

**Final Rule**

LSA Document #09-361(F)

**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.

**[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.~~

~~(j)~~ **(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](#); filed Oct 9, 2009, 2:44 p.m.: [20091104-IR-068090361FRA](#))*

LSA Document #09-361(F)

Notice of Intent: [20090527-IR-068090361NIA](#)

Proposed Rule: [20090715-IR-068090361PRA](#)

Hearing Held: September 1, 2009

Approved by Attorney General: October 6, 2009

Approved by Governor: October 9, 2009

Filed with Publisher: October 9, 2009, 2:44 p.m.

Documents Incorporated by Reference: None Received by Publisher

Small Business Regulatory Coordinator: Andy T. Means, Indiana Gaming Commission, 101 West Washington Street, Suite 1600—East Tower, Indianapolis, IN 46204, (317) 233-0046, [ameans@igc.in.gov](mailto:ameans@igc.in.gov)

Posted: 11/04/2009 by Legislative Services Agency

An [html](#) version of this document.