Regulatory Analysis

Notice of Intended Action to be published: 491—Chapter 1
"Organization and Operation"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 99D.7 and 99F.4
State or federal law(s) implemented by the rulemaking: Iowa Code chapters 99D and 99F

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 21, 2025	6200 Park Avenue, Suite 100
9 a.m.	Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Iowa Racing and Gaming Commission (Commission) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
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Purpose and Summary

Under Iowa Code sections 99D.9(1) and 99F.7(1), the Commission decides the number, location, and type of racetracks, gambling structures, and excursion gambling boats in Iowa. Those seeking to establish a new facility apply to the Commission for licenses. Under Iowa Code sections 99D.8A(3) and 99F.6(3), the Commission charges a fee to these applicants to defray the costs associated with background investigations of applicants and may set other license fees.

In 2000, the Commission set, by rule, a nonrefundable license application fee of $25,000. The fee is intended to offset the Commission's cost for processing the application. In addition, the fingerprinting and background costs are set at $30,000—but unlike the Commission application fee, the fingerprinting and backgrounding costs are refundable if the Department of Public Safety (Department) does not incur the full amount; conversely, the Department may require the applicant to pay additional amounts if the fingerprinting and background costs exceed $30,000.

The Commission's application fee has not increased in 25 years. Over those 25 years, the gaming market in Iowa has changed significantly. In both 2004 (ten applications across seven counties) and 2009 (five applications, each in a different county), the Commission received multiple applications at once as operators sought to expand the market. However, the market has matured and expansion has not been proposed as rapidly since 2009.

Most recently, the Linn County application cycle from 2024 into 2025 involved one application. The Commission's costs to evaluate that application—including travel for a site visit, holding an additional meeting to hear comments from the public on the application, retaining the services of independent market consultants, and other expenses attributable to reviewing the application—far exceeded the $25,000 application fee. Because the Commission cannot bill an applicant for additional costs under the current rule (unlike the Department's ability to do so for

backgrounding costs), the costs beyond $25,000 had to be absorbed by the Commission's appropriated budget.

The proposed rulemaking aims to prevent the Commission's budget from having to absorb unanticipated (and potentially significant) expenses from future applications and recognizes the changed Iowa market since the application fee was first established in 2000. First, the proposed rulemaking increases the initial application fee to acknowledge that nearly everything is more expensive now than it was 25 years ago. Second, the proposed rulemaking allows the Commission to bill an applicant for additional expenses beyond the initial fee. Third, as a counterbalance, the proposed rulemaking changes the nature of the fee; rather than being nonrefundable, any unused portion of the application fee is refundable if the application is denied or, if it is granted, after the facility opens.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

The proposed rulemaking expressly increases the costs for prospective applicants (qualified sponsoring organization, operator, or both) to seek a license to conduct gambling games or operate a gambling structure or excursion gambling boat.

- **Classes of persons that will benefit from the proposed rulemaking:**

Under Iowa Code section 99F.10(4)"e," existing licensees' regulatory fees are reduced each year by an amount equal to unexpended moneys from the previous fiscal year that were deposited into applicable Commission-related revolving funds. Because the proposed rulemaking would reduce the impact of application processing expenses on the Commission's budget, existing Iowa licensees may benefit from the proposed rulemaking in the form of a comparative reduction to their regulatory fees in years when an application is submitted to the Commission.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

License applicants currently pay $25,000 to the Commission and $30,000 to the Department, totaling at least $55,000 to submit a racetrack, gambling structure, or excursion gambling boat license application. The proposed rulemaking increases the Commission application fee to $250,000 and, in consultation with the Department, increases the fingerprinting and background costs to $50,000, totaling an increase to at least $300,000 for submission of any new racetrack, gambling structure, or excursion gambling boat license applications. However, because applicants will be responsible for a greater share of application processing expenses, there could be a corollary quantitative impact that comparatively reduces existing licensees' regulatory fees, as discussed in section 1 of this analysis.

- **Qualitative description of impact:**

An increase in application costs may deter some prospective applicants. However, the recalibrated cost figures could also have the effect of ensuring that any prospective applicants are financially responsible, as required by Iowa Code sections 99D.9(3)"b" and 99F.7(8)"b," and that any prospective applicants are prepared to invest significantly in their Iowa operations.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Minimal implementation costs may be required for the agency to update applicable forms and guidance documents explaining the license application process. However, the Commission anticipates that any such costs can be absorbed as part of regular duties for Commission staff.

- **Anticipated effect on State revenues:**

The proposed rulemaking is not anticipated to impact State revenues. Although the application fees are proposed for increase, any unused portion of the fees would be refunded to the applicant.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

This comparison weighs in favor of the proposed rulemaking. If the rulemaking is completed, the costs are minimal and the benefits include a reduced likelihood of budgetary strain for the Commission and the State caused by incurring significant application processing expenses beyond the application fee. By contrast, inaction would leave the application fee at the level initially set 25 years ago in a vastly different Iowa gaming market.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Commission has not identified less costly methods or less intrusive methods for achieving the purpose of the proposed rulemaking.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

A former Commission rule expressly limited the number of licenses in Iowa, but the Commission rescinded that rule in 2004. Reinstating a similar rule could be an option to reduce the Commission's expenses incurred in processing license applications. In other words, if a license application would not be granted because a new license would exceed the numerical limits established by rule, then applicants would be unlikely to submit one in the first place, and so the Commission would not face the possibility of incurring additional application processing expenses.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Under Iowa Code sections 99D.7(1) and 99F.4(1), the Commission selects, among competing applicants, the applicant that best serves the interests of the citizens of Iowa. Thus, a rule expressly limiting the number of licenses was rejected because it is comparatively inflexible and does not account for possible proposals, including many years into the future, that might demonstrate a net benefit to the State.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking does not have a substantial impact on small business. For example, the proposed rulemaking does not address schedules or deadlines for compliance and does not address standards for performance or design.

Text of Proposed Rulemaking

ITEM 1. Amend subrule 1.5(1) as follows:

1.5(1) *Racing, gambling structure, or excursion gambling boat license application.* This form ~~shall contain~~ contains at a minimum the full name of the applicant, all ownership interests, balance

sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the facility, and description of proposed operation. The form may include other information the commission deems necessary to make a decision on the license application. The ~~qualified nonprofit corporation and the boat operator, if different than the qualified nonprofit corporation, shall pay a nonrefundable application fee in the amount of $25,000 to offset the commission's cost for processing the application. Additionally, the applicant shall remit an investigative fee of $30,000 to the department of public safety to do background investigations as required by the commission. The department of public safety shall bill the applicant/licensee for additional fees as appropriate and refund any unused portion of the investigative fee within 90 days after the denial or operation begins.~~ applicant or applicants also pay or remit the following fees:

a. An initial application fee in the amount of $250,000 to the commission to cover the commission's actual expenses incurred in processing and evaluating the application. Actual expenses may include but are not limited to the cost of appropriate meeting spaces, facilities, and equipment; transportation, lodging, meals, and other travel-related expenses; and market feasibility studies the commission conducts or other consultants the commission retains. The commission will bill the applicant or licensee for additional expenses beyond the initial application fee as appropriate and will refund any unused portion of the fee within 90 days after the license is denied or within 90 days after operation begins.

b. An investigative fee of $50,000 to the department of public safety to complete background investigations. The department of public safety will bill the applicant/licensee for additional fees as appropriate and will refund any unused portion of the investigative fee within 90 days after the license is denied or within 90 days after operation begins.