 2011, the Casino Control Act (Act) was amended. See P.L. 2011, c. 19 (N.J.S.A. 5:12-1 et seq.). Under the amendatory scheme, the Division of Gaming Enforcement (Division) is authorized to assume many regulatory responsibilities formerly held by the Casino Control Commission (Commission). Such enumerated responsibilities include to "...[p]romptly and in reasonable order review and approve or deny all casino service industry enterprise license applications...", "...[a]ccept and maintain registrations for all casino employee and vendor registrants...", and "...[r]evoke any

registration or casino service industry enterprise license upon findings pursuant to disqualification criteria..." See N.J.S.A. 5:12-76d, e and f.

Casino service industry enterprises and certain individuals associated with their ownership and operation are licensed pursuant to N.J.S.A. 5:12-92a and b. Gaming schools are registered pursuant to N.J.S.A. 5:12-92c.

The Division proposes new rules at N.J.A.C. 13:69J-1 governing casino service industry enterprises. The Division further proposes new rules at N.J.A.C. 13:69J-2 governing gaming schools. The new rules, in effect, recodify certain rules promulgated by the Commission, streamline and consolidate others, and make changes to the rules to reflect the recently enacted changes to the Act primarily pertaining to the elimination of dollar amount thresholds in the determination of whether a vendor registrant should be required to submit for licensure.

New rule N.J.A.C. 13:69J-1.1 sets forth definitions used in the chapter.

New rule N.J.A.C. 13:69J-1.2 sets forth the criteria by which the Division shall consider in its determination of whether a gaming-related casino service industry enterprise shall be licensed. The new rule further enumerates specific types of these enterprises required to be licensed in accordance with N.J.S.A. 5:12-92, with specific inclusion of junket enterprises and junket representatives.

New rule N.J.A.C. 13:69J-1.2A is reserved.

New rule N.J.A.C. 13:69J-1.2B governs the procedural rules for an applicant for a casino service enterprise license to seek permission to transact business with a casino licensee prior to licensure. In

addition, the new rule sets forth the requirements of a joint petition of an applicant for a casino service enterprise licensee and a casino licensee or applicant for a casino licensee upon which the Division may permit such business to be transacted. The applicant, among other things, is required to certify that neither it nor its individual qualifiers are disqualified under any of the criteria set forth in N.J.S.A. 5:12-86. Upon such certification, a "transactional waiver" may be granted forthwith up to an initial period of six months, which period may be extended upon a showing of good cause. The prior rule required a 30-day period before an applicant could conduct business. Changes in these rules incorporate comments from manufacturers to streamline the transactional waiver process to allow a Section 92a applicant to operate in the Atlantic City market pending the Division's review of its license application.

New rule N.J.A.C. 13:69J-1.2C sets forth the standard for requiring licensure of vendors doing non-gaming business. A vendor would be required to file an application for casino service industry enterprise licensure "if such application is deemed to be consistent with the public interest and the policies of the Act." See N.J.A.C. 13:69J-1.2C(a). As noted, recent amendments to Section 92c of the Act eliminated "monetary thresholds" in the determination of whether a vendor should be required to file for casino service industry enterprise licensure. The new rule, consistent with the statutory amendment, does not set forth specific criteria to be considered for those vendors under monetary thresholds for filing. The new rule further delineates procedures for the filing and processing of an application for a casino service industry license for vendors doing non-gaming business.

New rule N.J.A.C. 13:69J-1.3 governs the standards for qualification for a casino service industry enterprise.

New rule N.J.A.C. 13:69J-1.3A is reserved.

New rule N.J.A.C. 13:69J-1.3B imposes upon a casino service industry enterprise licensee the obligation to demonstrate every five years that it continues to meet the requirements for licensure in the form of resubmission.

New rules N.J.A.C. 13:69J-1.4 and 1.5 are reserved.

New rule N.J.A.C. 13:69J-1.6 reiterates the Division's statutory power and duty "to regulate, control and prevent economic concentration in casino operations and in casino service industry enterprises" in the interest of competition.

New rule N.J.A.C. 13:69J-1.7 permits the Division to make inquiry or conduct an investigation, as it may deem appropriate at the time of initial application, licensure or registration or any time thereafter, of any applicant, licensee or vendor registrant. All such applicants, licensees or registrants shall have the continuing duty to cooperate with the Division.

New rule N.J.A.C. 13:69J-1.8 governs changes in conditions of licensure or with ownership of a casino service industry enterprise. The new rule would afford the Division discretion in not invalidating a license if the "change is deemed to be consistent with the public interest and the policies of the Act." See N.J.A.C. 13:69J-1.8(a).

New rule N.J.A.C. 13:69J-1.9 requires casino service industry enterprise licensees to maintain adequate records of business operations and to retain same, generally, for at least five years.

New rules N.J.A.C. 13:69J-1.9, 1.10, 1.11, 1.12 and 1.13 are reserved.

New rule N.J.A.C. 13:69J-1.14 lists the persons associated with a casino service industry enterprise by ownership and operational title or capacity required to be individually qualified for initial licensure or resubmission, including each outside director on the Executive Committee and Audit Committee of a holding or intermediary company. See N.J.A.C. 13:69J-1.14(a). In addition, 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. See N.J.A.C. 13:69J-1.14(c). Notwithstanding the requirement to be individually qualified, certain persons may request that the Division waive their obligation to be qualified upon an appropriate showing. See N.J.A.C. 13:69J-1.14(b). Junket enterprises and their junket representatives are also required to be qualified to the standards of Section 92a of the Act as a result of the recent statutory amendments. See N.J.A.C. 13:69J-1.14(d).

New rule N.J.A.C. 13:69J-1.14A permits the Division to administratively prohibit a casino service industry enterprise licensee, without a hearing, from conducting business with a casino licensee or an applicant if the casino service industry enterprise licensee fails to timely file specified notices and forms with respect to changes in qualifiers or qualifier status.

New rule N.J.A.C. 13:69J-1.14B sets forth the standards for the issuance or retention of a casino service industry enterprise license without first establishing the plenary qualification of each natural person required to qualify.

New rule N.J.A.C. 13:69J-1.15 subjects an applicant or holder of a casino service industry enterprise license to the same standards for advertising as a casino licensee or applicant.

New rule N.J.A.C. 13:69J-2.1 requires the vendor registration for a gaming school.

New rule N.J.A.C. 13:69J-2.2 imposes conditions and restrictions on the use of specified gaming equipment including slot machines, gaming chips and plaques.

In conjunction with the proposed new rules discussed above, the Commission's rules at N.J.A.C. 19:51 are 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. See N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new rules in Chapter 69J protect the casino industry from the influence of unfit and unqualified individuals and businesses. The Legislature, in adopting the Act, expressly recognized such regulation as vital to the interests of the State. N.J.S.A. 5:12-1b(9). Chapter 69J is essential to the integrity of the casino industry and the regulatory process, and to the Division's ability to strictly regulate casino operations and all related service industries. N.J.S.A. 5:12-1b(6) and 1b(9).

Economic Impact

Chapter 69J sets forth standards for the licensure of casino service industry enterprises and the qualification of certain associated individuals as well as the processes that enable vendors to transact business with casino licensees and applicants prior to plenary casino service industry enterprise licensure. Applicants for

casino service industry enterprise licenses incur costs in terms of the time and expense associated with compiling and filing the information and documentation required for application, as well as application and renewal fees. Compliance with the continuing obligations of casino service industry enterprise licensees, such as recordkeeping necessarily involve some administrative costs. The Division expends considerable time in monitoring and enforcing compliance with Chapter 69J. Nonetheless, these rules are essential to the strict regulation of casino operations and the ancillary industries as mandated by the Act at N.J.S.A. 5:12-1b(6) and 1b(9).

Federal Standards Statement

A Federal standards analysis is not required because the proposed repeal and new rules are authorized by the provisions of the Casino Control Act, N.J.S.A. 5:12-1 et seq., and are not subject to any Federal requirements or standards.

Jobs Impact

The proposed repeal and new rules are not anticipated to create new jobs in the gaming industry or elsewhere except to the extent they may enable more efficient and cost-effective transacting of business with casino licensees and applicants. If the industry is able to realize these efficiencies and savings, casino operators and casino service industry enterprise licensees and applicants may be inclined to increase their workforces. However, any attempt to predict the impact of the proposed repeal and new rules upon the number of jobs in the gaming industry would be speculative at this time. No job loss is anticipated as a result of the proposed repeal and new rules.

Agriculture Industry Impact

The proposed repeal and new rules will have no impact on agriculture in New Jersey.

Regulatory Flexibility Analysis

The chapter imposes recordkeeping and other compliance requirements upon casino service industry enterprises. Some casino service industry enterprise licensees and applicants may qualify as a "small business" under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., although no available data reveals precisely how many enterprises meet the statutory criteria.

The rules in Chapter 69J require that all casino service industry enterprises compile and submit information which demonstrates their qualification for licensure. Exempting small businesses from the requirement that they produce such information would endanger the public interest. The Legislature sought to protect casino gaming from harmful influences by mandating strict regulation of all persons associated with licensed casinos and all related service industries. N.J.S.A. 5:12-1b(6). Without the information supplied by these enterprises, it would be impossible for the Division to ensure their qualifications as demanded by the Act.

The compliance and reporting requirements of this chapter also include the maintenance of certain business records by casino service industry enterprises. These requirements, similarly imposed by the Commission's rules, assist the Division in enforcing the strict regulation of those entities doing business with casino licensees and applicants. Thus, small businesses are not exempted from the recordkeeping requirements.

Smart Growth Impact

The proposed repeal and new rules will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact Analysis

The proposed repeal and new rules will have no impact on the affordability of housing in the State of New Jersey because they affect the regulation of casino service industry enterprises and gaming schools.

Smart Growth Development Impact Analysis

The proposed repeal and new rules will have no impact on housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan, because they affect the regulation of casino service industry enterprises and gaming schools.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 19:51.

Full text of the proposed new rules follows:

CHAPTER 69J

PERSONS DOING BUSINESS WITH CASINO LICENSEES

SUBCHAPTER 1. GENERAL PROVISIONS

13:69J-1.1 Definitions

(a) The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Gaming equipment" means any mechanical, electrical or electronic contrivance or machine used in connection with gaming or any game and includes, without limitation, roulette wheels, big six wheels, slot machines, multi-player slot machine systems, slot tokens, prize tokens, cards, dice, chips, plaques, match play coupons, card dealing shoes, drop boxes, and other devices, machines, equipment, items or articles determined by the Division to be so utilized in gaming as to require licensing of the manufacturers, distributors or servicers, or as to require Division approval in order to contribute to the integrity of the gaming industry or to facilitate the operation of the Division.

"Gaming equipment distributor" means any person who distributes, sells, supplies or markets gaming equipment.

"Gaming equipment industry" means gaming equipment manufacturers, gaming equipment distributors and gaming equipment servicers.

"Gaming equipment manufacturer" means any person who manufactures, produces or assembles gaming equipment.

"Gaming equipment servicer or repairer" means any person who provides maintenance, service or repair of gaming equipment or devices, machines, equipment, items, or articles governed by N.J.A.C. 13:69J-1.2(b) in any manner which has the capacity to affect the outcome of the play of an authorized game or simulcast wagering or the calculation, storage, collection, or control of gross revenue.

"Gaming school" means any person, including a governmental agency, that offers or proposes to offer any course in a specific subject area of gaming or dealing techniques.

"Governmental agency" means any office, department, division, bureau, board, commission, agency, authority, institution, or like

governmental entity of the State of New Jersey or a political subdivision thereof or of any other state or political entity of the United States.

"Inside director" means a director of a casino service industry enterprise applicant or licensee or holding or intermediary enterprise company thereof who is also an officer or employee of the applicant or licensee or the holding or intermediary company of which he or she is director.

"Outside directors" means any director other than an inside director.

"Sales representative" means any person owning an interest in, employed by or representing a casino service industry enterprise licensed in accordance with sections 92a and b of the Act, who solicits the goods and services or business thereof.

"Security business" or "casino security service" means any non-governmental enterprise providing physical security services to a casino, a casino licensee, to an approved hotel or to any premises located within a casino hotel complex.

(b) The following words and terms, when used in this chapter, shall have the meanings set forth in the relevant provisions of the Casino Control Act, N.J.S.A. 5:12-1 et seq., except that any reference contained therein to an applicant for or holder of a casino license shall instead be read to refer to an applicant for or holder of a casino service industry enterprise license:

"Holding company" (as defined at N.J.S.A. 5:12-26).

"Intermediary company" (as defined at N.J.S.A. 5:12-28).

requirements

(a) No enterprise shall provide goods or services directly related to casino, simulcast wagering or gaming activity to, or otherwise transact business directly related to casino, simulcast wagering or gaming activity with, a casino applicant or licensee, its employees or agents unless licensed in accordance with N.J.S.A. 5:12-92a and b.

(b) In determining whether an enterprise shall be licensed pursuant to this section, the Division shall consider, without limitation, whether the enterprise satisfies one or more of the following criteria:

1. Whether the enterprise manufactures, supplies or distributes devices, machines, equipment, items or articles which:

i. Are specifically designed for use in the operation of a casino or casino simulcasting facility;

ii. Are needed to conduct an authorized game or simulcast wagering;

iii. Have the capacity to affect the outcome of the play of an authorized game or simulcast wagering; or

iv. Have the capacity to affect the calculation, storage, collection, or control of gross revenue;

2. Whether the enterprise is a gaming equipment servicer or repairer;

3. Whether the enterprise provides services directly related to the operation, regulation or management of a casino or casino simulcasting facility; or

4. Whether the enterprise provides such other goods or services determined by the Division to be so utilized in or incident

to gaming, casino or simulcast wagering activity as to require licensing in order to contribute to the public confidence and trust in the credibility and integrity of the gaming industry in New Jersey.

(c) Enterprises required to be licensed in accordance with N.J.S.A. 5:12-92a and b and (a) above shall include, without limitation, the following:

1. Manufacturers, suppliers, distributors, servicers and repairers of roulette wheels, big six wheels, slot machines, multi-player slot machine systems, cards, dice, gaming chips, gaming plaques, slot tokens, prize tokens, dealing shoes, drop boxes, computerized gaming monitoring systems, totalisators, pari-mutuel machines, self-service pari-mutuel machines and credit voucher machines;

2. Casino credit reporting services, casino simulcasting hub facilities and suppliers of casino security services; and

3. Junket enterprises and junket representatives, and any person employed by a junket enterprise or junket representative in a managerial or supervisory position.

13:69J-1.2A (Reserved)

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 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. 5:12-92a, permit an

applicant for a casino service industry enterprise license to transact business with a casino licensee or applicant prior to the licensure of the casino service industry enterprise license applicant if:

i. A completed application for the appropriate casino service industry enterprise license has been filed by the applicant;

ii. The applicant for a casino service industry enterprise license files a certification from a designee of the applicant for casino service industry enterprise licensure stating that neither the casino service industry enterprise license applicant, nor any of its qualifiers, are disqualified under any of the criteria set forth in N.J.S.A. 5:12-86;

iii. The petitioner shows good cause for granting the petition; and

iv. The applicant for a casino service industry enterprise license agrees, within 30 business days of transacting business, to supply to the Division, in writing, a detailed explanation of any business transacted with a casino licensee or applicant. Any applicant for a casino service industry enterprise license and any casino licensee or applicant involved in a transaction, shall maintain and make available for inspection, upon demand by the Division, any records regarding the business transacted.

2. The Division may, upon the petition of an applicant for a casino service industry enterprise license that intends to engage in the manufacture, sale, distribution, testing or repair of slot machines, permit such applicant to conduct a business transaction with persons other than a casino licensee or applicant, provided that the requirements of (a)li through iii above are satisfied.

(b) Permission to conduct business pursuant to (a) above shall be for an initial period of up to six months. Upon a showing of good cause by the applicant, the Division may extend such relief for additional periods, in the Director's discretion, until licensure of the applicant is decided. Notwithstanding the foregoing, the Division may reconsider the granting of any approval issued pursuant to this section at any time.

13:69J-1.2C Licensing of vendors doing non-gaming business

(a) Pursuant to N.J.S.A. 5:12-92c(2), the Division may require any vendor to apply for a casino service industry enterprise license if such application is deemed to be consistent with the public interest and policies of the Act.

(b) The Division shall give written notice to such vendor of the requirement to file for a casino service industry enterprise license. Receipt of this written notice by a vendor shall immediately trigger the requirements of N.J.S.A. 5:12-92a and b, including the need for the issuance of transactional waivers to continue to conduct any further business.

(c) An application filed pursuant to (a) above, and any subsequent licensure that may result after investigation by the Division, shall conform to the standards of N.J.S.A. 5:12-92a and b, including the need for the issuance of transactional waivers, and shall include the filing fee for the filing of such application.

(d) Any vendor required to apply for a casino service industry enterprise license pursuant to (a) above shall have the affirmative burden to establish its qualification by clear and convincing evidence.

(e) The Division retains jurisdiction to determine suitability for licensure even if the applicant terminates its relationship(s) with a casino licensee or applicant.

(f) Any vendor required by the Division to file an application shall do so no later than 60 days after receipt of the Division's notice; provided, however, that the Division may, upon written request from the vendor and for good cause shown, grant an additional 30 days within which to file the required application. Failure to file a completed application within this time period shall be grounds for prohibiting a vendor from conducting any business with a casino licensee and will result in the issuance of a prohibitory order which will be served on the vendor and the casino licensee.

(g) No waiver of all or any portion of the application filing time period mandated by (f) above shall be granted by the Division on the ground of economic hardship or loss to the unlicensed casino service industry in question.

(h) Any vendor prohibited from providing goods or services or conducting business on the basis of its failure to properly file an application may resume providing goods or services or conducting business thirty days following the proper filing of a casino service industry license application, provided that the vendor has:

1. Been issued a transactional waiver by the Division;
2. Paid the appropriate filing fee; and
3. Paid an additional late filing fee of \$500.00.

13:69J-1.3 Standards for qualifications

(a) Each applicant required to be licensed as a casino service industry enterprise, including all qualifiers as determined in N.J.A.C

13:69J-1.14, shall meet the standards for qualification set forth in N.J.S.A. 5:12-92b.

(b) Any applicant or individual, as set forth in (a) above, shall have the affirmative burden to establish its qualification(s) by clear and convincing evidence.

(c) A casino service industry enterprise license shall be denied to any applicant who is disqualified on the basis of the criteria contained in N.J.S.A. 5:12-86.

13:69J-1.3A (Reserved)

13:69J-1.3B Filing of Resubmission Form every five years

The entity shall demonstrate that it continues to meet the requirements for licensure pursuant to N.J.S.A 5:12-92a and b and, in furtherance thereof, shall submit, every five years after initial licensure, such information and documentation as the Division may require, including, but not limited to, the information required pursuant to N.J.A.C. 13:69A-5.11A.

13:69J-1.4 and 1.5 (Reserved)

13:69J-1.6 Competition

The Division shall have the power and the duty to regulate, control and prevent economic concentration in casino operations and in casino service industry enterprises so as to encourage and preserve competition.

13:69J-1.7 Investigations; supplementary information

The Division may, within its discretion, make such inquiry or investigation concerning any applicant, licensee, vendor registrant or any person involved with an applicant, licensee or vendor registrant as it may deem appropriate either at the time of the initial application and licensure or registration or at any time thereafter. It shall be the continuing duty of all applicants, licensees and vendor registrants to provide full cooperation to the Division in the conduct of such inquiry or investigation and to provide any supplementary information requested by the Division.

13:69J-1.8 Voiding of license

(a) A change in any item that was a condition of the original license or of a license resubmission must be approved by the Division. A change in ownership shall invalidate any approval previously given by the Division, unless, in the Division's discretion, such change is deemed to be consistent with the public interest and policies of the Act.

(b) Regardless of whether a license is invalidated pursuant to (a) above, the proposed new owner shall be required to submit an application for licensure and evidence that he or she is qualified for licensure.

13:69J-1.9 Recordkeeping

(a) All casino service industry enterprise licensees shall maintain in a place secure from theft, loss or destruction, adequate records of business operations which shall be made available to the Division upon request. The records shall include:

1. All correspondence with the Division and other

governmental agencies on the local, state and Federal level;

2. All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility;

3. Copies of all promotional material and advertising;

4. A personnel file on each employee of the licensee, including sales representatives;

5. Financial records of all transactions concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility.

(b) The records listed in (a) above shall be held for at least five years. Notwithstanding the foregoing, to the extent there is a conflict between the provisions of this section and N.J.A.C. 13:69D-1.8 with regard to the records of a gaming related casino service industry enterprise which is functioning as a slot system operator pursuant to the provisions of N.J.S.A. 5:12-82c(7) and N.J.A.C. 13:69D-1.39A, the record retention requirements and procedures set forth at N.J.A.C. 13:69D-1.8 shall control.

13:69J-1.10 through 1.13 (Reserved)

13:69J-1.14 Persons required to be qualified

(a) Except as otherwise provided in (b) below and N.J.A.C. 13:69J-1.14B, no casino service industry enterprise license shall be issued or considered for resubmission, unless the individual qualifications of each of the following persons shall have first been established in accordance with all provisions, including those cited, of the Act and the rules of the Division. The Division shall apply

the following provisions to both corporate and non-corporate applicants or licensees or, if that is not possible, the Division will in its discretion apply comparable standards to non-corporate applicants and licensees.

1. In the case of casino service industry enterprise licenses issued in accordance with N.J.S.A. 5:12-92a(1) and (2):

- i. The applicant or licensee;
- ii. If the applicant or licensee is, or if it is to become a subsidiary, each holding company and each intermediary company;
- iii. Each natural person who directly or indirectly holds any beneficial or ownership interest of five percent or more of the applicant or licensee;
- iv. Each person who directly or indirectly holds any beneficial or ownership interest of five percent or more of a holding company or intermediary company of the applicant or licensee;
- v. Each director of the applicant or licensee or of a holding or intermediary company thereof. In the case of an outside director of a holding or intermediary company, each outside director on the Executive and Audit Committee;
- vi. Each officer of the applicant or licensee or of a holding or intermediary company thereof;
- vii. The management employee supervising the regional or local office which employs the sales representative and/or the junket representative soliciting business or dealing directly with a casino licensee or applicant; and
- viii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of

business from casino licensees and each junket representative who will deal directly with casino licensees or their employees.

(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. If the person is required to qualify as an officer, the person shall be required to demonstrate that he or she is not significantly involved in and has no authority over the conduct of business with a casino licensee. Such request shall include, at a minimum, the following:

i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;

ii. The terms of his or her compensation; and

iii. A certification by the officer stating that the officer is not significantly involved in and has no authority over the conduct of business with any casino licensee or applicant;

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, 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).

3. If the person is required to qualify as an owner of the applicant or licensee or of a holding or intermediary company of the applicant or licensee, the person shall be required to demonstrate their inability to control such applicant, licensee or holding or intermediary company. For a publicly traded corporation, any person who owns or beneficially holds five percent or more of the equity securities of such corporation shall be presumed to have the ability to control such corporation, unless such presumption is rebutted by clear and convincing evidence.

(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. Title, duties and responsibilities;
2. Terms of compensation;
3. Ownership interest;
4. Prior status as a qualifier;
5. Ability to appoint a member of the board of directors;
6. Commonality of interest with other owners of the applicant or licensee, or holding or intermediary company thereof;
7. Business relationship with the applicant or licensee; and
8. Criminal conduct or associations.

(d) In addition to the persons required to qualify pursuant to (a) above, each applicant for a junket enterprise license may be required, upon directive from the Division, to establish the

qualifications of any junket representative affiliated with that junket enterprise, regardless of whether such junket representative deals directly with a casino licensee.

1. The Division may require a junket representative affiliated with a junket enterprise licensee or applicant to establish his or her qualifications at any time.

2. Any junket enterprise required to establish the qualifications of a junket representative pursuant to this subsection may be required, subject to the provisions of N.J.A.C. 13:69A-8.6, to pursue a determination as to the qualifications of the junket representative regardless of whether the employment relationship with the junket representative has been terminated.

3. Any person required to establish his or her qualifications as a junket representative pursuant to this subsection may be required to pursue a determination as to his or her qualifications as a junket representative regardless of whether the employment relationship with the junket enterprise has been terminated.

13:69J-1.14A Notification of changes in qualifiers of gaming-related casino service industry licensees or applicants and holding companies

(a) Each casino service industry enterprise licensee or applicant required to be licensed in accordance with N.J.S.A. 5:12-92a(1) and (2) and N.J.A.C. 13:69J-1.2 shall notify the Division, in writing, within five business days, of the following:

1. The appointment, nomination, election, resignation, termination, incapacitation or death of any natural person required to

qualify pursuant to N.J.A.C. 13:69J-1.14(a) or (c);

2. The identity of any person required to be qualified pursuant to N.J.A.C. 13:69J-1.14(a)liii or iv on the basis of a newly acquired ownership interest; or

3. The identity of any person whose obligation to qualify was waived pursuant to N.J.A.C. 13:69J-1.14(b)2 or 3 if that person subsequently attains an ownership interest that is:

i. At least five percent greater than the interest held at the time the most recent waiver was granted; and

ii. At least 10 percent or more of the applicant, licensee or holding or intermediary company thereof.

(b) For each new qualifier identified pursuant to (a)1 or 2 above, the following forms, as applicable, shall be filed with the Division within 30 days of the mailing of the required notice; provided, however, that the Division may, upon written request from the licensee or applicant and for good cause shown, grant an additional 30 days within which to file the required forms:

1. A complete application for qualification as set forth in N.J.A.C. 13:69A-7.1A(a)liv for each new natural person qualifier; or

2. A complete Business Entity Disclosure Form-Casino Service Industry Enterprise, as set forth in N.J.A.C. 13:69A-5.15 for each new entity qualifier.

(c) For each person identified pursuant to (a)3 above, a new petition for a waiver of qualification pursuant to N.J.A.C. 13:69J-1.14(b)2 or 3 shall be filed with the Division within 30 days of the mailing of the required notice.

(d) If a casino service industry enterprise licensee fails to file the notices and forms required by this section, the Division may,

without the need for a hearing, administratively prohibit such casino service industry enterprise licensee from conducting business with a casino licensee or an applicant.

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 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. Any natural person qualifier who has not been found qualified by the Division in accordance with the provisions of N.J.A.C. 13:69J-1.14(a) as of the date of license issuance has been found temporarily qualified in accordance with the provisions of (b) below;

2. The applicant does not have more than three temporary qualifiers as of the date of license issuance; and

3. None of the temporary qualifiers is:
i. The chief executive officer or equivalent;
ii. The chief operating officer or equivalent;
iii. A person who directly or indirectly holds any beneficial interest of five percent or more of the applicant; or
iv. An inside director as defined in N.J.A.C. 13:69J-1.1.

(b) For the purposes of this section, no natural person shall be

temporarily qualified by the Division unless it finds that such person:

1. Is required to qualify pursuant to N.J.A.C. 13:69J-1.14(a) or (c) as part of an application for the issuance of a casino service industry enterprise license but has not been found qualified in accordance with N.J.S.A. 5:12-92b due to an ongoing investigation of that qualifier by the Division as of the date the license is issued by the Division;

2. Has filed all application materials required by the Division; and

3. Has been identified by the Division as an individual as to whom it has conducted a preliminary background investigation and does not currently possess any negative information that would affect the ability of such person to establish his or her qualifications.

(c) Notwithstanding the provisions of N.J.A.C. 13:69J-1.14(a), a casino service industry enterprise licensee may retain its license pursuant to N.J.S.A. 5:12-94h(1) without having first established the individual qualifications of each natural person otherwise required to qualify pursuant to N.J.A.C. 13:69J-1.14(a) or (c) provided that each person who is required to qualify pursuant to N.J.A.C. 13:69J-1.14(a) or (c) but has not been the subject of a qualification determination by the Division is a pendent qualifier in accordance with the provisions of (d) below.

(d) For the purposes of this section, a pendent qualifier is any natural person who:

1. Is required to qualify pursuant to N.J.A.C. 13:69J-1.14(a) or (c) as part of a gaming-related casino service industry enterprise license but has not been the subject of a qualification

determination by the Division due to his or her obligation to qualify having arisen after the date of the initial license issuance or the previous resubmission;

2. Has had the notices and application materials required by N.J.A.C. 13:69J-1.14A(b) filed with the Division in accordance with the deadlines set forth therein; and

3. Has not been the subject of a Division determination, after appropriate notice and hearing, that reasonable cause exists to believe that such person may not be qualified based on information presented by the Division.

(e) Except as otherwise provided in (f) below, a temporary qualifier or pendent qualifier shall be entitled to exercise the powers and perform the duties of his or her position for a period of 18 months from the date that temporary qualifier or pendent qualifier status is attained pursuant to (b) or (d) above.

(f) The Division shall require the removal of any temporary qualifier or pendent qualifier if the Division determines, after appropriate notice and hearing, that the temporary qualifier or pendent qualifier does not satisfy any applicable requirement of (a) through (d) above or if such person is not found qualified by the deadlines set forth in (e) above. If a casino service industry enterprise licensee, after appropriate notice and hearing, does not remove a temporary qualifier or pendant qualifier from his or her position, the Division may impose the sanctions set forth in N.J.A.C. 13:69J-1.14A(d).

(g) Notwithstanding the deadlines set forth in (e) above, the Division may determine the plenary qualification of any temporary qualifier or pendent qualifier in accordance with the provisions of

N.J.A.C. 13:69J-1.14(a) as soon as the Division completes its investigation of the qualifier.

13:69J-1.15 Advertising

(a) Any advertisement by an applicant for or holder of a casino service industry enterprise license issued pursuant to N.J.S.A. 5:12-92a and b or by any agent thereof shall be subject to the provisions of N.J.A.C. 13:69C-14 to the same extent as if such advertisement were by a casino licensee or applicant.

(b) Notwithstanding the provisions of (a) above, an applicant for or holder of a casino service industry enterprise license issued pursuant to N.J.S.A. 5:12-92a and b and any agent thereof shall not be subject to the provisions of N.J.A.C. 13:69C-14.3(b).

SUBCHAPTER 2. GAMING SCHOOLS

13:69J-2.1 License requirements

No gaming school that possesses slot machines in connection therewith for the purpose of instruction shall enroll any student or offer any course concerning gaming or dealing techniques or conduct any business whatsoever with a casino licensee or applicant, its employees or agents unless such gaming school is vendor registered in accordance with N.J.S.A. 5:12-92c(1).

13:69J-2.2 Gaming equipment

(a) All gaming equipment utilized by a gaming school, including gaming chips and plaques, shall be used for training, instructional and practice purposes only. The use of any such gaming equipment for

actual gaming by any person is prohibited and may constitute cause for the suspension or revocation of the gaming school vendor registration.

(b) Unless the Division otherwise determines, all gaming chips and plaques utilized by a gaming school shall be distinctly dissimilar to any gaming chips and plaques utilized by a casino licensee.

(c) No gaming school shall possess any slot machine or remove or transport any slot machine except in accordance with the Act and N.J.A.C. 13:69E-1.22, 1.23 and 1.24.

(d) Each slot machine on the premises of a gaming school shall have permanently affixed on it a serial number which, together with the location of the machine, shall be filed with the Division.

(e) Each gaming school shall provide adequate security for the slot machines on the gaming school premises.

(f) No gaming school shall sell or transfer any slot machine except upon prior written notice to the Division and the removal of all serial numbers required by this section.