



ADMINISTRATIVE RULES OF MONTANA



23.16.117 TRANSFER OF INTEREST TO NEW OWNER

- (1) Except as provided in (7), (8), (9), and (10), an ownership interest may not be transferred to a stranger to the license until a new gambling license application reflecting the proposed transfer is submitted to the department and the department approves the transfer.
- (2) The gambling license application must include:
 - (a) the annual license fee, if applicable, and the processing fee required for the specific license; and
 - (b) a copy of the proposed agreement to transfer the interest.
- (3) The department shall conduct an investigation to determine whether the proposed transfer meets the licensure requirements in 23-5-176, MCA, and department rules. In any case of the transfer of an ownership interest to a new owner, the department must determine that the transferred ownership interest will be independently exercised by the new owner and will not remain under the control of the transferor before approving the transfer.
- (4) Within 90 days after receiving the completed application, the department shall approve the proposed transfer by issuing a gambling license, notify the applicant of the denial of the license, or take other action.
- (5) After the gambling license has been issued, the department shall issue the appropriate gambling permits to the licensee upon submission of completed applications and payment of permit fees.
- (6) A certificate, stock, or other evidence of ownership may be obtained for the licensee's records but not executed until the date the gambling license has been issued by the department.
- (7) The provisions of this rule do not apply to the:
 - (a) transfer of a security interest in a licensed gambling operation; or
 - (b) transfer that results in less than 5% ownership interest in a publicly traded corporation. Transfers that result in an ownership interest of 5% or greater in a publicly traded corporation are subject to the provisions in (10). The department reserves the right to act under 23-5-136, MCA, in this situation if it determines that the transfer violates Montana gambling law or the rules in this chapter.
- (8) Transfers of ownership in a licensed gambling operation resulting from foreclosure on a contract for deed or other instrument of transfer require submission of an application as described as follows:

- (a) Gambling activity may continue pending the outcome of a license investigation for a proposed transfer of ownership interest resulting from foreclosure under the following conditions:
 - (i) the party foreclosing has had no change in ownership since last licensed, and is the licensee's immediate predecessor;
 - (ii) the foreclosing party is suitable for licensure;
 - (iii) all applicable permit fees are paid; and
 - (iv) the former licensee has notified the department of the foreclosure at the time the foreclosure is executed; notification must be made within five working days of execution and an application must be received by the department within 30 working days following notification; failure to notify the department within this time frame may result in department action to cause gambling operations to cease immediately, and:
 - (A) the foreclosure takes place within two years following the sale, in which case an amended license application may be submitted on a Form 37, together with a personal history statement (Form 10) for each person applying for licensure, and a complete set of fingerprints (Form FD-258) obtained and certified by a local law enforcement agency, the department, or a private security company approved by the department, for each person required to complete a personal history statement, and a copy of the licensee's most recent financial statements or tax returns; or
 - (B) the foreclosure takes place more than two years but fewer than five years following the sale, a new license application is required, including all applicable fees, as long as the owner meets the criteria contained in (8)(a)(i), (ii), (iii), and (iv).
 - (b) Transfers resulting from foreclosure that do not meet all of the conditions set forth in (8)(a) require a new license application to be filed and gambling activities to cease pending approval of the application.
- (9) Transfers of control of a licensed gambling operation into a receivership, trust, an estate mandated by court order, or to an attorney in fact actually exercising control under a power of attorney require an amended application to be filed. The transfer of ownership interest to an estate that results from the death of a licensee may be reported on Form 37.
- (a) Under this circumstance, gambling activity may continue pending the outcome of the license investigation if the following documents are submitted and determinations are made:
 - (i) documentation of the event precipitating the transfer of the licensed gambling operation into a receivership, trust, or estate, e.g., death certificate;
 - (ii) documents naming/appointing a person to exercise control, e.g., receiver, personal representative, trustee, or attorney in fact;
 - (iii) personal history statement (Form 10), as that form is described in ARM 23.16.102, for the person designated to act in the capacity of a receiver, or trustee, or attorney in fact;
 - (iv) a complete set of fingerprints, Form FD-258 provided by the department, obtained and certified by a local law enforcement agency, the department, or a private security

company approved by the department for each person required to complete a personal history statement; and

- (v) a copy of the licensee's most recent financial statements or tax returns; and
 - (vi) the department determines the receiver or attorney in fact is suitable to hold or own a license.
- (b) Upon the dissolution or termination of a receivership, trust, estate, or power of attorney licensed under (9), if ownership interests are distributed to strangers to the license, a new license application must be filed and all applicable rules and procedures must be followed.
- (c) If ownership interests are transferred to existing owners following the dissolution of a receivership, trust, or estate, an amended license application must be filed.
- (10) Transfers that result in 5% or greater ownership interest in a licensed gambling operation held by a publicly traded corporation may occur prior to approval under the following conditions:
- (a) Whenever a change in ownership results in 10% or greater ownership interest by an active investor, or 20% or greater ownership interest by a passive investor, the licensee shall, within 60 days from the date of change in ownership interest, file with the department a complete Form 40 license application form. The Form 40 shall be submitted together with all required documents and fees.
 - (b) Whenever a change in ownership results in an ownership interest by an active investor that is 5% or greater, but less than 10%, the licensee shall, within 60 days from the date of change in ownership interest, file with the department a complete Form 43 notification form, including all required documents.
 - (c) Whenever a change in ownership results in an ownership interest by a passive investor that is 5% or greater, but less than 20%, the licensee shall, within 60 days from the date of change in ownership interest, file with the department a complete Form 43 notification form, including all required documents.

Authorizing statute(s): 23-5-112, 23-5-115, MCA

Implementing statute(s): 23-5-115, 23-5-118, 23-5-176, MCA

History: NEW, 1991 MAR p. 1942, Eff. 10/18/91; AMD, 1993 MAR p. 2786, Eff. 11/25/93; AMD, 1994 MAR p. 2834, Eff. 10/28/94; AMD, 1997 MAR p. 404, Eff. 2/25/97; AMD, 2003 MAR p. 1989, Eff. 9/12/03; AMD, 2007 MAR p. 2010, Eff. 12/7/07; AMD, 2009 MAR p. 2480, Eff. 12/25/09; AMD, 2011 MAR p. 2628, Eff. 12/9/11; AMD, 2017 MAR p. 87, Eff. 1/7/17; AMD, 2022 MAR p. 48, Eff. 1/15/22; AMD, 2024 MAR p. 472, Eff. 3/9/24.