

4.100 Preliminary finding of suitability .[Effective 10/1/11].

1. As used in this section:

(a) "Acquire control" or "acquiring control" means "acquire control" or "acquiring control" as those terms are defined in NRS Chapter 463.

(b) "Control" means "control" as that term is defined in NRS Chapter 463.

(c) "Corporate acquisition opposed by management" means "corporate acquisition opposed by management" as that term is defined in NRS Chapter 463.

(d) "Preliminary finding of suitability" means the commission grant of an application by a person who has not entered into a position or transaction which would require a licensing, finding of suitability, or registration by the commission pursuant to NRS Chapter 463 but wishes to submit to the jurisdiction of the board and commission for the purposes of obtaining a preliminary determination of whether or not the person is suitable to hold a nonrestricted license under NRS Chapter 463.

(e) "Tender offer" means "tender offer" as that term is defined in NRS Chapter 463.

(f) "Voting security" means "voting security" as that term is defined in NRS Chapter 463.

2. Any person who has not applied for, does not possess, and has not entered into a transaction which would require a license, finding of suitability, or commission approved registration pursuant to NRS Chapter 463 and the NGC Regulations may apply to the commission for a preliminary finding of suitability.

3. On an application for preliminary finding of suitability, the board and commission shall determine whether the person making the application is suitable to hold a nonrestricted license even if the person intends to make an application for something other than a nonrestricted license after applying for a preliminary finding of suitability.

4. The application for a preliminary finding of suitability shall be in the same form as if the person was applying for a nonrestricted license except that such application will be designated as a preliminary finding of suitability and modified as the board chairman deems appropriate.

5. Individuals and other entities associated with the person applying for a preliminary finding of suitability shall also apply for preliminary findings of suitability based on their relationship with the person applying for the preliminary finding of suitability. It is the responsibility of the person applying for the preliminary finding of suitability to determine which individuals and other entities are required to apply for preliminary findings of suitability and the capacity in which the individuals and other entities should apply for their own preliminary findings of suitability pursuant to the gaming control act and regulations of the commission.

6. Each application set out above must be accompanied by a nonrefundable application fee in the amount of \$500.00. In addition, the board may require the pre-payment of investigative fees and costs as may be determined by the board in accordance with Regulation 4.070 subsections (1) and (5) through (9), inclusive.

7. Acting upon a recommendation of the board, the commission may grant, deny, or reject an application for preliminary finding of suitability based on the standards set forth in NRS 463.1405 and NRS 463.170. The commission's determination will be based upon the facts and circumstances known at the time and may be limited or conditioned in any manner deemed reasonable by the commission. The commission's determination is limited solely to the application(s) for preliminary findings of suitability before it and shall not constitute actual or implied approval of any future applications for a gaming license, finding of suitability, or registration.

8. If the commission denies an application for preliminary finding of suitability, such denial is a denial under the act. If the commission rejects an application for a preliminary finding of suitability, such rejection shall not be considered a denial under the act.

9. Unless otherwise limited or conditioned by the commission, a preliminary finding of suitability pursuant to this section shall expire 2 years after the date of the commission's determination unless administratively extended by the board chairman for additional periods of 2 years each.

(a) A person who desires an administrative extension of the person's preliminary finding of suitability shall timely file a request for such administrative extension with the board. Requests will be considered timely filed if they are complete and are received by the board at least 90 days prior to the expiration of the preliminary finding of suitability.

(b) Such request shall be accompanied by a nonrefundable fee of \$500.

(c) The board chairman shall determine the level of investigation necessary for the request and require the pre-payment of investigative fees and costs in accordance with Regulation 4.070 subsections (1) and (5) through (9), inclusive.

(d) If the board chairman rejects a request for extension of a preliminary finding of suitability, the person who requested the extension may submit the matter for review by the board and commission pursuant to NGC Regulations 4.185 through 4.195, inclusive.

(e) If the board chairman has not made a decision on a timely filed request for administrative extension of a preliminary finding of suitability or if the board chairman has rejected such timely filed request and the applicant requests board review or appeals to the commission, any subsequent grant of an extension of a preliminary finding of suitability shall relate back to the date on which the preliminary finding of suitability expired.

10. A person who applies to the commission for a preliminary finding of suitability submits to the jurisdiction of the board and the commission. The board shall have full and absolute power and authority to recommend the granting, denying, rejecting, limitation, conditioning, restriction, revocation, or suspension of any preliminary finding of suitability required or permitted under this section, or any application therefor, or to recommend other disciplinary action, including but not limited to fining persons holding a preliminary finding of suitability, for any cause deemed reasonable by the board. The commission shall have full and absolute power and authority to grant, deny, reject, limit, condition, restrict, revoke or suspend any preliminary finding of suitability required or permitted under this section, or any application therefor, or to take other disciplinary action, including but not limited to fining persons holding a preliminary finding of suitability, for any cause deemed reasonable by the commission.

11. No person may be issued a preliminary finding of suitability unless the person agrees that, for the duration of the period in which the person holds the preliminary finding of suitability, the person will not seek or in any way engage in a corporate acquisition opposed by management.

12. No applicant for a preliminary finding of suitability has any right to the granting of the application sought. Any preliminary finding of suitability is a revocable privilege, and no holder acquires any vested right therein or thereunder. Judicial review is not available for decisions of the board and commission made or entered under the provisions of this section.

13. A preliminary finding of suitability pursuant to this section may not be sold, assigned, transferred, or disposed of in any manner.

(Adopted: 8/11.)