

**ADMINISTRATIVE RULES SUBCOMMITTEE  
OF THE  
ARKANSAS LEGISLATIVE COUNCIL**

**Wednesday, January 26, 2022**

**9:00 a.m.**

**Room A, MAC**

**Little Rock, Arkansas**

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**A. Rules Filed Pursuant to Ark. Code Ann. § 10-3-309 to Be Considered Pending Suspension of the Subcommittee Rules Due to Public Comment Period Expiring After the December 15, 2021 Deadline**

**1. DEPARTMENT OF FINANCE AND ADMINISTRATION, ARKANSAS RACING COMMISSION (Mr. Byron Freeland)**

**a. SUBJECT: CGR Rule 4 Operation of Gaming Establishments**

**DESCRIPTION:** These proposed amendments allow sports wagering from any patron physically present within the State of Arkansas. Under the original Casino Gaming Rules, a patron had to be physically present on the casino premises. Also, under the proposed amendments, a patron does not have to personally appear before an employee of the casino to confirm his/her identity. These amendments change some definitions to provide for expanded sports wagering.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 30, 2021. The public comment period expired on December 30, 2021. The agency indicated that it received over 800 comments related to the rules presented at the hearing. Due to its length, the public comment summary, in table form, is attached separately and can be accessed electronically on the paperclip for the Administrative Rules Subcommittee's January 26, 2022 meeting.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** The Arkansas Racing Commission "shall adopt rules necessary to carry out the purposes of" the Arkansas Casino Gaming Amendment of 2018 (Amendment 100), including rules governing oversight requirements for casino gaming and responsibilities of casino licensees related to casino gaming. Ark. Const. amend. 100,

§ 4(c), (e)(5), (e)(11). Amendment 100 provides that “casino licenses may accept wagers on sporting events if and when not prohibited by federal law.” Ark. Const. amend. 100, § 3(b). Federal prohibitions on Internet gambling exclude transactions where a wager is initiated and received in a single state, placed in accordance with that state’s laws including appropriate age and location verification requirements, and otherwise in accordance with federal law. *See* 31 U.S.C. § 5362(10)(B).

**b. SUBJECT: CGR Rule 6 Accounting Regulations**

**DESCRIPTION:** This proposed amendment specifies where the funds collected for license fees, renewal fees, and other types of fees charged by the Commission are handled and states the fees charged must be placed in the Arkansas Racing Commission Cash Fund to be used for the regulation of casino gaming and horse racing.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 30, 2021. The public comment period expired on December 30, 2021. The agency indicated that it received over 800 comments related to the rules presented at the hearing. Due to its length, the public comment summary, in table form, is attached separately and can be accessed electronically on the paperclip for the Administrative Rules Subcommittee’s January 26, 2022 meeting.

Lacey Johnson, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

**Q.** The proposed rule provides that the Commission shall deposit all license fees and license renewal fees imposed under the Casino Gaming Rules, with certain exclusions, into the Racing Commission Cash Fund. Are these fees entirely distinct from those described in Ark. Code Ann. § 23-110-104(a), which must be deposited into the State Treasury to the credit of the State Apportionment Fund?

**A.** [Via phone call, the agency stated that its position is that the fees referenced in the proposed rule are imposed under Amendment 100 and are not subject to the provisions of A.C.A. § 23-110-104(a) because the statute deals solely with “amounts received by the Arkansas Racing Commission under the provisions of *this chapter*.” Per the agency, the indicated statute addresses horse racing, not casino gaming.]

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** The Arkansas Racing Commission “shall adopt rules necessary to carry out the purposes of” the Arkansas Casino Gaming Amendment of 2018 (Amendment 100), including casino licensing and license renewal. Ark. Const. amend. 100, § 4(c), (e).

c. **SUBJECT: CGR Rule 20 Race Books and Sports Pools**

**DESCRIPTION:** These proposed amendments prohibit a casino licensee from contracting with a third-party vendor which receives the majority or more of the net gaming revenue received in conducting sports wagering. Under the proposed amendments, sports gaming vendors can receive no more than fifty percent of the net gaming revenue. Also, these proposed amendments limit a casino licensee to no more than two individually branded online sports platforms and mobile applications. The proposed amendments include definitions to make the intent of the Rules clear.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 30, 2021. The public comment period expired on December 30, 2021. The agency indicated that it received over 800 comments related to the rules presented at the hearing. Due to its length, the public comment summary, in table form, is attached separately and can be accessed electronically on the paperclip for the Administrative Rules Subcommittee’s January 26, 2022 meeting.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** The Arkansas Racing Commission “shall adopt rules necessary to carry out the purposes of” the Arkansas Casino Gaming Amendment of 2018 (Amendment 100), including rules governing oversight requirements for casino gaming and responsibilities of casino licensees related to casino gaming. Ark. Const. amend. 100, § 4(c), (e)(5), (e)(11). Amendment 100 provides that “casino licensees may accept wagers on sporting events if and when not prohibited by federal law.” Ark. Const. amend. 100, § 3(b). Federal prohibitions on Internet gambling exclude transactions where a wager is initiated and received in a single state, placed in accordance with that state’s laws including appropriate age and location verification requirements, and otherwise in accordance with federal law. *See* 31 U.S.C. § 5362(10)(B).

d. **SUBJECT: CGR Rule 22 Off-Track Pari-Mutuel Wagering**

**DESCRIPTION:** These proposed amendments state that only casino licensees authorized by the Commission can accept off-track pari-mutuel

wagers, and all off-track wagers must be conducted in an area approved by the Commission.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 30, 2021. The public comment period expired on December 30, 2021. The agency indicated that it received over 800 comments related to the rules presented at the hearing. Due to its length, the public comment summary, in table form, is attached separately and can be accessed electronically on the paperclip for the Administrative Rules Subcommittee’s January 26, 2022 meeting.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** The Arkansas Racing Commission “shall adopt rules necessary to carry out the purposes of” the Arkansas Casino Gaming Amendment of 2018 (Amendment 100), including rules governing oversight requirements for casino gaming and responsibilities of casino licensees related to casino gaming. Ark. Const. amend. 100, § 4(c), (e)(5), (e)(11). Under the Arkansas Horse Racing Law, the Commission may adopt rules permitting “a franchise holder’s patrons with money on deposit in an account with the franchise holder” to place wagers electronically “whether or not the patron is located on the grounds of the . . . race track facility when placing the wager.” Ark. Code Ann. § 23-110-405(e).

Amendment 100 provides that “casino licensees may accept wagers on sporting events if and when not prohibited by federal law.” Ark. Const. amend. 100, § 3(b). Federal prohibitions on Internet gambling exclude transactions where a wager is initiated and received in a single state, placed in accordance with that state’s laws including appropriate age and location verification requirements, and otherwise in accordance with federal law. *See* 31 U.S.C. § 5362(10)(B).

e. **SUBJECT: CGR Rule 24 Off-Track Pari-Mutuel Horse Race Account Wagers**

**DESCRIPTION:** These proposed amendments prohibit licensees from accepting sports wagers and non-pari-mutuel horse wagers from patrons physically located outside the State of Arkansas. The amendments also contain new definitions for communications technology and wagering instructions.

**PUBLIC COMMENT:** A public hearing was held on this rule on December 30, 2021. The public comment period expired on December 30, 2021. The agency indicated that it received over 800 comments related to the rules presented at the hearing. Due to its length, the public comment summary, in table form, is attached separately and can be accessed electronically on the paperclip for the Administrative Rules Subcommittee’s January 26, 2022 meeting.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The agency indicated that this rule has no financial impact.

**LEGAL AUTHORIZATION:** The Arkansas Racing Commission “shall adopt rules necessary to carry out the purposes of” the Arkansas Casino Gaming Amendment of 2018 (Amendment 100), including rules governing oversight requirements for casino gaming and responsibilities of casino licensees related to casino gaming. Ark. Const. amend. 100, § 4(c), (e)(5), (e)(11). Under the Arkansas Horse Racing Law, the Commission may adopt rules permitting “a franchise holder’s patrons with money on deposit in an account with the franchise holder” to place wagers electronically “whether or not the patron is located on the grounds of the . . . race track facility when placing the wager.” Ark. Code Ann. § 23-110-405(e).

Amendment 100 provides that “casino licensees may accept wagers on sporting events if and when not prohibited by federal law.” Ark. Const. amend. 100, § 3(b). Federal prohibitions on Internet gambling exclude transactions where a wager is initiated and received in a single state, placed in accordance with that state’s laws including appropriate age and location verification requirements, and otherwise in accordance with federal law. *See* 31 U.S.C. § 5362(10)(B).

2. **DEPARTMENT OF COMMERCE, ARKANSAS ECONOMIC DEVELOPMENT COMMISSION** (Mr. Jim Hudson, Mr. Steven Porch)

a. **SUBJECT:** Arkansas Rural Connect Broadband Grant Program Rule

**DESCRIPTION:** The Arkansas Economic Development Commission (“AEDC”) and the Arkansas State Broadband Office (“ASBO”) are seeking to promulgate an amended rule for the Arkansas Rural Connect Broadband Grant Program (“ARC”). The purpose of the rule is to revise the procedure for disbursing ARC funds so that grant recipients will receive grant funds as expenses are incurred and submitted to the ASBO

and verified by UAMS. This is a permanent rule promulgation under the Administrative Procedure Act to replace an emergency rule that was effective on November 19, 2021.

As originally published, the proposed amended rule would have allowed the Arkansas Broadband Office to award grant funds to recipients in quarterly installments. This would have reverted the disbursement process to what it was at the inception of the ARC program and before the CARES Act. Public comments received by AEDC concerning the proposed rule expressed concern that the quarterly disbursement schedule could create cash-flow constraints for smaller ISPs and make bidding on ARC projects economically untenable. The revised proposed rule allows for expense reimbursement requests to be submitted as the expenses are incurred but, in any event, no later than sixty (60) days following the close of the quarter in which the expense was incurred. There are no upfront payments to grant awardees; grant funds are only released as expenses are incurred. Disbursement by the ASBO is contingent upon review and verification of the expenses by UAMS.

**PUBLIC COMMENT:** This rule originally received legislative review and approval by the Executive Subcommittee at its meeting of November 19, 2021, for emergency promulgation. A public hearing was held on January 14, 2022. The public comment period expired on January 17, 2022. The Commission provided the following summary of the comment that it received, its response thereto, and the changes made as a result of the comment:

**Commenter's Name:** L. Elizabeth Bowles

**Commenter's Business/Agency:** Aristotle

**Summary of Comment:** The proposed quarterly reimbursement procedure under the proposed rule will have unintended consequences of slowing deployment, limiting participation in the ARC program to only ISPs which can afford to wait up to four months or more for reimbursement, and will add additional cost, both to the cost of capital and in the form of additional administrative burden, as all receipts must be processed at the same time. I recommend the rule be changed to allow for rolling reimbursements as receipts are submitted but in no event less than quarterly.

**Agency's Response to Comment:** The agency will consider the comment and the impact the proposed reimbursement procedure in the proposed rule will have on smaller internet service providers and the impact to successful deployment of broadband under the ARC program.

**Agency's Summary of Changes Made as a Result of the Comment:** Yes, the Agency reviewed the recommendation and incorporated a change into the proposed draft rules to allow expense reimbursement requests to be submitted as the expenses are incurred but, in any event, no later than

sixty (60) days following the close of the quarter in which the expense was incurred.

The proposed effective date is pending legislative review and approval.

**FINANCIAL IMPACT:** The Commission states that the amended rule has no financial impact.

**LEGAL AUTHORIZATION:** In accordance with state and federal law, the Arkansas Economic Development Commission shall administer grants, loans, cooperative agreements, tax credits, guaranties, and other incentives, memoranda of understanding, and conveyances to assist with economic development in the state. *See* Ark. Code Ann. § 15-4-209(a)(1). Pursuant to Ark. Code Ann. § 15-4-209(b)(5), the Commission may promulgate rules necessary to implement the programs and services offered by the Commission.

**B. Proposed Rules Recommending Expedited Process for Occupational Licensure Pursuant to Ark. Code Ann. § 17-4-109, as Amended by Act 135 of 2021.**

**1. DEPARTMENT OF LABOR AND LICENSING, DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING BOARDS AND COMMISSIONS, ARKANSAS FIRE PROTECTION LICENSING BOARD (Ms. Patricia White)**

- a. Rules for Sprinkler Systems**
- b. Rules for Portable/Fixed Systems**

**C. Adjournment.**