

## ARTICLE 6. EXCLUSION AND EVICTION OF PERSONS

### Rule 1. Exclusion

#### 68 IAC 6-1-0.5 Definitions

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 0.5. (a) This article applies to the following:

- (1) Casino licensees.
- (2) Operating agents.
- (3) Affiliates of casino licensees and operating agents.
- (4) All persons located within gaming areas.

(b) The following definitions apply throughout this article:

(1) "Effective date" means the date that an order made under section 3 of this rule is made effective under section 4(b) of this rule.

(2) "Excluded person" means any person who is the subject of an order made under section 3 of this rule, IC 4-33-4-7, or IC 4-35-4-9 and made effective under section 4(b) of this rule.

(3) "Exclusion list" means the list of the names of persons excluded from casinos under this rule, IC 4-33-4-7, or IC 4-35-4-9.

(4) "Voluntarily excluded person" means a person who has successfully completed the procedures outlined in 68 IAC 6-3-2 to effectuate his or her own exclusion from the gaming areas of casinos.

*(Indiana Gaming Commission; 68 IAC 6-1-0.5; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA)*

#### 68 IAC 6-1-1 Exclusion

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 1. (a) An excluded person is prohibited from entering gaming areas.

(b) A casino licensee or operating agent must evict any excluded person from its gaming area if the casino licensee or operating agent knows or reasonably should know that the person is an excluded person.

(c) A casino licensee or operating agent must immediately inform an enforcement agent of the presence of an excluded person in any portion of its gaming area.

(d) This article does not preclude a casino licensee or operating agent from evicting a person from its casino gambling operation for any lawful reason. The casino licensee or operating agent may seek to have a person it has evicted from its casino gambling operation placed on the exclusion list. *(Indiana Gaming Commission; 68 IAC 6-1-1; filed Nov 10, 1994, 11:00 a.m.: 18 IR 506; 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 Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA; errata filed Dec 21, 2010, 9:41 a.m.: 20110119-IR-068080430ACA)*

#### 68 IAC 6-1-2 Exclusion list

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 2. (a) The executive director or the executive director's designee will maintain the exclusion list. The executive director or executive director's designee must notify each casino licensee or operating agent under the jurisdiction of the commission of each addition to the list or deletion from the list in a timely manner.

(b) The exclusion list is a public record.

(c) The following information, to the extent known, shall be provided for each excluded person:

(1) The full name and date of birth and all aliases.

(2) A physical description.

(3) The effective date the person's name was placed on the exclusion list.

(4) A photograph, if available.

(5) The person's occupation and current home and business address.

(6) The date that the person's exclusion expires, if any.

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(7) Such other information deemed necessary by the executive director to facilitate identification of the person placed on the exclusion list.

*(Indiana Gaming Commission; 68 IAC 6-1-2; filed Nov 10, 1994, 11:00 a.m.: 18 IR 506; 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 Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA)*

### **68 IAC 6-1-3 Placement on the exclusion list**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 3. If there are facts and circumstances sufficient to cause a prudent person to believe that a person:

(1) has been convicted of a felony in any jurisdiction of:

(A) any crime of moral turpitude; or

(B) a crime involving gaming;

(2) violated or conspired to violate either the Act or this title;

(3) performed any act or had a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming; or

(4) is included on any valid and current exclusion list of another jurisdiction in the United States;

the executive director may order that the person be placed on the exclusion list. *(Indiana Gaming Commission; 68 IAC 6-1-3; filed Nov 10, 1994, 11:00 a.m.: 18 IR 506; 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 Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA)*

### **68 IAC 6-1-4 Notice of exclusion; petition for hearing**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-21.5-3-1; IC 4-33-4-7; IC 4-35-4-9

Sec. 4. (a) Upon a determination that a person should be excluded under section 3 of this rule, IC 4-33-4-7, or IC 4-35-4-9, the executive director or the executive director's designee must serve notice as described in IC 4-21.5-3-1, of the order of exclusion on the excluded person. The notice must include the following:

(1) The name of the excluded person.

(2) The nature and scope of the circumstances or reasons that the person should be placed on the exclusion list.

(3) The duration of the exclusion.

(4) A brief explanation of the available procedures and the time limit for seeking administrative review of the order.

(5) An explanation of the civil penalty proceedings to which the excluded person may be subject under 68 IAC 13-2 if the excluded person violates the exclusion.

(b) An order of the executive director under section 3 of this rule:

(1) is effective fifteen (15) days after the date the notice of exclusion was served; and

(2) remains effective pending any hearing or judicial review.

(c) A person subject to an order of exclusion may petition the commission for a hearing under 68 IAC 7. Any petition for a hearing must be made within fifteen (15) days from the date the notice of exclusion was served. If the excluded person does not petition for a hearing within fifteen (15) days from the date of service of the notice of exclusion, the executive director's order of exclusion is a final order.

(d) If the notice of exclusion provides for a temporary exclusion, the executive director or the executive director's designee shall set the term of the temporary exclusion. A temporary exclusion must be at least twelve (12) months in duration. *(Indiana Gaming Commission; 68 IAC 6-1-4; filed Nov 10, 1994, 11:00 a.m.: 18 IR 507; 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 Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA)*

### **68 IAC 6-1-4.5 Violation of exclusion**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

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Sec. 4.5. (a) An excluded person violates his or her exclusion by entering a gaming area.

(b) The commission or executive director may assess a civil penalty under 68 IAC 13-2 against any excluded person who violates his or her exclusion.

(c) Nothing in this article infringes upon the right of a casino licensee or operating agent to contact the pertinent law enforcement agency regarding criminal trespass by an excluded person. (*Indiana Gaming Commission; 68 IAC 6-1-4.5; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA*)

### **68 IAC 6-1-5      Petition for removal from exclusion list**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 5. (a) Any excluded person may petition the commission, in writing, and request that his or her name be removed from the exclusion list.

(b) The petition must:

(1) be addressed to the executive director;

(2) state with specificity facts believed by the petitioner to constitute evidence for removal of his or her name from the exclusion list; and

(3) include the signature of the person requesting removal from the exclusion list indicating acknowledgement of the following statement: "I certify, under the penalty of perjury, that the information that I have provided is true, complete, and correct to the best of my knowledge and belief."

(c) The executive director or the executive director's designee may:

(1) deny the petition;

(2) reject the petition; or

(3) designate the petition for review.

(d) The executive director or the executive director's designee must deny a petition if it is submitted prior to the expiration of three (3) years from the effective date or from the conclusion of any hearing, appeal, or prior petition for removal associated with placement on the list, whichever occurs later.

(e) The executive director or the executive director's designee may reject a petition for removal from the exclusion list if:

(1) the petition fails to comply with any of the requirements of subsection (a) or (b); or

(2) the facts contained in the petition are the same or substantially the same facts that the petitioner set forth in a petition for hearing under 68 IAC 7-1 or a prior petition for removal from the exclusion list.

(f) An excluded person whose petition for removal from the exclusion list has been rejected but not denied may cure the cause of the rejection, if possible, and resubmit the cured petition for removal at any time following the rejection as long as the excluded person is in compliance with all other applicable requirements under this article.

(g) A petitioner may not withdraw a request for removal from the exclusion list without leave of the executive director. (*Indiana Gaming Commission; 68 IAC 6-1-5; filed Nov 10, 1994, 11:00 a.m.: 18 IR 507; 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 Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA*)

### **68 IAC 6-1-6      Review of a petition for removal from the exclusion list**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 6. (a) Upon designating a petition for a review proceeding, the executive director must assign one (1) person to serve as review officer to conduct the review. The executive director, deputy director, and commission employees who are attorneys are eligible to serve as review officers.

(b) The review officer must schedule the review proceeding to occur no later than ninety (90) days from the receipt of the request for removal. The review officer must notify the petitioner in writing of the date, time, and place at which the review proceeding will be conducted.

(c) The review officer may grant continuances upon a showing of good cause. (*Indiana Gaming Commission; 68 IAC 6-1-6; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA*)

**68 IAC 6-1-7      Appearances; service**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 7. A petitioner may represent himself or herself or be represented by an attorney or representative who is in compliance with 68 IAC 1-6. (*Indiana Gaming Commission; 68 IAC 6-1-7; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA*)

**68 IAC 6-1-8      Discovery**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 8. The petitioner must provide the review officer with the following information at least fifteen (15) days before the date of the review:

(1) The name and address of any witness who may be called to testify on behalf of the petitioner.

(2) All documents or other evidence, whether or not in the possession and control of the petitioner, that the petitioner reasonably expects will be necessary to introduce at the review proceeding.

(*Indiana Gaming Commission; 68 IAC 6-1-8; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA*)

**68 IAC 6-1-9      Review proceedings**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 9. (a) The burden of proof is at all times upon the petitioner. The petitioner has the affirmative responsibility of establishing that he or she is eligible for removal from the exclusion list.

(b) Any testimony must be given under oath or affirmation.

(c) The petitioner may present his or her case. The review officer may question:

(1) witnesses called by the petitioner; and

(2) the petitioner;

based on the testimony and evidence presented by the petitioner and the information gathered by the commission.

(d) At the discretion of the review officer, the petitioner may present a closing argument. The review officer may restrict the length of the closing argument. (*Indiana Gaming Commission; 68 IAC 6-1-9; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA*)

**68 IAC 6-1-10      Evidence**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 10. (a) Any relevant evidence not in the record from any previous hearing or review proceeding may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules of evidence that may make improper the admission of such evidence over objection in a civil action.

(b) Hearsay may support a finding of the review officer if it:

(1) is the best evidence available; and

(2) has sufficient indicia of trustworthiness and reliability.

(c) The review officer may take official notice of any generally accepted information or technical or scientific matter within the field of gaming and any other fact that may be judicially noticed by the courts of Indiana. The petitioner must be:

(1) informed of any information, matters, or facts so noticed; and

(2) given reasonable opportunity to refute such evidence.

(*Indiana Gaming Commission; 68 IAC 6-1-10; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA; errata filed Jan 27, 2009, 1:42 p.m.: 20090211-IR-068080430ACA*)

**68 IAC 6-1-11 Evidence justifying removal**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 11. (a) The commission may grant a petition for removal from the exclusion list if the petitioner demonstrates by clear and convincing evidence that the petitioner's admission to Indiana casinos would likely not:

(1) threaten the honesty and integrity of gambling operations; or

(2) interfere with the orderly conduct of gambling operations.

(b) In determining whether an individual has fulfilled subsection (a), the review officer and the commission may consider any or all of the following factors:

(1) The nature and seriousness of the offense, violation, or conduct.

(2) The circumstances under which the offense, violation, or conduct occurred.

(3) The date of the offense, violation, or conduct.

(4) The age of the petitioner when he or she committed the offense, violation, or conduct.

(5) Whether the offense, violation, or conduct was an isolated or a repeated incident.

(6) A social condition that may have contributed to the offense, violation, or conduct.

(7) The complete criminal record of the petitioner.

(8) Whether the petitioner's name is included on a valid and current exclusion list from another jurisdiction in the United States.

(9) Other evidence that the petitioner is not a threat, including, but not limited to:

(A) good conduct in prison or the community;

(B) counseling or psychiatric treatment received; or

(C) the recommendation of a person who has or has had the individual under the person's supervision.

(c) If the petitioner has not fulfilled subsection (a), the review officer must recommend denial of the individual's petition for removal. (*Indiana Gaming Commission; 68 IAC 6-1-11; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA*)

**68 IAC 6-1-12 Transmittal of record and recommendation to the commission**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 12. (a) The record of the review proceeding must consist of the following, if applicable:

(1) The order or orders constituting placement on the exclusion list.

(2) The petition for removal.

(3) Information, including the record of evidence and testimony, used by the commission, executive director, or executive director's designee in making the original determination to exclude petitioner.

(4) Evidence admitted by the review officer during the review proceeding.

(5) A statement of matters officially noticed.

(6) The written recommendations and findings of fact made by the review officer.

(7) An original transcription or audio recording of the oral proceedings.

(8) The record from any previous petition for removal from the exclusion list or related proceeding.

(b) Oral proceedings must be recorded, at the direction of the review officer, stenographically or by such other means as to adequately ensure the preservation of such testimony or oral proceedings, and may be transcribed at the request of the petitioner or the commission. The requesting party must pay for the transcript at the prevailing rate. The original transcript, if prepared, must be filed with the commission. A party that did not order the original transcript may obtain a copy of the transcript after paying the cost of copying.

(c) At the conclusion of the review, the review officer must issue written findings of fact and recommendations to the commission. Findings of fact may be based on any evidence in the record.

(d) The commission must issue its order in one (1) of the following manners:

(1) The commission may issue an order by adopting or rejecting the written findings of fact and recommendations of the review officer without further review.

(2) The commission may:

(A) review the record of the petition for removal;

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- (B) render a written order following that review; and
- (C) adopt the findings of fact and recommendations of the review officer as the final commission order after the review.
- (3) The commission may:
  - (A) review the petition for removal from the exclusion list de novo; and
  - (B) render a written order following that review.
- (e) A copy of the final commission order must be served on petitioner by personal delivery or certified mail.
- (f) The final commission order is effective upon:
  - (1) personal delivery to the petitioner; or
  - (2) posting of certified mail.

*(Indiana Gaming Commission; 68 IAC 6-1-12; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA)*

### **68 IAC 6-1-13 Penalties**

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33-4-7; IC 4-35-4-9

Sec. 13. (a) If the review officer finds that the petitioner has acted in bad faith, for the purpose of delay, or has otherwise abused the review proceeding process, the review officer may recommend denial of the petition on grounds of the abuse alone.

(b) If a petitioner fails to testify on his or her own behalf with respect to any question propounded to him or her, the review officer may infer therefrom that such testimony or answer would have been adverse to the petitioner.

(c) If the petitioner fails to answer a subpoena or refuses to testify fully at the request of the commission, such failure may be deemed independent grounds to recommend denial of the petition. The review officer may also infer therefrom that such testimony would have been adverse to the petitioner.

(d) The unexcused failure of the petitioner to appear at a review constitutes an admission of all matters and facts contained in the notice of placement on the exclusion list. In such case, the review officer may recommend action based upon such admission or upon any other evidence, including affidavits, without any further notice to the petitioner. *(Indiana Gaming Commission; 68 IAC 6-1-13; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA)*

## **Rule 2. Eviction List**

### **68 IAC 6-2-1 General provisions**

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33-3-23; IC 4-33-6

Sec. 1. (a) Each riverboat licensee shall maintain a list of evicted persons. Such list shall be comprised of persons who have been barred from a riverboat gaming operation for reasons deemed necessary by the riverboat licensee.

(b) Each riverboat licensee shall submit internal control procedures for both the eviction and the readmission of evicted persons to the executive director.

(c) Each riverboat licensee shall have in place criteria for evicting persons and placing persons on its eviction list. At minimum, the eviction criteria shall include the following behavior:

- (1) Cheating at a gambling game.
- (2) Theft.
- (3) Disorderly conduct.
- (4) Conduct that would lead the riverboat licensee to conclude that the person is a threat to the safety of other passengers, the licensee's employees, or employees and agents of the commission.
- (5) A person requests that his or her own name be placed on the riverboat licensee's eviction list.

(d) Persons shall be placed on the eviction list for a time period determined by the riverboat licensee. The time period for the eviction may be for any period of time that is not less than forty-eight (48) hours. *(Indiana Gaming Commission; 68 IAC 6-2-1; filed Jul 10, 2000, 4:46 p.m.: 23 IR 3062; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)*

**68 IAC 6-2-2 Eviction form**

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33-3-23; IC 4-33-6

Sec. 2. (a) At the time of eviction, the riverboat licensee shall provide the evicted person with a 2-part form that has been approved by the commission and shall advise the evicted person of, at a minimum, the following information:

- (1) The reason for the eviction.
- (2) The earliest date the person may apply for readmission.
- (3) The criteria which must be satisfied for readmission.
- (4) The procedure which must be followed in order to apply for readmission.

(b) The evicted person shall sign both parts of the form. Part 1 of the form will be retained by the evicted person. Part 2 of the form will be retained by the riverboat licensee. In the event that an evicted person refuses to sign the form, the form shall be read to the evicted person, signed by a witness, and the refusal shall be noted on both parts of the form.

(c) The retained part of the form for each evicted person shall be maintained by the riverboat licensee in a place that is immediately accessible to all staff and agents of the commission. Each form shall be retained by the riverboat licensee for a period of not less than one (1) year after the person's eviction has expired. (*Indiana Gaming Commission; 68 IAC 6-2-2; filed Jul 10, 2000, 4:46 p.m.: 23 IR 3062; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA*)

**68 IAC 6-2-3 Readmission to riverboat**

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33-3-23; IC 4-33-6

Sec. 3. (a) Any evicted person seeking readmission to a riverboat gaming operation must submit a written request for readmission to the riverboat licensee.

(b) Each riverboat licensee shall establish written policies, procedures, and criteria for the readmission of an evicted person. In establishing such policies, procedures, and criteria, each licensee shall take into account the following information:

- (1) The reason for the eviction.
- (2) The past history of the evicted person.
- (3) Any outstanding criminal charges arising from the events that led to the eviction.
- (4) Any outstanding debt owed to the riverboat licensee by the evicted person.

(c) Each riverboat licensee shall submit internal control procedures covering readmission approval for evicted persons to the executive director. Readmission shall be approved, at minimum, by the following riverboat licensee officials:

- (1) The general manager.
- (2) The security director.
- (3) The financial director.

(*Indiana Gaming Commission; 68 IAC 6-2-3; filed Jul 10, 2000, 4:46 p.m.: 23 IR 3062; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA*)

**68 IAC 6-2-4 Eviction list**

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33-3-23; IC 4-33-6

Sec. 4. (a) Each riverboat licensee's eviction list shall include the following information, to the extent known, for all evicted persons:

- (1) Name, including aliases.
- (2) Date of birth.
- (3) A physical description.
- (4) The person's current address.
- (5) A photograph, to be taken at the time of eviction.
- (6) Reason for eviction.

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(b) Each riverboat licensee's eviction list shall list evicted persons in alphabetical order, by the last name of the evicted person.

(c) Copies of each riverboat licensee's eviction list shall be accessible to, at a minimum, the following departments of the riverboat licensee:

- (1) Ticketing.
- (2) Reservations.
- (3) Security.
- (4) Surveillance.
- (5) Accounting.
- (6) Marketing.
- (7) Casino or table games operations.
- (8) Slot operations.

(d) A copy of the riverboat licensee's eviction list shall be provided to the enforcement agent assigned to the riverboat licensee. Any additions or deletions to the eviction list must be reported immediately to the enforcement agent assigned to the riverboat licensee. (*Indiana Gaming Commission; 68 IAC 6-2-4; filed Jul 10, 2000, 4:46 p.m.: 23 IR 3063; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; filed Dec 6, 2006, 2:52 p.m.: 20070103-IR-068060191FRA; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA*)

### **Rule 3. Voluntary Exclusion Program**

#### **68 IAC 6-3-1 General provisions**

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 1. (a) This rule applies to riverboat licensees, riverboat license applicants, operating agents, operating agent applicants, owners of facilities under the jurisdiction of the commission, and all persons on riverboats where gambling operations are conducted.

(b) The following definitions apply throughout this rule:

(1) "Request for removal" means a request submitted by a voluntarily excluded individual stating that the individual wishes to be removed from the voluntary exclusion list.

(2) "Request for voluntary exclusion" means a request completed by an individual for placement on the voluntary exclusion list.

(3) "Voluntarily excluded person" means a person who has successfully completed the procedures outlined in this rule to effectuate his or her own exclusion from the gaming areas of facilities under the jurisdiction of the commission.

(4) "Voluntary exclusion list" means a list of names of persons and necessary identifying information of individuals who have elected to voluntarily exclude themselves from the gaming areas of facilities under the jurisdiction of the commission.

(c) Nothing in this rule shall prohibit anyone on the voluntary exclusion list from accessing the gaming areas of a facility under the jurisdiction of the commission for the purpose of carrying out the duties of their employment. An individual who is on the voluntary exclusion list who is hired by a facility under the jurisdiction of the commission must notify the commission office in Indianapolis prior to starting the job. The individual must provide the following information:

(1) Name.

(2) Date of birth.

(3) Name of the facility with which the voluntarily excluded individual will be employed.

(d) Nothing in this rule shall prohibit a riverboat licensee or operating agent from following the procedures outlined in 68 IAC 6-2 to evict a voluntarily excluded person. (*Indiana Gaming Commission; 68 IAC 6-3-1; filed Mar 22, 2004, 3:30 p.m.: 27 IR 2440; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA*)

#### **68 IAC 6-3-2 Request for placement on the voluntary exclusion list**

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 2. (a) Except as provided in section 1(c) of this rule, a person who participates in the voluntary exclusion program agrees to refrain from entering a gaming area under the jurisdiction of the commission.



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(b) Any person may make a request to have his or her name placed on the voluntary exclusion list by following the procedures set forth in this section. The request may be made only by the individual and not by any other person. An individual must not be under the influence of alcohol or drugs at the time he or she makes a request for placement on the voluntary exclusion list.

(c) Any person requesting placement on the voluntary exclusion list must submit a completed request for voluntary exclusion as outlined in subsection (d). The individual must appear in person at a commission office or another location designated by the executive director to complete the request for voluntary exclusion. Commission offices are located on the property of each facility under the jurisdiction of the commission in addition to an office located in Indianapolis that is not located on the property of a facility under the jurisdiction of the commission.

(d) A request for voluntary exclusion must be on a form prescribed by the commission and shall include the following information:

(1) Identifying information, including, but not limited to, the following:

(A) Name, including any aliases or nicknames.

(B) Date of birth.

(C) Current residential address.

(D) Current telephone number.

(E) Social Security number.

(F) A physical description, including the following:

(i) Height.

(ii) Weight.

(iii) Gender.

(iv) Hair color.

(v) Eye color.

(vi) Any other physical characteristic that may assist in the identification of the person.

(G) A photograph of the individual that will be taken by enforcement agents at the time the request for voluntary exclusion is submitted.

(H) Driver's license number.

(I) Any other information deemed necessary by the commission.

(2) As part of the request for voluntary exclusion, a person must elect the time period for which he or she wishes to be voluntarily excluded. An individual may select any of the following time periods as a minimum length of exclusion:

(A) One (1) year.

(B) Five (5) years.

(C) Lifetime.

After an individual's request for voluntary exclusion has been processed by the commission staff and the individual's name is added to the voluntary exclusion list, that individual may not apply to decrease the length of exclusion. A voluntarily excluded individual who elected to participate in the program for a period of one (1) year or five (5) years may resubmit a request for voluntary exclusion at any time to increase the minimum length of exclusion. An individual who has been voluntarily excluded for a period of one (1) year or five (5) years will continue to appear on the list after the expiration of that time period until such time as he or she completes a request for removal under section 5 of this rule.

(3) The form shall also include a waiver and release, which shall release and forever discharge the state, the commission, and its employees and agents from any liability to the person requesting placement on the voluntary exclusion list and his or her heirs, administrators, executors, and assigns for any harm, monetary or otherwise, that may arise out of or by reason of any act or omission relating to the request for placement on the voluntary exclusion list or request for removal from the voluntary exclusion list including the following:

(A) The list's processing or enforcement.

(B) The failure of a riverboat licensee or operating agent to withhold:

(i) direct marketing;

(ii) check cashing; or

(iii) extension of credit;

to a voluntarily excluded individual.

(C) Disclosure of information contained in the voluntary exclusion request or list, except for willfully unlawful disclosure of such information to persons other than entities under the jurisdiction of the commission.

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(D) The dissemination of confidential information contained on the exclusion list by facilities under the jurisdiction of the commission to any party not authorized to receive the information.

(4) The form must also contain the signature of the person submitting the request for voluntary exclusion indicating acknowledgement of the following statement: "I am voluntarily requesting exclusion from the gaming areas at all facilities under the jurisdiction of the Indiana Gaming Commission. I certify that the information that I have provided above is true and accurate, and that I have read and understand and agree to the waiver and release included in this request for placement on the voluntary exclusion list. I am aware that my signature below authorizes the commission to direct all Indiana riverboat licensees and operating agents to restrict my gaming activities in accordance with this request. If I have requested to be excluded for life, I am aware that I will be unable to cause my name to be removed from the voluntary exclusion list. If I have elected to be placed on the list for a period of one (1) or five (5) years, I am aware that I will remain on the list until such time as the commission removes my name from the voluntary exclusion list in response to my written request certifying that I do not suffer from a gambling problem. I am aware and agree that during any period of exclusion, I shall not collect any winnings or recover any losses resulting from any gaming activity at all gaming facilities under the jurisdiction of the commission. I understand that any money or thing of value obtained by me from, or owed to me by, a riverboat licensee or operating agent as a result of wagers made by me while on the voluntary exclusion list shall be subject to forfeiture."

(5) The form will also contain as an attachment a copy of the identification credentials or driver's license examined by an enforcement agent at the time the request for voluntary exclusion is made, containing the signature of the person requesting placement on the voluntary exclusion list.

(6) The signature of an enforcement agent, employee, or other person authorized by the executive director to accept the request for voluntary exclusion, indicating that the signature, physical description, and identity of the person on the request for voluntary exclusion agrees with the identification provided by that individual.

(e) The personal information of a person who participates in the voluntary exclusion program is confidential. An individual who elects to participate in the program must agree that in order to enforce the voluntary exclusion program, facilities under the jurisdiction of the commission must have access to the individual's personal information. Before placement on the voluntary exclusion list, an individual shall authorize the commission staff to provide the following necessary identifying information to the facilities under the jurisdiction of the commission on his or her behalf and for purposes of enforcement:

(1) Name, including any aliases or nicknames.

(2) Date of birth.

(3) Current residential address.

(4) Current telephone number.

(5) A physical description, including the following:

(A) Height.

(B) Weight.

(C) Gender.

(D) Hair color.

(E) Eye color.

(F) Any other physical characteristic that may assist in the identification of the person.

(6) A photograph of the individual that will be taken by enforcement agents at the time of voluntary exclusion.

(7) Driver's license number.

(f) A voluntarily excluded individual shall have the following ongoing obligations regarding the voluntary exclusion list:

(1) Refrain from entering the gaming areas of riverboats and other facilities under the jurisdiction of the commission until such time as a request for removal has been processed by the commission.

(2) Each time the personal information of a voluntarily excluded individual changes, he or she must provide the commission with the updated information.

(3) Notify the commission if direct mailing items are received addressed to a voluntarily excluded person at his or her residence.

(g) A voluntarily excluded individual who violates the terms of the voluntary exclusion list and enters the gaming area of a facility under the jurisdiction of the commission agrees to forfeit any jackpot or thing of value won as a result of a wager made at a facility under the jurisdiction of the commission. The forfeited jackpots or items will be withheld by the riverboat licensee or operating agent and remitted to the commission. The commission shall collect such items and funds as a fine levied against the voluntarily excluded individual for violating this rule. Voluntarily excluded individuals may appeal a forfeiture under this rule by

following the procedures outlined in 68 IAC 7.

(h) Voluntarily excluded individuals agree to forfeit all points or complimentaries earned by the individual on or before the individual completes his or her request for placement on the voluntary exclusion list. Points or complimentaries refer to credits earned by a person under the terms of a riverboat licensee's or operating agent's marketing program as approved by the commission and shall include, but not be limited to:

- (1) food coupons;
- (2) coupons or vouchers for chips or tokens;
- (3) hotel complimentaries; or
- (4) any other such noncash benefit owing to the individual.

However, if at the time an individual makes a request for placement on the voluntary exclusion list he or she is owed a cash amount from a riverboat licensee or operating agent, the individual shall have the right to receive that amount from the riverboat licensee or operating agent after placement on the voluntary exclusion list. To the extent that complimentaries or points described above may be redeemed for cash under the riverboat licensee's or operating agent's marketing program, the individual shall be entitled to receive that amount.

(i) Nothing in this rule shall prohibit a riverboat licensee or operating agent from alerting local law enforcement authorities of a voluntarily excluded person's presence in a facility under the jurisdiction of the commission to effect an arrest for trespassing. (*Indiana Gaming Commission; 68 IAC 6-3-2; filed Mar 22, 2004, 3:30 p.m.: 27 IR 2440; errata filed Jul 9, 2004, 2:21 p.m.: 27 IR 3580; filed Dec 6, 2006, 2:52 p.m.: 20070103-IR-068060191FRA; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA*)

#### **68 IAC 6-3-3 Voluntary exclusion list**

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 3. (a) The executive director or his or her designee shall maintain the voluntary exclusion list, which shall contain the names and personal information of the persons participating in the program. Such persons shall be excluded from gaming areas at all facilities under the jurisdiction of the commission. The executive director or his or her designee shall notify each riverboat licensee or operating agent of each facility under the jurisdiction of the commission of each addition to the list or deletion from the list in a timely manner.

(b) The voluntary exclusion list is confidential and may be disseminated only to a riverboat licensee or operating agent for purposes of enforcement or to any other entity designated by statute. (*Indiana Gaming Commission; 68 IAC 6-3-3; filed Mar 22, 2004, 3:30 p.m.: 27 IR 2442; errata filed Jul 9, 2004, 2:21 p.m.: 27 IR 3580; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA*)

#### **68 IAC 6-3-4 Rights and duties of riverboat licensees and operating agents**

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 4. (a) Each riverboat licensee, riverboat license applicant, operating agent, and operating agent applicant shall establish internal control procedures for compliance with this rule, which shall be submitted and approved by the commission under 68 IAC 11-1-3.

(b) The internal controls must, at a minimum, address the following:

(1) Procedures must provide a plan for distributing the list of persons who have voluntarily excluded and their personal information to appropriate personnel of the facility for purposes of enforcing the program. The plan must allow, to a reasonable extent, appropriate employees of a riverboat licensee or operating agent to identify a voluntarily excluded person when that person is present in a casino or other facility under the jurisdiction of the commission. Such information shall not be released to casinos in other jurisdictions. However, nothing in this rule shall prohibit a riverboat licensee or operating agent from effectuating the eviction of a voluntarily excluded person from other properties within their corporate structure so that the person will be denied gaming privileges at casinos under the same parent company in other jurisdictions.

(2) Must provide a process whereby enforcement agents and security and surveillance are notified immediately when a voluntarily excluded person is detected in the gaming area of a facility.

(3) Must:

- (A) refuse wagers from; and
- (B) deny gaming privileges to;

any individual who the casino knows to be a voluntarily excluded person.

(4) Make all reasonable attempts to ensure that voluntarily excluded persons do not receive direct marketing. A riverboat licensee or operating agent will satisfy this requirement if the riverboat licensee or operating agent removes the individual's name from the list of patrons to whom direct marketing materials are sent, and the individual does not receive direct marketing materials more than forty-five (45) days after the riverboat licensee receives notice, under section 3(a) of this rule, that the individual has appeared on the voluntary exclusion list.

(5) Ensure that voluntarily excluded persons do not receive check cashing privileges or extensions of credit, whether directly through the riverboat licensee or operating agent, or through a supplier contracting with a riverboat licensee or operating agent on property hired for the purpose of check cashing or extension of credit, or both.

(c) Nothing in this rule shall prohibit a riverboat licensee or operating agent from seeking payment of a debt from a voluntarily excluded person if the debt was accrued by a person before his or her name was placed on the voluntary exclusion list.

(d) A riverboat licensee or operating agent shall post signs at the turnstiles marking the entrance to the gaming area that will inform and educate patrons about the voluntary exclusion program. The text that will appear on the signs must be submitted to the commission staff for approval before posting.

(e) A riverboat licensee or operating agent shall be subject to disciplinary action under 68 IAC 13 for failure to comply with the requirements of this section and the internal control procedures outlined pursuant to this section, including, but not limited to, the following:

- (1) Release of confidential information for a purpose other than enforcement.
- (2) Knowingly refusing to withhold direct marketing, check cashing, and credit privileges.
- (3) Failure to follow internal control procedures adopted under this rule.

*(Indiana Gaming Commission; 68 IAC 6-3-4; filed Mar 22, 2004, 3:30 p.m.: 27 IR 2442; filed Dec 6, 2006, 2:52 p.m.: 20070103-IR-068060191FRA; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)*

**68 IAC 6-3-5 Removal from voluntary exclusion list**

Authority: IC 4-33-4-1; IC 4-33-4-2; IC 4-33-4-3

Affected: IC 4-33

Sec. 5. (a) This section does not apply to those voluntarily excluded individuals who elected lifetime exclusion under section 2(d) of this rule.

(b) A person may, upon the expiration of the selected term of voluntary exclusion, request removal of his or her name from the voluntary exclusion list. A person making a request for removal must do so by:

- (1) presenting to a commission office or other location designated by the executive director; and
- (2) declaring, in writing, on a form provided by the commission, the intent to remove his or her name from the voluntary exclusion list.

(c) A request for removal from the voluntary exclusion list shall contain the following information:

- (1) Name, including aliases or nicknames.
- (2) Date of birth.
- (3) Address of current residence.
- (4) Telephone number of current residence.

(5) The signature of the person requesting removal from the voluntary exclusion list indicating acknowledgement of the following statement: "I certify that the information that I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for placement on the voluntary exclusion list, and I authorize the commission to permit all Indiana riverboat licensees or other facilities under the jurisdiction of the commission to reinstate my gaming privileges."

(6) The signature of the enforcement agent or other individual authorized by the executive director to accept a request for removal, verifying that the individual requesting removal is the voluntarily excluded individual.

(d) Upon receipt of a request for removal, the commission shall effectuate the removal of the name of the individual requesting removal from the voluntary exclusion list. The commission shall act upon a request for removal within thirty (30) days of receipt

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of the request.

(e) The commission shall notify each riverboat licensee or operating agent each time an individual is removed from the voluntary exclusion list. Once an individual's name has been removed from the voluntary exclusion list, nothing in this rule shall prohibit a riverboat licensee or operating agent from:

- (1) marketing directly to that individual;
- (2) cashing checks of such a person; or
- (3) extending credit to the individual.

*(Indiana Gaming Commission; 68 IAC 6-3-5; filed Mar 22, 2004, 3:30 p.m.: 27 IR 2443; filed Dec 6, 2006, 2:52 p.m.: 20070103-IR-068060191FRA; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)*

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