

(b) Where a hearing on an application has been requested by a party or directed by the Commission, the Commission shall not permit withdrawal of said application after:

1. The application matter has been transmitted to the Office of Administrative Law; or
2. The application matter has been assigned to any other hearing examiner authorized by law to hear such matter; or
3. The Commission has made a determination to hear the application matter directly.

(c) Notwithstanding the foregoing, the Commission may accept and consider a written notice of withdrawal after the time specified herein if the Division consents to the withdrawal and if the Commission is satisfied that there exists extraordinary circumstances justifying withdrawal.

Amended by R.1980 d.159, effective April 15, 1980.
See: 12 N.J.R. 164(b), 12 N.J.R. 295(a).

19:41-8.7 Mootness

Any application submitted to the Commission shall constitute a request by the applicant for a determination as to his qualifications in accordance with the Act and regulations of the Commission and a consent by the applicant to the making of such a determination by the Commission, in its discretion, when the application thereafter becomes moot for any reason whatsoever.

19:41-8.8 Restriction on application and employment after denial or revocation

(a) Any natural person whose license, registration, qualification or approval is denied or revoked by the Commission for failure to satisfy the affirmative qualification criteria of the Act or due to a Commission finding that such person is disqualified pursuant to N.J.S.A. 5:12-86 or both, may not, except as otherwise provided by N.J.A.C. 19:41-8.9, 8.10 or 8.11, reapply for a license, registration, qualification or approval or, pursuant to N.J.S.A. 5:12-106c, be employed by a casino licensee in a position that does not require a license or registration, until five years have elapsed from the date of denial or revocation. Notwithstanding the foregoing:

1. If the denial or revocation was based upon conviction of a disqualifying offense pursuant to N.J.S.A. 5:12-86c and reapplication is to be evaluated under the standards of N.J.S.A. 5:12-89, reapplication is permitted after the lapse of 10 years from the date of conviction;
2. If the denial or revocation was based on acts constituting a disqualifying offense pursuant to N.J.S.A. 5:12-86c and 86g and reapplication is to be evaluated under the standards of N.J.S.A. 5:12-89, reapplication is permitted after the lapse of 10 years from the date of the conduct in question; and
3. If the Commission approves an agreement resolving an application for or a complaint seeking the revocation

of a license, registration, qualification or approval which results in denial or revocation but permits reapplication or employment by a casino licensee after a stated period of less than five years, eligibility for reapplication or employment by a casino licensee shall be governed by the terms of the agreement and not by the provisions of this section.

(b) Any natural person whose license, registration, qualification or approval is denied or revoked by the Commission on the basis of any of the statutory or regulatory provisions in (b)1 through 5 below may reapply for a license, registration, qualification or approval upon satisfaction of the relevant requirements specified below. If the denial or revocation is based upon two or more statutory or regulatory provisions, the Commission shall permit reapplication only upon compliance with the requirements of this subsection as to each such provision. Any person seeking to reapply pursuant to this subsection shall file a certified petition stating with particularity how the specified requirements have been satisfied.

1. Failure to demonstrate financial stability pursuant to N.J.S.A. 5:12-89b(1) or 90b: Reapplication is permitted upon achieving financial stability.
2. Failure to satisfy the residency requirement set forth in N.J.S.A. 5:12-89b(4) or 90b: Reapplication is permitted upon establishment of a New Jersey residence, or upon a Commission finding that such residency will be established before the processing of said reapplication has been completed, or upon a Commission finding that the residency requirement should be waived pursuant to N.J.S.A. 5:12-89b(4) or 90c.
3. Failure to satisfy the age requirement set forth in N.J.A.C. 19:41-1.3: Reapplication is permitted upon attaining the requisite age or upon a Commission finding that such age will be attained before the processing of said reapplication has been completed.
4. Pending charges for a disqualifying offense pursuant to N.J.S.A. 5:12-86c and 86d: Reapplication is permitted upon disposition of the pending charges provided the charges do not result in conviction of a disqualifying offense pursuant to N.J.S.A. 5:12-86c.
5. Any statutory or regulatory provision which is subsequently repealed or modified: Reapplication is permitted upon a showing that the subsequent repeal or modification of the statutory or regulatory provision obviates the grounds for denial or revocation and justifies the conclusion that the prior decision should no longer bar reapplication.

New Rule, R.1980 d.160, effective April 15, 1980.
See: 12 N.J.R. 165(a), 12 N.J.R. 295(b).
Amended by R.1991 d.382, effective August 5, 1991.
See: 23 N.J.R. 1301(a), 23 N.J.R. 2322(a).

Rule text revised throughout to provide that petitions for reapplication are to be considered and determined by the full Commission.

Deleted (c)3, recodifying (c)4 and (c)3; deleted (g)1 and 2 codification.

Amended by R.1993 d.572, effective November 15, 1993.

See: 25 N.J.R. 3685(b), 25 N.J.R. 5360(a).

Amended by R.1995 d.306, effective June 19, 1995.

See: 27 N.J.R. 1162(a), 27 N.J.R. 2455(a).

Amended by R.1996 d.69, effective February 5, 1996.

See: 27 N.J.R. 3916(a), 28 N.J.R. 897(a).

Case Notes

Cited as justification for statutory bar; early reapplication; post-disqualification occurrences relevant only to petition for early reapplication. In the Matter of the Hotel and Restaurant Employees and Bartenders International Union Local 54; 203 N.J.Super. 297 (App.Div. 1985), certiorari denied 102 N.J. 352 (1985).

19:41-8.9 Petition for early reapplication

(a) Any natural person who is barred from reapplication for five years pursuant to N.J.A.C. 19:41-8.8 may petition for permission to reapply at an earlier date by filing a Request to Determine Employment or Reapplication Eligibility Form as set forth in N.J.A.C. 19:41-5.5B at any time after one year has elapsed from the date of denial or revocation or at such earlier date as the Commission may order.

(b) The Commission shall offer the Division an opportunity to complete a criminal records check and to provide a written statement of its position on any petition filed pursuant to this section.

(c) The Commission shall grant a petition for early reapplication if it finds that the facts and circumstances presented would be reasonably likely to result in licensure, registration, qualification or approval if considered in the context of a plenary hearing. Factors to be considered by the Commission may include, where appropriate, evidence which would support:

1. A finding of rehabilitation pursuant to N.J.S.A. 5:12-90h or 91d; or

2. A waiver of disqualification pursuant to N.J.S.A. 5:12-91e.

(d) A petition filed pursuant to this section shall specify the type of credential sought.

(e) Notwithstanding (d) above:

1. A petition for permission to reapply for a casino employee license shall be deemed to include a request to reapply for a casino service employee registration and a request for permission to obtain employment in a position which does not require a license or registration; and

2. A petition to reapply for a casino service employee registration shall be deemed to include a request for permission to obtain employment in a position which does not require a license or registration.

(f) If the Commission denies a petition for early reapplication for any license, registration, qualification or approval, the petitioner shall be restricted from reapplying for such credential pursuant to this section for a period of two years from the date that permission to reapply is denied.

New Rule, R.1996 d.69, effective February 5, 1996.

See: 27 N.J.R. 3916(a), 28 N.J.R. 897(a).

Administrative Correction.

See: 28 N.J.R. 3329(c).

19:41-8.10 Petition for permission to obtain employment not requiring a license or registration

(a) Any natural person who is barred from employment by a casino licensee for five years pursuant to N.J.S.A. 5:12-106c may petition for permission to obtain employment in a position which does not require a license or registration by filing a Request to Determine Employment or Reapplication Eligibility Form as set forth in N.J.A.C. 19:41-5.5B. Such petition may be filed at any time after one year has elapsed from the date of denial or revocation or at such earlier date as the Commission may order.

(b) The Commission shall offer the Division an opportunity to complete a criminal records check and to provide a written statement of its position on any petition filed pursuant to this section.

(c) The Commission shall grant a petition filed pursuant to this section if it finds that the facts and circumstances presented establish good cause for relief.

(d) If the Commission denies a petition for permission to obtain employment not requiring a license or registration, the petitioner shall be restricted from filing another petition pursuant to this section for a period of two years from the date that the petition is denied.

New Rule, R.1996 d.69, effective February 5, 1996.

See: 27 N.J.R. 3916(a), 28 N.J.R. 897(a).

19:41-8.11 Petition for permission to obtain employment as a CHAB employee

(a) Any unlicensed or unregistered person who has been convicted of a disqualifying offense pursuant to N.J.S.A. 5:12-86c(1), who is not barred from employment pursuant to N.J.S.A. 5:12-106c, may petition for permission to obtain employment as a CHAB employee by filing a Request to Determine Employment or Reapplication Eligibility Form as set forth in N.J.A.C. 19:41-5.5B. Such petition may be filed at any time after one year has elapsed from the date of the conviction or release from incarceration, whichever is later.

(b) The Commission shall offer the Division an opportunity to complete a criminal records check and to provide a written statement of its position on any petition filed pursuant to this section.

(b) The Commission shall offer the Division an opportunity to complete a criminal records check and to provide a written statement of its position on any petition filed pursuant to this section.

(c) The Commission shall grant a petition filed pursuant to this section if it finds that the facts and circumstances presented establish good cause for relief.

(d) If the Commission denies a petition for permission to obtain employment as a CHAB employee, the petitioner shall be restricted from filing another petition pursuant to this section for a period of two years from the date that the petition is denied.

New Rule, R.1996 d.69, effective February 5, 1996.
See: 27 N.J.R. 3916(a), 28 N.J.R. 897(a).

SUBCHAPTER 9. FEES

19:41-9.1 General description of fees and policy

(a) Under the Act, the Commission and Division are required to be financed exclusively from fees charged each fiscal year to applicants, licensees and registrants. Generally, the Act divides fees into two broad categories: those pertaining to casino licenses and those pertaining to all other forms of licensure or approval. Section 139 of the Act requires the Commission to establish, by regulation, fees for the issuance and renewal of casino licenses. The statutory basis for the casino license issuance fee is the cost of investigation and consideration of the application. The statutory basis for the casino license renewal fee is the cost of maintaining the control and regulatory activities of the Commission and the Division. In contrast, section 141 of the Act requires the Commission to establish, by regulation, issuance and renewal fees for all non-casino licenses, but indicates no cost basis for establishing such fees.

(b) The differing treatment of these categories reflects a legislative recognition and judgment that casino applicants and licensees benefit directly or indirectly from all aspects of the regulatory process and are best suited to bear the largest share of the costs incurred by the agencies in implementing that process. Moreover, the experience of the Commission and the Division reveals that the actual cost of investigating and considering applications for individual employee licenses and casino service industry licenses frequently exceeds the amount which those applicants and licensees may fairly be required to pay as fees. The fee structure established by these regulations is designed to respond to these policies and problems.

(c) To the extent fairly possible, each applicant or licensee should pay the investigatory or regulatory costs attributable to that applicant or licensee. However, since individual employees and casino service industry enterprises cannot always be expected to cover the full amount expended, there will be an amount of the annual combined budgets of the agencies which will not be recoverable through specified fees for particular services. This amount cannot be predict-

ed with precision because of the necessarily variable allocation of Commission and Division efforts.

(d) Given the mandate of the Act to recover the cost of maintaining control and regulatory activities from casino license renewal fees and given the fact that all such activities are undertaken for the direct or indirect benefit or protection of casino operations, the obligation to supply additional funds necessary to recover the otherwise uncollected expenditures of the agencies should be allocated among the licensed casino facilities.

(e) In the event that the Casino Control Fund has a surplus as of the close of a fiscal year, other than a surplus due to estimated payments against an expected deficiency, the surplus should be credited to the extent possible to the individual licensees who made the surplus payments. Since, as noted in (c) above, fees charged to persons other than casino licensees are no more than and frequently less than the actual cost of the investigatory and regulatory services actually attributable to them and since the casino licensees, through various hourly and other charges, contribute the overwhelming majority of all fees generated by the agencies, any surplus in the Casino Control Fund may be attributable to payments made by the casino licensees. Further, since it is not feasible to ascertain precisely the source of the surplus due to the variety of charges levied against the casino licensees and the numerous variables affecting the revenues and expenditures of the agencies, it is reasonable and equitable to distribute the surplus by granting credit to the casino licensees against future fee obligations and to allocate the credit among the licensees in proportion to the relative amount of total fees incurred or paid by each casino licensee with respect to the fiscal year.

Amended by R.1981 d.367, effective October 8, 1981.

See: 13 N.J.R. 531(b), 13 N.J.R. 709(a).

Added subsection (d).

Amended by R.1985 d.583, effective November 18, 1985.

See: 17 N.J.R. 2242(a), 17 N.J.R. 2788(a).

(e) added.

Amended by R.1993 d.253, effective June 7, 1993 (operative July 1, 1993).

See: 25 N.J.R. 1080(a), 25 N.J.R. 2506(c).

Case Notes

Citation. Atlantic City Casino Hotel Assn. v. Casino Control Commission, 203 N.J.Super. 230 (App.Div.1985), certiorari denied 102 N.J. 326 (1985).

19:41-9.2 Fiscal year

For purposes of this subchapter, a fiscal year shall be the period commencing on July 1 and ending the subsequent June 30.

19:41-9.3 Payment of fees and civil penalties

(a) No application shall be accepted for filing by the Commission or processed by the Commission or the Division except upon proper and timely payment of all required fees and civil penalties in accordance with the Act and the

regulations of the Commission. Any portion of a fee which is incurred or determined after the filing of the application or which is estimated in accordance with this subchapter, and any civil penalty imposed by the Commission, shall be payable upon demand made by the Commission through its Division of Financial Evaluation. Failure to promptly remit any amount so demanded shall be deemed a failure to timely pay the required fee or civil penalty unless the Commission finds cause to permit an extension of time in which to remit the demanded amount.

(b) Any fee or civil penalty required to be paid in accordance with this subchapter or pursuant to an order of the Commission shall be paid before the Commission shall consider the application for issuance or renewal of licensure, unless the Commission finds cause to permit an extension of time in which to pay such fee or civil penalty.

(c) All fees and civil penalties shall be paid by check or money order made payable, in the case of fees, to the "Casino Control Fund" and, in the case of civil penalties, to the "Casino Revenue Fund," and presented to the Commission at its offices. No check so presented shall be deemed payment until the Commission shall be satisfied that sufficient funds are contained in the account against which it is drawn.

(d) Unless otherwise directed by the Commission, all payments of fees or civil penalties received from licensees, registrants or applicants shall be credited against, in chronological order (the oldest shall be paid first), any outstanding debts for fees or civil penalties that the person owes pursuant to the Act and the regulations of the Commission.

(e) A required fee or civil penalty shall be considered paid only if the Commission is satisfied that the person obligated to pay the fee or civil penalty owes no other debts for fees or civil penalties.

(f) Any required fee or civil penalty that a person fails to pay despite demand therefor shall constitute cause for the Commission to:

1. Dismiss administratively any application submitted by such person; or
2. Suspend administratively any license or registration held by such person; or
3. Suspend administratively any permission granted to such person pursuant to N.J.A.C. 19:41-8.10 or 8.11.

(g) The provisions of (f) above shall apply without regard to whether the license or registration was issued, the permission was granted or the application was submitted before the debt arose.

Amended by R.1992 d.35, effective January 21, 1992.

See: 23 N.J.R. 3249(a), 24 N.J.R. 298(a).

Revised text.

Amended by R.1996 d.248, effective June 3, 1996.

See: 28 N.J.R. 1497(a), 28 N.J.R. 3007(a).

19:41-9.4 Casino license fees

(a) For the purposes of this section, the following words and terms shall have the meanings herein ascribed to them unless a different meaning clearly appears from the context:

1. "Casino license" means a plenary casino license issued under Section 87 of the Act;
2. "Licensed casino facility" means a casino hotel facility as to which a casino license has been issued to authorized gaming operations;
3. "Casino operator" means a casino licensee is designated as the primary obligor for payment of gross revenues taxes in accordance with N.J.A.C. 19:54-1.2;
4. "Initial license fee" or "Issuance fee" means the total fee which is required by the Act and these regulations to be paid prior to consideration or issuance of a plenary casino license to an unlicensed applicant and which is based upon the cost of investigating and considering the application;
5. "License renewal fee" means the total fee which is required by the Act and these regulations to be paid prior to the renewal of a plenary casino license under Section 88 of the Act and which is based upon the cost of investigating and considering the application and of maintaining control and regulatory activities of the Commission and the Division.

(b) No application for the issuance or renewal of a casino license shall be accepted for filing by the Chairman unless a nonrefundable deposit of \$100,000 shall first have been paid in full. Such deposit shall be applied to the initial license fee or renewal fee if the application is approved.

(c) No casino license shall be issued unless the applicant shall first have paid in full an issuance fee of not less than \$200,000.

(d) No casino license shall be renewed unless the applicant shall first have paid in full a renewal fee of not less than \$100,000 for each one-year license renewal, and not less than \$200,000 for each two-year license renewal.

(e) As a component of its initial license fee or renewal fee and as a condition of casino licensure, each applicant or licensee shall be required to pay for the efforts of the Commission and the Division on matters directly related to the applicant or licensee at hourly rates to be set by the Commission in accordance with this subsection, and to reimburse any unusual costs or out of pocket expenses incurred by the Commission or the Division in regard to such matters.