

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE REAL ESTATE COMMISSION [49 PA. CODE CH. 35]

Consumer Notice—Commercial Property Excep- tion

The State Real Estate Commission (Commission) amends § 35.284 (relating to disclosure of business relationships) to read as set forth in Annex A.

Omission of Proposed Rulemaking

Under section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), the Board is authorized to omit the procedures for proposed rulemaking in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) if the Board finds that the criteria of section 204 of the CDL are met.

Under section 204(3) of the CDL, proposed rulemaking has been omitted as unnecessary because the rulemaking is incorporating the statutory exception for commercial property transactions mandated by the act of October 27, 2006 (P. L. 1189, No. 125) (Act 125), which was effective on January 25, 2007.

Description of the Final-Omitted Rulemaking

Section 608 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. § 455.608) requires real estate licensees to provide consumers with a "consumer notice" that sets forth the various agency relationships licensees are permitted to have with consumers. The consumer notice was to be provided to every consumer at the initial interview regardless of the type of property.

Act 125 carved out an exception from the consumer notice requirement for transactions involving the sale or lease of commercial property to consumers who are not individuals. This final-omitted rulemaking incorporates the commercial property exception in § 35.284. The final-omitted rulemaking is necessary to avoid confusion. Without it, the Commission's regulations would conflict with amended section 608 of the RELRA.

Statutory Authority

Section 404 of the RELRA (63 P. S. § 455.404) authorizes the Commission to promulgate and adopt regulations to administer and effectuate the purposes of the RELRA. Amended section 608 of the RELRA requires licensees to provide the consumer notice to consumers prior to substantive discussion in real estate transactions, except for the sale or lease of commercial property to consumers who are not individuals.

Fiscal impact and Paperwork Requirements

The final-omitted rulemaking will not have a fiscal impact on, or create additional paperwork for, the regulated community or the political subdivisions of the Commonwealth. It eliminates the paperwork requirement for real estate transactions involving the sale or lease of commercial property to consumers who are not individuals.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on March 30, 2007, the Commission submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC). On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on April 18, 2007, the final-omitted rulemaking was approved by the HPLC. The final-omitted rulemaking was deemed approved by the SCP/PLC on May 2, 2007. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 3, 2007, and approved the final-omitted rulemaking.

Additional Information

For additional information, submit inquiries to Patricia A. Ridley, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-3658, ST-REALESTATE@state.pa.us.

Findings

The Commission finds that:

(1) Public notice of the Commission's intention to amend its regulations under sections 201 and 202 of the CDL has been omitted under the authority of section 204 of the CDL because public comment is unnecessary in that the amendment incorporates a statutory exception required by Act 125.

(2) The amendment of the Commission's regulation in the manner provided in this order is necessary and appropriate for the administration of the RELRA.

Order

The Commission, acting under its authorizing statute, orders that:

(a) The regulations of the Commission, 49 Pa. Code Chapter 35, are amended by amending § 35.284 to read as set forth in Annex A.

(b) The Commission shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.

(c) The Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

JOSEPH J. MCGETTIGAN, Sr.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2355 (May 19, 2007).)

Fiscal Note: 16A-5617. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS****PART I. DEPARTMENT OF STATE****Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS****CHAPTER 35. STATE REAL ESTATE COMMISSION****Subchapter E. STANDARDS OF CONDUCT AND PRACTICE****GENERAL ETHICAL RESPONSIBILITIES****§ 35.284. Disclosures of business relationships.**

(a) *Disclosure to consumers seeking to sell or purchase residential or commercial real estate.*

(1) Except as provided in subsection (e), a licensee shall provide the disclosure summary in § 35.336 (relating to disclosure summary for the purchase or sale of residential or commercial real estate or for the lease of residential or commercial real estate when the licensee is working on behalf of the tenant) to consumers seeking to purchase or sell real estate at the initial interview if the interview occurs in person.

(2) If the initial interview does not occur in person, the licensee shall provide the oral disclosure in § 35.339 (relating to the oral disclosure) at the initial interview and the written disclosure statement in § 35.336 no later than the earlier of:

(i) The first meeting that the licensee has in person with the consumer after the initial interview.

(ii) The time the licensee or any person working with the licensee first shows a property to the consumer.

(b) *Disclosure to tenants seeking to lease residential or commercial real estate.*

(1) Except as provided in subsection (e), a licensee who is working on behalf of the tenant shall provide the disclosure summary in § 35.336 as required in subsection (a).

(2) Except as provided in subsection (e), a licensee who is working on behalf of the owner shall provide the disclosure summary in § 35.337 (relating to disclosure summary for the lease of residential or commercial real estate when the licensee is working on behalf of the owner) to tenants seeking to lease residential or commercial property at the initial interview.

(c) *Disclosure to consumers seeking to sell time shares.* A licensee shall provide the disclosure summary in § 35.338 (relating to disclosure summary for time-share estates) to consumers seeking to purchase time-share estates at the initial interview.

(d) *Signed disclosure.* A licensee shall provide a copy of the signed disclosure to the consumers referenced in subsections (a)—(c) and retain the signed acknowledgment under § 35.286 (relating to retention and production of records). If a consumer refuses to sign the acknowledgment, the refusal shall be noted on the acknowledgment.

(e) *Exception.* The disclosures required under subsections (a) and (b) do not apply to transactions involving the sale or lease of commercial property, as defined in section 201 of the act (63 P. S. § 455.201), to consumers who are not individuals.

[Pa.B. Doc. No. 07-883. Filed for public inspection May 18, 2007, 9:00 a.m.]

Title 58—RECREATION**PENNSYLVANIA GAMING CONTROL BOARD****[58 PA. CODE CHS. 433, 440, 461 AND 465]****Licensing, Slot Machine Testing, Certification and Control and Accounting and Internal Control Requirements**

Under the Pennsylvania Gaming Control Board's (Board) Resolutions No. 2006-5-REG, 2005-3-REG and 2006-2-REG, the Board has the authority to amend the temporary regulations adopted on January 19, 2006, June 16, 2005, and February 2, 2006, as it deems necessary in accordance with the purpose of 4 Pa.C.S. Part II (relating to gaming) enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71), as amended by the act of November 1, 2006 (P. L. 1243, No. 135) and to further the intent of Act 71. To respond to changes in the Board's licensing, slot machine testing, certification and control and accounting and internal control requirements, the Board has decided to make changes to the temporary regulations dated January 19, 2006, June 16, 2005, and February 2, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 36 Pa.B. 679 (February 4, 2006), 35 Pa.B. 4045 (July 16, 2005) and 36 Pa.B. 910 (February 18, 2006).

Therefore, the Board deposited with the Bureau amendments to Chapters 433, 440, 461 and 465. The amendments are effective as of April 9, 2007.

Order

The Board, acting under the authorizing statute, orders that:

(a) The Board, acting under the authority of the Act 71, adopts the amendments to the temporary regulations adopted by resolution at the April 9, 2007, public meeting. The amendments to the temporary regulations pertain to the Board's licensing, slot machine testing, certification and control and accounting and internal control requirements.

(b) The temporary regulations of the Board, 58 Pa. Code Chapters 433, 440, 461 and 465, are amended by amending §§ 433.105, 440.3, 461.8, 461.10, 461.12, 465.3, 465.12, 465.18, 465.19 and 465.25 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(c) The amendments are effective April 9, 2007.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify this order and deposit the amendments to the temporary regulations with the Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-69. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

**Subpart B. LICENSING, REGISTERING,
CERTIFYING AND PERMITTING**

CHAPTER 433. PRINCIPAL LICENSES

§ 433.105. Institutional investors.

(a) Notwithstanding any provision to the contrary in this chapter, an institutional investor that owns less than 15% of the outstanding voting securities of a publicly traded intermediary or holding company of an applicant for or holder of a manufacturer license, manufacturer designee license, supplier license, management company license or junket enterprise license will not be required to be licensed as a principal if the following conditions are satisfied:

(1) The institutional investor or the applicant or licensee files a notice with the Board containing a description of the institutional investor's interests.

(2) The institutional investor has filed a Schedule 13G with the SEC, and the institutional investor continues to be eligible to file the Schedule 13G.

(b) Notwithstanding any provision to the contrary in this chapter, an institutional investor that owns less than 10% of the outstanding voting securities of an intermediary or holding company of a slot machine licensee or applicant shall be eligible to receive a waiver from the requirements of licensure from the Board by filing a Principal Waiver-Entity Form. The waiver request must include, at a minimum, a certification by the institutional investor stating that the institutional investor has no present involvement in, and no intention of influencing or affecting the affairs of, the slot machine applicant or licensee or an intermediary or holding company of the slot machine applicant or licensee and will give the Board 30 days notice if the institutional investor intends to do so.

(c) Notwithstanding subsection (b), an institutional investor that has been granted a waiver shall be permitted to vote on matters put to the vote of the outstanding security holders.

(d) A holding company of an institutional investor may file a notice or waiver request on behalf of its institutional investor subsidiaries provided that the holding company does not own more than 5% or more of the securities of the intermediary or holding company of the applicant or licensee.

(e) A registered investment adviser or a holding company of a registered investment adviser may file a notice or waiver request, when permitted, on behalf of the registered investment companies that hold securities beneficially owned by the registered investment adviser.

CHAPTER 440. MANAGEMENT COMPANIES

§ 440.3. Management contracts generally.

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(e) A management contract submitted for Board review and approval must enumerate with specificity the responsibilities of the slot machine licensee and management company under the terms and conditions of the management contract. At a minimum, the terms should address whether, and to what extent, the management company is involved in the following:

(1) Operation of the following departments: information technology, internal audit, finance, slot management, security and surveillance.

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**Subpart E. SLOT MACHINES AND
ASSOCIATED EQUIPMENT**

**CHAPTER 461. SLOT MACHINE TESTING AND
ASSOCIATED EQUIPMENT**

§ 461.8. Gaming vouchers.

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(e) Prior to issuing a gaming voucher, each slot machine licensee shall establish a system of internal controls for the issuance and redemption of gaming vouchers. The internal controls shall be submitted and approved by the Board under § 465.3 (relating to internal control systems and audit protocols) and address:

* * * * *

(5) The duties and responsibilities of the information technology, internal audit, slot operations and finance departments, respectively, and the level of access for each position with regard to the gaming voucher system.

* * * * *

(g) At the end of each gaming day, the gaming voucher system must generate reports, as approved by the Board. The reports shall be provided to the finance department, either directly by the system or through the information technology department, and contain the following information, at a minimum:

* * * * *

(l) Gaming vouchers redeemed at cashiering locations shall be transferred to the finance department on a daily basis. Gaming vouchers redeemed by slot machines shall be counted in the count room and forwarded to the finance department upon the conclusion of the count process. Gaming vouchers redeemed at automated gaming voucher redemption machines shall be forwarded to finance upon the conclusion of the cashiers' cage reconciliation process. Finance department representatives with no incompatible functions shall perform, at a minimum, the following:

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§ 461.10. Automated gaming voucher and coupon redemption machines.

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(g) Each automated gaming voucher and coupon redemption machine must have, at a minimum, the following:

(1) One lock securing the compartment housing the storage box, one lock securing the storage box within the compartment, the keys to which must be different from each another. The key to the compartment housing the storage box shall be controlled by the slot operations department. The key to the lock securing the storage box within the compartment shall be controlled by the finance department.

(2) One lock securing the compartment housing the currency cassettes, the key to which shall be controlled by the finance department.

(3) One lock securing the compartment housing the coin storage container, the key to which shall be controlled by the finance department.

(4) One lock securing the contents of the storage box, the key to which must be different from the keys referenced in paragraphs (1)—(3). This key shall be controlled by an employee of the finance department other than the employee controlling the keys referenced in paragraphs (1)—(3).

* * * * *

(i) Each automated gaming voucher and coupon redemption machine's currency cassettes must be designed to preclude access to its interior and must render itself inoperable if unauthorized access occurs. The key to each currency cassette shall be controlled by the finance department.

* * * * *

(o) An automated gaming voucher and coupon redemption machine must detect, display and record electronically the following error conditions in paragraphs (1)—(4). These error conditions must disable the automated gaming voucher and coupon redemption machine and prohibit new transactions and may only be cleared by either the finance department or slot operations department.

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§ 461.12. Progressive slot machines.

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(b) Each slot machine that offers a progressive jackpot which may increase in value based upon wager and is adjusted and displayed by a device other than the approved program that controls the operation of the slot machine, referred to in this section as a progressive controller, must have the following features:

* * * * *

(7) Dual key control by the security department and finance, or alternative key controls as the Board approves, of the compartment housing the microprocessor or other unit that controls the progressive meter or meters. The compartment shall be in a location approved by the Board.

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(k) The amount indicated on the progressive meter or meters and coin in meter on each slot machine governed by subsection (b) shall be recorded on a progressive slot summary report at least once every 7 calendar days and each report shall be signed by the preparer. If not prepared by the finance department, the progressive slot summary report shall be forwarded to the finance department by the end of the gaming day on which it is prepared. A representative of the finance department shall be responsible for calculating the correct amount that should appear on a progressive meter. If an adjustment to the progressive meters is necessary, the adjustment shall be made by a member of the slot operations department as follows:

(1) Supporting documentation shall be maintained to explain any addition or reduction in the registered amount on the progressive meter. The documentation must include the date, asset number of the slot machine, the amount of the adjustment and the signatures of the

finance department member requesting the adjustment and of the slot operations department member making the adjustment.

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CHAPTER 465. ACCOUNTING AND INTERNAL CONTROLS

§ 465.3. Internal control systems and audit protocols.

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(g) If during the 30-day review period in subsection (f), the Board's Bureau of Corporate Compliance and Internal Controls preliminarily determines that a procedure in a submission contains a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of slot operations or the control of gross terminal revenue, that Bureau, by written notice to the slot machine licensee, will:

* * * * *

(2) Direct that the 30 calendar day review period in subsection (f) is tolled and that any internal controls at issue not be implemented until approved by the Executive Director.

* * * * *

(j) Notwithstanding any provision to the contrary, the submission of changes or amendments to a jobs compendium involving changes or amendments to license categories, job codes, job functions, reporting lines (including new and deleted positions) or job titles in the information technology, internal audit, security, finance, slot operations or surveillance departments must be accompanied by the attestations required in subsection (b) and be submitted to the Board by the end of the business day of implementation.

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§ 465.12. Slot machine licensee's organization.

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(b) In addition to satisfying the requirements of subsection (a), a slot machine licensee's system of internal controls must include, at a minimum, the following departments and supervisory positions, each of which must be categorized as mandatory and must cooperate with, yet perform independently of, all other mandatory departments and supervisory positions of the slot machine licensee. Notwithstanding the foregoing, a department or supervisor of a slot machine licensee that is not required or authorized by this section may operate under or in conjunction with a mandatory department or supervisor if the organizational structure is consistent with the standards contained within the act and subsection (a). Mandatory departments and supervisory positions are as follows:

* * * * *

(3) An information technology department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the information technology director. The information technology director shall be licensed as a key employee and be responsible for the quality, reliability and accuracy of all slot computer systems used by the slot machine licensee regardless of whether data, software or systems are located within or outside the licensed facility. The information technology director shall further be responsible for the security and physical integrity of, and the accountability and maintenance of, the following:

* * * * *

(iv) The computerized slot monitoring system utilized by the slot machine licensee. Specifically, the information technology director shall ensure that:

* * * * *

(C) Computerized jackpot payout systems utilized by the slot machine licensee are configured to require that any modification of \$100 or more to the original amount recorded on a computerized jackpot payout or system override is authorized by two finance department employees, one of whom is in a position of greater authority than the individual preparing the jackpot payout.

(D) Procedures and controls are in place that define and limit interaction between both the slot operations department and finance department and the computerized slot monitoring system including access to system menus, the establishment of slot machine profile parameters and the ability of each department to access, delete, create or modify information contained in the slot monitoring system.

* * * * *

(6) A finance department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of finance. The director of slot accounting shall be licensed as a key employee and shall be responsible for all finance functions including the preparation and control of records and data, the control of stored data, the control of unused forms, the accounting for and comparison of operational data and forms and the control and supervision of the cashiers' cage, satellite cages and the count room. In addition to the requirement that the director of finance be licensed as a key employee, the supervisor of the cashiers' cage shall, on all shifts, be licensed as a key employee.

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§ 465.18. Bill validators and slot cash storage boxes.

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(d) The slot cash storage box shall be secured to the bill validator by two separate locks, the keys to which shall be different from each other, one of which may be the lock to the belly door or main door of the slot machine and a second of which is the lock on the release mechanism on the slot cash storage box. If there is not a full door on the bill validator, the lock on the release mechanism on the slot cash storage box must detect and display whether it is locked or unlocked and communicate whether it is locked or unlocked to a slot monitoring system. The key to the belly door or main door of the slot machine shall be maintained and controlled by the slot operations department. The key to the lock securing the release mechanism on the slot cash storage box shall be maintained and controlled by the security department. The security department shall establish a sign-out and sign-in procedure with regard to this key which includes documentation of this transfer.

(e) A slot cash storage box must:

(1) Have at least one lock securing the contents of the slot cash storage box, the key to which shall be maintained and controlled by the finance department.

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§ 465.19. Transportation of slot cash storage boxes to and from bill validators; storage.

(a) Slot machine licensees shall place on file with the Board, in the manner prescribed by the Board, a schedule

setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators along with specifications as to what areas of the gaming floor will be dropped on each pick-up day and the specific transportation route to be utilized from the gaming floor to the count room. Slot machine licensees shall also maintain immediately available to the Board and the Pennsylvania State Police, a current list, with license numbers, of the employees participating in the transportation of slot cash storage boxes. Any deviation from the schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators, a change in the areas to be dropped or the transportation route to the count room shall be noticed to the Board in advance in a manner prescribed by the Board.

(b) Slot cash storage boxes removed from bill validators shall be transported directly to, and secured in, the count room or a trolley storage area located immediately adjacent thereto, configured and secured in a manner approved by the Board, by a minimum of three employees, at least one of which is a member of the security department and at least one of which is a member of the finance department.

(1) Upon its removal from a bill validator, a slot cash storage box shall be placed immediately in an enclosed trolley which is secured by two separately keyed locks. The key to one lock shall be maintained and controlled by the finance department. The key to the second lock shall be maintained and controlled by the security department. Access to the security department's key shall be controlled, at a minimum, by a sign-out and sign-in procedure. The security department key shall be returned to its secure location immediately upon the completion of the collection and transportation of the slot cash storage boxes.

(2) Prior to the movement of any trolley containing slot cash storage boxes from the gaming floor into the count room, the drop team supervisor shall verify that the number of slot cash storage boxes being transported from the gaming floor equals the number of slot cash storage boxes scheduled to be collected that day.

(3) A slot cash storage box being replaced by an emergency slot cash storage box shall be transported to, and secured in, the count room by a minimum of three employees, at least one of which is a member of the finance department and at least one of which is a member of the security department.

(c) Slot cash storage boxes not contained in a bill validator, including emergency slot cash storage boxes which are not actively in use, shall be stored in the count room or other secure area outside the count room approved by the Board, in an enclosed storage cabinet or trolley and secured in the cabinet or trolley by a separately keyed, double locking system. The key to one lock shall be maintained and controlled by the finance department and the key to the second lock shall be maintained and controlled by a security department. Access to the security department's key shall be limited to a supervisor of that department.

(d) Notwithstanding subsection (b), the security department may, immediately prior to the commencement of the count process, issue its key to the storage cabinet or trolley to a count room supervisor for the purpose of allowing count room personnel to gain access to the slot cash storage boxes to be counted. A key transferred from the custody of the security department to the count room

supervisor shall be returned immediately following the conclusion of the count of the slot cash storage boxes and the return of any empty emergency drop boxes and slot cash storage boxes to their respective storage cabinet or trolley by the count room supervisor. The security department shall establish a sign-out and sign-in procedure which includes documentation of this transfer.

§ 465.25. Count room characteristics.

(a) Each slot machine licensee shall have adjacent or reasonably proximate to the cashiers' cage a room, to be known as a count room, specifically designated, designed and used for counting the contents of slot cash storage boxes.

(b) The count room shall be designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein. Each slot machine licensee shall design and construct a count room with the following security measures:

(1) A metal door installed on each entrance and exit equipped with an alarm device which audibly signals the surveillance department monitoring room and the security department whenever a door to the count room is opened at times other than those times for which the slot machine licensee has provided prior notice under § 465.26 (relating to counting of slot cash storage boxes).

(2) Each entrance and exit door must be equipped with two separate locks, the keys to which must be different from each other and different from the lock securing the contents of each slot cash storage box. The key to one of the locks shall be maintained and controlled by the security department and the key to the other lock shall be maintained and controlled by finance. Sign-out and sign-in procedures must be established for both keys.

(c) The following must be located within the count room:

(1) A table constructed of clear glass or similar material for the emptying, counting and recording of the contents of slot cash storage boxes.

(2) Surveillance cameras capable of the following:

(i) Effective video monitoring of the entire count process.

(ii) Effective video monitoring of the interior of the count room, including any storage cabinets or trolleys used to store slot cash storage boxes and any Board-approved trolley storage area located adjacent to the count room.

[Pa.B. Doc. No. 07-884. Filed for public inspection May 18, 2007, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CH. 441]
Slot Machine Licenses**

Under the Pennsylvania Gaming Control Board's (Board) Resolution No. 2005-4-REG, the Board has the authority to amend the temporary regulations adopted on July 21, 2005, as it deems necessary in accordance with the purpose of 4 Pa.C.S. Part II (relating to gaming) enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71), as amended by the act of November 1, 2006 (P. L. 1243, No. 135) and to further the intent of Act 71. To respond to changes in the Board's licensing program for

Category 3 slot machine licensees, the Board has decided to make changes to the temporary regulations, dated July 21, 2005, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4543 (August 6, 2005).

Therefore, the Board has deposited with the Bureau amendments to Chapter 441 (relating to slot machine licenses). The amendments are effective as of April 9, 2007.

Order

The Board, acting under the authorizing statute, orders that:

(a) The Board, acting under the authority of the Act 71, adopts the amendments to the temporary regulations adopted by resolution at the April 9, 2007, public meeting. The amendments to the temporary regulations pertain to the Board's licensing program for Category 3 slot machine licensees.

(b) The temporary regulations of the Board, 58 Pa. Code Chapter 441, are amended by amending §§ 441.1 and 441.23a to read as set forth in Annex A.

(c) The amendments are effective April 9, 2007.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify this order and deposit the amendments to the temporary regulations with the Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-70. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

**Subpart B. LICENSING, REGISTERING,
CERTIFYING AND PERMITTING**

CHAPTER 441. SLOT MACHINE LICENSES

§ 441.1. Definitions.

For purposes of this subpart, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

Amenities—Ancillary activities, services or facilities in which a registered guest or the transient public, in return for non-de minimis consideration, may participate at a resort hotel, including, but not limited to:

(i) Sports and recreational activities and facilities such as a golf course or golf driving range, tennis courts or swimming pools.

(ii) Health spa.

(iii) Convention, meeting and banquet facilities.

(iv) Entertainment facilities.

(v) Restaurant facilities.

Applicant—A person who applies to the Board to receive a slot machine license as defined in this section.

Developer—A person engaged by a slot machine applicant or licensee to construct a proposed licensed facility or to otherwise make land or buildings suitable for use as a licensed facility.

Guest rooms under common ownership—A room or group of rooms, including timeshare units, that are owned by a well-established resort hotel and that are available for rental.

Licensing hearing—A hearing before the Board in which an applicant for a grant of a permanent slot machine license or a Conditional Category 1 slot machine license will have an opportunity to present to the Board:

- (i) Evidence concerning its eligibility for a license.
- (ii) Evidence concerning its suitability for a license.
- (iii) Evidence of how its proposed facility and operation addresses the criteria identified in section 1325(c) of the act (relating to license or permit issuance).
- (iv) For applicants seeking licensure under section 1304 of the act (relating to Category 2 slot machine license), evidence which sets forth a comparison between the applicant and other applicants within the same category of licensure on the standards and criteria in the act.

Non-de minimis consideration—A payment of fair market value of at least \$10 per patron paid to the resort hotel for use of one or more amenities.

Organization—All legal business entities that are under common ownership or control, including, but not limited to, affiliates, subsidiaries, intermediaries and holding companies.

Patron of amenities—An individual who is a registered attendee of a convention, meeting or banquet event or a participant in a sport or recreational event or any other social, cultural or business event held at a resort hotel or who participates in one or more of the amenities provided to registered guests of the resort hotel.

Slot machine license—A Category 1 slot machine license under section 1302 of the act (relating to Category 1 slot machine license), a Conditional Category 1 slot machine license under section 1315 of the act (relating to Conditional Category 1 license), a Category 2 slot machine license under section 1304 of the act (relating to Category 2 slot machine license) and a Category 3 slot machine license under section 1305 of the act (relating to Category 3 slot machine license).

Well-established resort hotel—A resort hotel having at least 275 guest rooms under common ownership at the time of application for a Category 3 slot machine license and having substantial year-round recreational guest amenities.

§ 441.23a. Category 3 slot machine licensees.

(a) To qualify as a well-established resort hotel with substantial year-round recreational guest amenities, the resort hotel must offer on its premises a complement of amenities characteristic of a well-established resort hotel, including the following:

- (1) Sports and recreational activities and facilities such as a golf course or golf driving range.
- (2) Tennis courts.
- (3) Swimming pools or a water park.
- (4) Health spa.
- (5) Meeting and banquet facilities.
- (6) Entertainment facilities.
- (7) Restaurant facilities.
- (8) Downhill or cross-country skiing facilities.
- (9) Bowling lanes.
- (10) Movie theaters.

(b) A Category 3 slot machine applicant shall submit, as part of its application and its internal controls required under Chapter 465 (relating to accounting and internal controls), a plan detailing how the applicant will monitor the gaming area to ensure compliance with Chapters 503, 511 and 513 (relating to self-exclusion; persons required to be excluded; and underage gaming) and that only the following persons are permitted to enter the gaming area:

- (1) Registered overnight guests.
- (2) Patrons of one or more amenities.
- (3) Authorized employees.
- (4) Other persons authorized by the Board.

(c) Individuals holding a valid seasonal or year-round membership, which has been approved by the Board and entitles the individual to use one or more of the amenities at the well-established resort hotel holding the Category 3 slot machine license, may be allowed on the gaming floor at any time. The Board will base its approval of a membership on the duration of the membership, the amenities covered by the membership and whether the fee charged for the membership represents the fair market value for the use of the amenity or amenities.

(d) A patron of an amenity at a well-established resort hotel holding a Category 3 slot machine license may be permitted unlimited access to the gaming floor for one 24-hour period within 72 hours of the use of the amenity.

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