

Proposed Rule
LSA Document #09-361

DIGEST

Amends [68 IAC 7-1-10](#) to comply with [IC 4-21.5-3-14](#)(c) placing the burden of proof in administrative proceedings on the Indiana Gaming Commission. Makes numerous technical changes. Effective 30 days after filing with the Publisher.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

[68 IAC 7-1-10](#)

SECTION 1. [68 IAC 7-1-10](#) IS AMENDED TO READ AS FOLLOWS:

[68 IAC 7-1-10](#) Proceedings

Authority: [IC 4-33-4](#); [IC 4-35-4](#)

Affected: [IC 4-21.5-3](#); [IC 4-33](#); [IC 4-35](#)

Sec. 10. (a) ~~The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing by a preponderance of the evidence that:~~

- ~~(1) the petitioner should have been awarded a license;~~
- ~~(2) the license should have been renewed;~~
- ~~(3) the transfer of ownership should have been approved; or~~
- ~~(4) the petitioner should not have been placed on the exclusion list.~~

(b) Any testimony shall be given under oath or affirmation. **(a)** The hearing officer or recorder shall be **administrative law judge** is authorized to administer oaths.

(c) **(b)** Both parties may present an opening statement on the merits. The ~~petitioner~~ **commission** proceeds first, followed by the ~~respondent~~ **petitioner**. The ~~respondent~~ **petitioner** may not reserve the opening statement for a later time. The ~~hearing officer~~ **administrative law judge** may determine the length of time each party is permitted for the presentation of an opening statement. **statements.**

(d) **(c)** The ~~petitioner~~ shall **commission must** then present the ~~petitioner's~~ **commission's** case-in-chief.

(e) **(d)** Upon conclusion of the ~~petitioner's~~ **commission's** case-in-chief, the ~~respondent~~ **petitioner** may move for a directed finding. The ~~hearing officer~~ **administrative law judge** may:

- (1)** hear arguments on the motion; or ~~may~~
- (2)** grant, deny, or reserve any decision thereon, with or without argument.

(f) **(e)** If:

- (1)** no motion for directed finding is made; or ~~if such~~
 - (2)** the motion is denied or decision reserved thereon;
- the ~~respondent~~ **petitioner** may present its case.

(g) **(f)** Each party may conduct cross-examination of adverse witnesses.

(h) **(g)** Upon conclusion of the ~~respondent's~~ **petitioner's** case, the ~~petitioner~~ **commission** may present evidence in rebuttal.

(i) **(h)** The ~~hearing officer~~ **administrative law judge** may:

- (1)** ask questions of the witnesses; and ~~may~~
- (2)** request or allow additional evidence at any time, including additional rebuttal evidence.

~~(i)~~ **(i)** Both parties may present a closing argument. The ~~petitioner~~ **commission** proceeds first, then the ~~respondent, petitioner,~~ and, thereafter, the ~~petitioner~~ **commission** may present rebuttal argument. The ~~hearing officer~~ **administrative law judge** may determine the length of time each party is permitted for the presentation of closing argument. ~~arguments.~~

~~(k)~~ **(j)** The ~~hearing officer~~ **administrative law judge** may require or allow the parties to submit posthearing briefs, proposed findings of fact and conclusions of law, or both, within:

(1) ten (10) days of the conclusion of the hearing; or ~~within~~

(2) such other time period the ~~hearing officer~~ **administrative law judge** might order.

(Indiana Gaming Commission; [68 IAC 7-1-10](#); filed Nov 10, 1994, 11:00 a.m.: 18 IR 510; filed Apr 19, 1996, 3:00 p.m.: 19 IR 2251; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: [20071003-IR-068070354RFA](#))

[Notice of Public Hearing](#)

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