

**TITLE 170: LOCAL RULES AND REGULATIONS; TINIAN AND AGUIGUAN
(SECOND SENATORIAL DISTRICT)**

**SUBCHAPTER 170-30.4
HEARING REGULATIONS**

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Subchapter Authority: Revised Tinian Gaming Control Act of 1989 §§ 5(8)(c) and 121.

Subchapter History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992);* Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992);* Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

*Notices of adoption for the July 1992 and September 1992 amendments were never published.

Commission Comment: The Tinian Casino Gaming Control Act of 1989, Tinian Local Initiative 1 (effective Jan. 1, 1990) is codified at 10 CMC §§ 2511-25129. On August 18, 1993, the Superior Court issued an order approving and adopting a Revised Tinian Casino Gaming Control Act of 1989 (Revised Act). See Commonwealth v. Tinian Casino Gaming Control Comm'n, Civ. No. 91-0690 (N.M.I. Super. Ct. Aug. 18, 1993) (Order Approving and Adopting the Revised Tinian Casino Gaming Control Act of 1989), reprinted in the commission comment to 10 CMC § 25129.

The Revised Act § 5(1) establishes the Tinian Casino Gaming Control Commission (TCGCC), charged with the administration of the Revised Act. Section 5(8)(c) grants TCGCC the responsibility to promulgate such regulations as in its judgment may be necessary to fulfill the policies of the Revised Act, in accordance with Commonwealth law. Revised Act § 121 further delineates the regulations TCGCC is authorized to promulgate.

Tinian Local Law 14-1 (effective May 24, 2004) significantly amended the Revised Tinian Casino Gaming Control Act of 1989.

Part 001 - General Provisions

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§ 170-30.4-001 Definitions

As used in this subchapter, the term:

- (a) “Contested case” means a proceeding, including any licensing proceedings, in which the legal rights, duties, obligations, privileges, benefits, or other legal relations of specific parties are required by constitutional right or by statute to be determined by any agency by decisions, determinations, or orders, addressed to them or disposing of their interests, after opportunity for an agency hearing.
- (b) “Interested person” means any person whose specific legal rights; duties, obligations, privileges, benefits, or other specific legal relations are affected by the adoption, amendment or repeal of a specific regulation or by any decision, order, or ruling of the Commission.
- (c) “Party” means any person or entity directly involved in a contested case, including petitioner, respondent, intervener, or agency of the Commonwealth of the Northern Mariana Islands proceeding in any such capacity.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: The September 1992 and July 1992 amendments proposed to readopt the Hearing Regulations codified in this subchapter in their entirety with numerous amendments. A notice of adoption for the proposed amendments has not been published and, therefore, the Commission has not incorporated the proposed changes.

The Commission inserted commas after the words “benefits” in subsections (a) and (b) and “order” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 170-30.4-005 Applicability of Rules

- (a) In addition to the Administrative Procedures Rules (APR), the provisions of the Tinian Casino Gaming Control Act of 1989 and the rules in this subchapter shall apply to the appropriate contested case hearing initiated pursuant to the Act.
- (b) To the extent that the Act and the rules in this subchapter are inconsistent with the APR, the former shall apply.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

§ 170-30.4-010 Conduct of Contested Case Hearings

- (a) At all hearings of the Commission in contested cases, unless the Commission hears the

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matter directly, the chairman shall designate a member of the Commission to serve as hearing commissioner or shall designate a hearing examiner and serve as a hearing officer. When the Commission hears the matter directly, the chairman shall serve as presiding officer.

(b) In the event that a designated hearing commissioner becomes unavailable prior to the filing of the recommended report and decision for consideration by the Commission, the chairman may either designate another hearing commissioner or transfer the proceedings to the entire Commission. In such event, and consistent with the requirements of due process, the Commission or the hearing commissioner may either continue the hearing and render a decision upon the entire record or begin the hearing anew.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

Part 100 - Rules Concerning All Contested Cases

§ 170-30.4-101 Rules Concerning All Contested Cases

(a) Whether a contested case hearing is conducted by the Commission, by a hearing commissioner or hearing examiner, in addition to any authority granted in the APR, the chairman, the hearing commissioner or the hearing examiner, as the case may be, shall have the authority to:

- (1) Administer oaths and to require testimony under oath;
- (2) Serve process or notices in a manner provided for the service of process and notice in civil actions in accordance with the rules of court;
- (3) Issue subpoenas and compel the attendance of witnesses;
- (4) Propound written interrogatories;
- (5) Take official notice of any generally accepted information or technical or scientific matter in the field of gaming and of any other fact which may judicially noticed by the courts of this Commonwealth;
- (6) Permit the filing of amended or supplemental pleadings;

(b) Whether a contested case hearing is conducted by the Commission, a hearing commissioner, or a hearing examiner, and in addition to any rights granted in the APR, the parties shall have the right to:

- (1) Call and examine witnesses;
- (2) Introduce exhibits relevant to the issues of the case, including the transcript of testimony at any investigative hearing conducted by or on behalf of the Commission;
- (3) Cross examine opposing witnesses in any matters relevant to the issue of the case;
- (4) Impeach any witness, regardless of which party called him to testify;
- (5) Offer rebuttal evidence;
- (6) Stipulate and agree that certain specified evidence may be admitted, although such evidence may be otherwise subject to objection;

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- (c) In any contested case, the Commission shall have the authority to:
 - (1) Grant testimonial immunity;
 - (2) Order a rehearing; and

- (d) In any contested case held before the Commission, a hearing commissioner or hearing examiner, the following special rules of evidence shall apply:
 - (1) Any relevant evidence, not subject to a claim of privilege, may be admitted regardless of any rule of evidence which would bar such evidence in judicial matters;
 - (2) Evidence admitted pursuant to (d)(1) above shall be sufficient in itself to support a finding, if it is the sort of evidence upon which responsible persons, are accustomed to rely in the conduct of serious affairs;
 - (3) If an applicant, licensee, registrant, or person who shall be qualified pursuant to the Tinian Casino Control Act of 1989 is a party and if such party shall not testify in his own behalf, he may be called and examined as if under cross-examination.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

The Commission inserted commas after the words “commissioner” in subsections (b) and (d) and “registrant” in subsection (d)(3) pursuant to 1 CMC § 3806(g).

Part 200 - Rules Concerning Application Hearings

§ 170-30.4-201 Rights to Hearing; Request; Written Notice

- (a) When the Commission has been provided with all information necessary for action upon an application, the Commission shall serve upon the applicant either personally, by certified mail, to the address on file with the Commission or by facsimile a written notice of the right to a hearing and the responsibility to request a hearing; provided, however, that the Commission may on its own motion direct a hearing to be held.

- (b) Within 15 days after service of such written notice of right to a hearing and responsibility to request a hearing, the applicant may file with the Commission a request for a hearing.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

§ 170-30.4-205 Procedure When No Hearing Is Held

In any case in which no timely request for a hearing has been filed and in which the Commission has not directed a hearing, the Commission shall take final action on the application within 90 days after the completion of all investigation and receipt of all information required by the Commission.

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History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

§ 170-30.4-210 Burden of Proof

- (a) The applicant, licensee, or registrant shall have the affirmative responsibility of establishing his individual qualifications by clear and convincing evidence.

- (b) An applicant for a casino license or a casino licensee shall have the affirmative responsibility of establishing by clear and convincing evidence:
 - (1) His individual qualifications;
 - (2) The qualification of each person who is required to be qualified under the Act; and
 - (3) The qualifications of the facility in which the casino is to be located.

Modified, 1 CMC § 3806(f).

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

The Commission inserted a comma after the word “licensee” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 170-30.4-215 Approval and Denial of Applications

- (a) The Commission shall have the authority to deny any application pursuant to the provisions of the Act.

- (b) When the Commission is satisfied that an application shall be granted, it shall;
 - (1) Before granting a casino license or conditional casino license:
 - (i) Require the applicant to tender all license fees and taxes as required by law and the regulations adopted pursuant to the Act;
 - (ii) Require the applicant to post such bonds as the Commission may require for the faithful performance of all requirements imposed by law or regulation; the Commission shall fix the amount of the bond or bonds to be required under this subsection in such amounts as it may deem appropriate, according to this title.
 - (2) Before granting any application other than for a casino license;
 - (i) Limit or place such restrictions thereupon as the Commission may deem necessary in the public interest;
 - (ii) Require the applicant to tender all license fees as required by law and the regulations adopted pursuant to the Act.

Modified, 1 CMC § 3806(f).

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History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

Part 300 - Rules Concerning Proceedings Against Applicants, Licensees, and Registrants

§ 170-30.4-301 Commencement; Complaint

Any proceeding against an applicant, licensee, or registrant shall be brought on by written complaint, which shall include a statement setting forth in ordinary and concise language the charges and the acts or omissions supporting such charges.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

The Commission inserted a comma after the word “licensee” pursuant to 1 CMC § 3806(g).

§ 170-30.4-305 Service of Complaint

Upon filing of the complaint, the Commission shall serve a copy upon the applicant, licensee, or registrant either personally, by certified mail or facsimile to the address on file with the Commission.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

The Commission inserted a comma after the word “licensee” pursuant to 1 CMC § 3806(g).

§ 170-30.4-310 Notice of Defense

(a) Within 15 days after service upon him of the complaint, the applicant, licensee, or registrant may file with the Commission a notice of defense, in which he may:

- (1) Request a hearing;
- (2) Admit the accusation in whole or in part;
- (3) Present new matters or explanations by way of defense; or
- (4) State any legal objections to the complaint.

(b) Within the time specified, the applicant or licensee may file one or more notices of defense upon any or all of the above grounds.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992);

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Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

The Commission inserted a comma after the word “licensee” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 170-30.4-315 Right to Hearing; Waiver

The applicant or licensee shall be entitled to an evidentiary hearing on the complaint if he files and serves the required notice of defense within the time allowed herein, and any such notice shall be deemed a specific denial of all parts of the complaint not expressly admitted. Failure to file and serve a notice of defense within such time shall constitute a waiver of the right to a hearing, but the Commission, in its discretion, may nevertheless order a hearing. All affirmative defenses must be specifically stated, and unless objection is taken, as provided herein, all objections to the form of complaint shall be deemed waived.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

§ 170-30.4-320 Notice of Hearing

The Commission shall determine the time and place of the hearing as soon as is reasonably practical after receiving the notice of defense. The Commission shall deliver, send by certified mail or facsimile a notice to all parties at least 10 days prior to the hearing. Unless the applicant or licensee consents, the hearing shall not be held prior to the expiration time within which the applicant or licensee is entitled to file the notice of defense.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

§ 170-30.4-325 Revocation of License or Registration; Hearing

The Commission shall not revoke any license unless it has first afforded the licensee an opportunity for a hearing. Such hearing shall be held in accordance with the provisions of part 100.

Modified, 1 CMC § 3806(c).

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

§ 170-30.4-330 Revocation or Suspension; Hearing

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The Commission shall not revoke any license unless it has first afforded the licensee an opportunity for a hearing in accordance with law and the regulations of the Commission. When the Commission has authority under the Act and under regulations of the Commission to suspend a license or certificate without first holding a hearing it shall promptly upon exercising such authority, afford the licensee an opportunity for a hearing in conformity with law and the regulations of the Commission; provided, however, that this subsection shall not apply where;

- (a) The Act provides that the Commission is not required to grant a hearing in regard to the suspension of a license or certificate; or
- (b) The Commission is required by law to revoke or suspend a license or registration without exercising any discretion in the matter on the basis of a judgment of a court of competent jurisdiction; or
- (c) The suspension or revocation is based solely upon the failure of the licensee or registrant to maintain insurance coverage as required by law.

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

§ 170-30.4-335 Emergency Orders; Hearings; Complaint

- (a) Within five days after issuance of an emergency order pursuant to the Act, the Commission shall cause a complaint to be filed and served upon the person involved in accordance with the provisions of the Act and the regulations of the Commission. Thereafter, the person against whom the emergency order has been issued and served shall be entitled to a hearing before the Commission.
- (b) A person shall request a hearing in accordance with the provisions of part 200.

Modified, 1 CMC § 3806(c).

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: See the commission comment to § 170-30.4-001.

Part 400 - Hearing on Regulations

§ 170-30.4-401 Hearing on Regulations

- (a) Pursuant to § 124 of the Act, the Commission shall adopt, amend, and repeal regulations in accordance with the provisions of the Administrative Procedure Act [1 CMC §§ 9101, et seq.].

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(b) Consistent with the requirements of the Tinian Casino Gaming Control Act of 1989 and the Administrative Procedure Act [1 CMC §§ 9101, et seq.], the Commission may, in its discretion, conduct hearings concerning the adoption, amendment, or repeal of its regulations.

(c) Any public hearing held in connection with a proposed regulation shall be conducted in accordance with the Administrative Procedure Act.

(d) The Commission shall provide at least 15 days notice of any public hearing conducted in connection with a proposed regulation. Such notice shall be published in the Commonwealth Register or provided in a manner reasonably calculated to reach the interested public in accordance with 1 CMC § 9104.

(e) When a hearing is held in connection with a proposed regulation, all interested parties shall be afforded the opportunity to attend and to appear before the Commission to submit oral argument in support of or in opposition to the proposed regulation. Such participation does not include the right to present evidence or to cross-examine witnesses, which may be permitted solely in the discretion of the Commission.

(1) The Commission may require notice in advance of the date of the proceedings of any individual's intent to participate.

(2) This section shall not be construed to establish a right of any individual to appear before the Commission in the event that the Commission may act at a subsequent date to adopt the proposed regulations.

Modified, 1 CMC § 3806(g).

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: In subsections (a) and (c), the Commission changed "Procedures" to "Procedure" to correct a manifest error. The Commission inserted commas after the words "amend" in subsection (a) and "amendment" in subsection (b) pursuant to 1 CMC § 3806(g).

See the commission comment to § 170-30.4-001.

Part 500 - Declaratory Ruling

§ 170-30.4-501 Declaratory Rulings

(a) Any interested person may request that the Commission render a declaratory ruling with respect to the applicability to any person, property, or state of facts of any provision of the Act or of any regulation of the Commission.

(b) A request for a declaratory ruling shall be initiated by a petition. The petition shall include the following items with specificity:

(1) The nature of the request and the reasons therefor;

(2) The facts and circumstances underlying the request;

(3) Legal authority and argument in support of the request;

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(4) The remedy or result desired.

(c) If the Commission, in its discretion, decides to render a declaratory ruling, a hearing shall be afforded prior to the rendering of such a ruling.

(1) Where there exists disputed issues of fact which must be resolved in order to determine the rights, duties, obligations, privileges, benefits, or other legal relations of specific parties, such hearings shall be conducted in accordance with part 100.

(2) Where there exists no such disputed issues of fact as identified in subsection (c)(1) above, the matter shall proceed with the petition, any other papers requested of the parties, and oral argument, if permitted, by the Commission.

(d) In appropriate cases, the Commission may notify persons who may be interested in or affected by the subject of the declaratory ruling. In such cases, the Commission may afford these persons an opportunity to intervene as parties or to otherwise present their views in an appropriate manner which is consistent with the rights of the parties.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Proposed 14 Com. Reg. 9601 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9387 (July 15, 1992); Adopted 13 Com. Reg. 7854 (Aug. 15, 1991); Proposed 13 Com. Reg. 7686 (May 15, 1991).

Commission Comment: The 1992 amendments proposed to add a new subchapter 7, entitled “Statements of Compliance” and a new subchapter 8, entitled “Investigative Hearings.” A notice of adoption has not been published and, therefore, the Commission has not incorporated the proposed changes. See also the commission comment to § 170-30.4-001.