

OHIO CASINO CONTROL COMMISSION

Mike DeWine
Governor



June E. Taylor
Chair

NOTICE OF PUBLIC HEARING

A public hearing will be held **via conference call** by the Ohio Casino Control Commission ("Commission") on **Wednesday June 2, 2021 at 2:00 p.m.** The purpose of the hearing is to solicit public comment on the rules contained in ERF package number 189999, summaries of which are below.

All interested parties are invited to attend the hearing and present testimony. To attend, parties should dial 1-614-230-0229 and then enter 858698# when prompted for the meeting ID. Written comments may also be submitted to the attention of William Cox, Senior Legal Counsel, Ohio Casino Control Commission, at 100 E. Broad Street, 20th Floor, Columbus, OH 43215, or by electronic mail at William.Cox@casinocontrol.ohio.gov.

Rule Summaries

The rules contained within this package are being reviewed pursuant to the state's rule-review requirement in R.C. 106.03. The rules reviewed largely come from Ohio Adm.Code Chapters 3772-1 (General Provisions), -2 (Ohio Casino Control Commission), and -4 (Casino Operator, Management Company, and Holding Company Licenses). Many of the revisions are meant to improve clarity or readability, or to reduce redundancies.

Chapters 1 and 2 have been reworked to clarify when they apply, or more commonly, do not apply to the Ohio Casino Control Commission's ("Commission") skill games and fantasy sports contests regulatory structures, as the agency created Chapters for those industries that are largely self-contained. Chapter 4's changes are largely aimed at reducing redundant restrictions, including the combination of rules 4-03, 4-04, and 4-05 into rules 4-01 and 4-02. Additionally, changes in terminology have been made throughout to better clarify when the rules are referring to the Commission as an agency versus when it is referring to the executive director or an action requiring a vote of the Commission members at a public meeting.

- **3772-1-01 (amendment)**, titled "Definitions." Presently, this rule defines words of general application for the purpose of providing consistent terminology. The purpose of this rule is to provide clear and consistent definitions of common phrases regarding casino gaming, which will create a more streamlined and easy-to-use Administrative Code. Most of the amendments to this rule are meant to clarify that these definitions only apply to the Commission's casino gaming rules, as both skill games and fantasy contests have a separate rule for definitions used in those regulatory structures, Ohio Adm.Code 3772-50-01 and 3772-74-01, respectively. Additionally, the rule adds a definition for the phrase "participate in conducting." While the

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Commission has already been interpreting the phrase in the manner it is defined here, adding this definition should provide greater notice and clarity for stakeholders.

- **3772-1-02 (amendment)**, titled “Authority and Purpose.” Presently, this rule amplifies the Commission’s statutory authority to adopt rules under Chapter 3772 of the Revised Code for the purpose of ensuring the integrity of casino gaming. The changes to this rule clarify that it only applies to the Commission’s casino gaming rules and strikes unnecessary language.
- **3772-1-03 (rescind)**, titled “Adoption, amendment and repeal.” Presently, this rule states the commission may adopt, amend, or repeal rules, as it deems necessary and proper. This language is superfluous and duplicative with the Commission’s statutory grants of authority, hence the rescission.
- **3772-1-04 (amendment)**, titled “Waivers and variances.” Presently, this rule specifies the process through which a requestor may seek a waiver from or variance to the provisions of rules adopted by the Commission. The purpose of this rule is to allow the Commission to regulate flexibly, based on what is in the best interest of the public. The amendment is largely meant to accomplish three goals. First, it clarifies that the rule only applies to the Commission’s casino gaming rules and borrows some language from the skill games and fantasy contest rules on this subject, clarifying that hearings do not apply to waiver or variance denials. Second, the amendment clarifies the ability of the Commission to grant waivers or variances on its own motion and to delegate waiver or variance request considerations. Third, the amendment codifies a long-standing delegation to the executive director to consider waivers of the three-year reapplication bar.
- **3772-1-05 (amendment)**, titled “Construction.” This rule provides how the Commission’s rules should be construed, following principles of statutory construction and that ambiguities should be resolved in favor of what would best protect the integrity of casino gaming. The rule also contains a severability provision. This rule is intended to provide consistent guidance to members of the public, stakeholders, and courts as to how to interpret the rules. The amendments to this rule are largely meant to improve readability.
- **3772-1-06 (amendment)**, titled “Minimum licensure requirements.” The rule presently provides that the Commission shall issue a license, if the applicant has met all conditions imposed by the Revised and Administrative Codes. The rule also specifies that no minimum education or experiential requirement for licensure exists. Finally, the rule provides that the Commission will track, prioritize, and expedite licensure for service members, veterans, or spouses or surviving spouses of service members. The purpose of this rule is to comply with R.C. 5903.03 and 5903.04. The amendments to this rule are largely streamlining.
- **3772-1-07 (amendment)**, titled “Records retention requirements.” This rule requires those casino-gaming entities regulated by the Commission to keep records related to their operation for five years from their date of creation. The rule also requires these entities to organize these records and to produce them to the Commission, upon request. The purpose of this rule is to allow for a consistent expectation from the regulated community and the public in investigating

past occurrences, while maintaining the orderly operation of casino gaming. The amendments to this rule are for clarity and readability.

- **3772-2-01 (amendment)**, titled “Organization.” This rule reaffirms some basics of the Commission, including its makeup and operation. The purpose of this rule is to provide clear guidance to the public and stakeholders about how the Commission is organized and operates. Many of the changes to this rule are meant to improve clarity of terminology and readability. Additionally, the amendment clarifies that this rule governs all industries under the Commission’s purview, not just casino gaming.
- **3772-2-02 (amendment)**, titled “Commission procedure.” The rule specifies that the Commission shall follow its own internal rules of procedure unless the Revised Code specifies otherwise. In the absence of specified Commission procedures, Robert’s Rules of Order Newly Revised apply. This rule’s purpose is to provide clear notice to the public, stakeholders, and courts about how Commission procedure is established. The amendment to this rule streamlines language.
- **3772-2-03 (amendment)**, titled “Commission meetings.” This rule presently sets out general provisions for Commission meetings, including the number of Commissioners needed for a quorum, the number of votes needed for Commission action, and that records shall be kept of Commission proceedings. The purpose of this rule is to apprise the public, stakeholders, and courts of how commission meetings are conducted, as well as how matters are considered and memorialized. The changes to the rule are meant to improve clarity in terminology.
- **3772-2-04 (amendment)**, titled “Requests to address the commission.” Presently, this rule sets out the procedure by which any person can request to address the Commission. The rule requires a written request submitted at least five business days prior to a Commission meeting and that certain documents and requests for time be submitted three days in advance. The rule vests decision-making authority on this point to the executive director and allows the executive director to waive these time requirements. The purpose of this rule is to provide clear rules and guidelines to stakeholders as to how to address the Commission to provide for the orderly and informed consideration of issues. The changes to this rule are largely meant to clarify terminology and improve readability. Additionally, the amendment removes the requirement that a person submit ten copies of any materials intended for the Commission to better reflect current digital practices.
- **3772-2-05 (amendment)**, titled “Delegation of commission authority.” This rule sets out the parameters for delegation of Commission authority to staff. The Commission can delegate any of its functions, through formal action, but the Commission retains authority to review determinations made by staff. The purpose of this rule is to provide clear guidelines on how the Commission may effectuate delegations under R.C. 3772.033. The amendments to this rule are largely intended to clarify and streamline language.
- **3772-2-06 (amendment)**, titled “Subpoena power.” This rule amplifies the Commission’s power to require testimony under oath and to issue subpoenas in the discharge of its duties under the Revised Code. The rule’s purpose is to clearly spell out the rules surrounding these

compliance mechanisms for both stakeholders and the public. The changes to the rule are to clarify that the Commission's duties and authority now extend beyond R.C. Chapter 3772 and to allow the Commission to impose discipline other than suspension or revocation of a license for refusing to comply with a subpoena.

- **3772-2-07 (amendment)**, titled "Ethics and code of conduct." This rule requires the Commission to adopt and adhere to a code of ethics, as well as to adhere to certain ethical provisions in the Revised Code. The purpose of this rule is to give the Commission, the public, and stakeholders clear notice of the Commission's strict ethics standards. The only amendments to this rule are intended to clarify and streamline language.
- **3772-2-08 (no change)**, titled "Definitions." This rule provides definitions for Ohio Adm.Code 3772-2-08 through 3772-2-12, which were adopted pursuant to section (B) of R.C. 1347.15. These rules, which are required by statute, ensure that the confidential information maintained by the Commission is securely stored.
- **3772-2-09 (no change)**, titled "Procedures for accessing confidential personal information." This rule states that access to systems containing confidential personal information are accessible on a need-to-know basis. The rule also details how the Commission will handle notifying an individual of improper access and requires that the Commission appoint a data privacy point of contact to ensure adherence with confidential personal information provisions. The purpose of this rule is to ensure that the confidential information maintained by the Commission is securely stored.
- **3772-2-10 (amendment)**, titled "Valid reasons for accessing confidential personal information." This rule prescribes the reasons for which a Commission employee may access confidential personal information. Broadly, an employee can access such information for the purpose of fulfilling their authorized job duties. The purpose of this rule is to ensure that the confidential information maintained by the Commission is securely stored. The amendment to this rule specifies that the Commission's authority and jurisdiction extends beyond casino gaming.
- **3772-2-11 (amendment)**, titled "Confidentiality statutes." The rule provides a list of confidentiality statutes applicable to personal information maintained by the Commission. The purpose of this rule is to ensure that the confidential information maintained by the Commission is securely stored. The amendment to this rule specifies certain additional statutes, including the new fantasy contest-specific confidentiality section.
- **3772-2-12 (no change)**, "Restricting and logging access to confidential personal information in computerized personal information systems." This rule prescribes the manner in which the Commission shall limit access to computer systems containing confidential personal information. The crux of this limitation is requiring a password to access such information and a log of when such information is accessed. The amendment to this rule specifies certain additional statutes, including the new fantasy contest-specific confidentiality section.

- **3772-4-01 (amendment)**, titled “Instructions for the casino operator, management company, and holding company license application.” This rule provides detailed instructions, terms, and conditions for these entities to follow to complete an application. The purpose of this rule is to provide clear instructions and expectations to operators, management companies, and holding companies for how to complete and file an application. The rule is being amended to remove certain regulatory restrictions and redundancies, as well as to improve readability. In particular, the rule removes certain outdated restrictions on ensuring pages are initialed or completed in typed or block lettering. The rule also reorganizes some existing provisions of Ohio Adm.Code 3772-4-05 into 3772-4-01(R) to reduce redundancies.
- **3772-4-02 (amendment)**, titled “Information that must be provided by a casino operator, management company, or holding company license applicant.” Presently, the rule specifies the substantive information that must be provided to the Commission for the issuance of an operator license. The purpose of this rule is to ensure that these entities provide the Commission with enough information for the agency to determine whether they are eligible, capable, and suitable to obtain a license. The amendments to this rule improve readability and remove redundancies. For instance, the amendment removes several provisions that are already present in R.C. 3772.11. Additionally, many provisions of Ohio Adm.Code 3772-4-03 and 3772-4-04 were moved into this rule, as those rules were often duplicative of this one, and those provisions that were not duplicative did not require a separate rule.
- **3772-4-03 (rescind)**, titled “Facility plan.” Presently, the rule requires all applicants to submit detailed facility plans, including a plan for completion of the facility, estimated start-up costs, and capitalization. The rule is being rescinded as it was duplicative of the Revised Code and Ohio Adm.Code 3772-4-02. Those nonredundant restrictions were moved to Ohio Adm.Code 3772-4-02 to streamline the Administrative Code.
- **3772-4-03 (new)**, titled “Application fees.” This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-03, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-06. The rule, in its current form, prescribes the fees related to applying for a casino gaming operator, management company, or holding company license, amplifying R.C. 3772.15 and 3772.17. These fees are based on the status of an applicant: new or initial versus renewal, and the fees may be increased, if necessary, to cover the costs of the investigation. The purpose of this rule is to effectuate R.C. 3772.15 and 3772.17 and to ensure the Commission’s regulatory costs are covered. The changes to this rule from when it was Ohio Adm.Code 3772-4-06 are largely meant to streamline language and improve readability.
- **3772-4-04 (rescind)**, titled “Other required information.” Presently, the rule requires applicants to submit certain plans, including their responsible gaming plan and human resources policies, with their application. The rule is being rescinded as it was duplicative of the Revised Code and Ohio Adm.Code 3772-4-02. Those nonredundant restrictions were moved to Ohio Adm.Code 3772-4-02 to streamline the Administrative Code.
- **3772-4-04 (new)**, titled “License fees.” This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-04, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-07. This rule sets the fees a casino gaming, management company, or holding company

licensee must pay upon licensure. The fees are based upon the status of the applicant: initial versus new or renewal. The purpose of this rule is to effectuate R.C. 3772.15 and 3772.17 and to ensure the Commission's regulatory costs are covered. The changes to this rule from when it was Ohio Adm.Code 3772-4-07 are largely meant to streamline language and improve readability.

- **3772-4-05 (rescind)**, titled “Casino operator, management company and holding company license application, license period and license renewal.” Presently, this rule governs the license period and renewal process for casino operators, management companies, and holding companies. This rule is being repealed because it is redundant with the Revised Code and Ohio Adm.Code 3772-4-01. Those nonredundant restrictions were moved to Ohio Adm.Code 3772-4-01 to streamline the Administrative Code.
- **3772-4-05 (new)**, titled “Affirmative license standards.” This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-05, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-08. This rule states the affirmative standards that a casino operator, management company, or holding company must meet before the Commission can grant the entity a license, including establishing the suitability of certain entities and persons by clear and convincing evidence. The purpose of this rule is to ensure the integrity of casino gaming by ensuring only those entities that are eligible, capable, and suitable may be issued a license. Many of those standards come from R.C. 3772.10, 3772.11, 3772.111, or 3772.112. The changes to this rule from when it was Ohio Adm.Code 3772-4-07 are largely meant to improve readability or to bring the rule language into harmony with present Commission practice.
- **3772-4-06 (rescind)**, titled “Application fees.” The present version of the rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-03.
- **3772-4-06 (new)**, titled “Duty to update information.” This rule, while “new” due to it being recodified to Ohio Adm.Code 3772-4-06, is largely unchanged from its former existence as Ohio Adm.Code 3772-4-09. The rule requires casino operators, management companies, and holding companies to update the Commission on information that has changed from the time of application that would affect the entity’s suitability for licensure. The purpose of this rule is to ensure that the Commission is aware of all circumstances that may affect an entity’s suitability for continued licensure. The changes to the rule from when it was Ohio Adm.Code 3772-4-09 are intended to improve readability by using more commonplace language.
- **3772-4-07 (rescind)**, titled “License fees.” This rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-04. This will help streamline the Administrative Code and make it more user friendly.
- **3772-4-08 (rescind)**, titled “Affirmative license standards.” This rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-05. This will help streamline the Administrative Code and make it more user friendly.

- **3772-4-09 (rescind)**, titled “Duty to update information.” This rule is being “rescinded” to move the rule’s language to Ohio Adm.Code 3772-4-06. This will help streamline the Administrative Code and make it more user friendly.
- **3772-4-11 (rescind)**, titled “Computation of gross casino revenue; assisting the tax commissioner.” The contents of this rule have been moved to Ohio Adm.Code 3772-10-04 to help streamline the Administrative Code and make it more user friendly.
- **3772-10-04 (amendment)**, titled “Accounting records.” This rule provides that casino operators shall have internal controls for preparing accounting records. The purpose of this rule is to ensure the Commission fulfills its statutory mandate to prescribe accounting-related standards. The amendment to this rule moves two statutorily required provisions on tax filing and reporting from Ohio Adm.Code 3772-4-11 to this rule to help streamline the Administrative Code and make it more user friendly. This rule is being filed solely to move these provisions and not for R.C. 106.03 review.