



## **NOTICE OF MEETING and AGENDA**

January 9, 2014

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Thursday, January 9, 2014

9:30 a.m.

**Boston Convention and Exhibition Center**

415 Summer Street, Room 160 A&B

Boston, MA

### **PUBLIC MEETING #101**

1. Call to order
2. Approval of Minutes
  - a. December 13, 2013
  - b. December 16, 2013
  - c. December 19, 2013
3. Research and Problem Gaming – Mark Vander Linden, Director
  - a. Self-Exclusion Regulations – Todd Grossman, Deputy General Counsel
4. Workforce Supplier and Diversity Development – Jill Griffin, Director
  - a. Introduction of Vendor Advisory Team
  - b. Proposal for a Small Business Capacity Building Program
5. Licensing Division – David Acosta, Director
  - a. Licensing Regulations -- VOTE
6. Racing Division – Jennifer Durenberger, Director
  - a. Administrative Update
  - b. Interim Legislation Proposal -- VOTE
  - c. Transition Update – Plainridge Park
  - d. Proposed Player Rewards Program – Plainridge Park
7. Administration – Rick Day, Executive Director
  - a. General Update
  - b. Proposed Organization Review – Trupti Banda, Human Resources Manager
  - c. Internet Gaming Forum – Commission McHugh
  - d. Draft Regulations for Licensee Cost Assessment – Derek Lennon, CFAO and Todd Grossman, Deputy General Counsel
  - e. Tax Withholding – Catherine Blue, General Counsel and Chairman Crosby

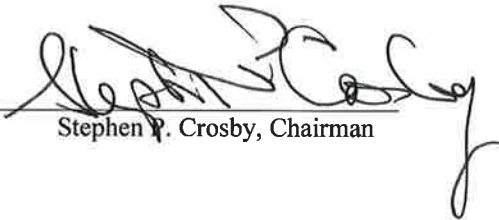


Massachusetts Gaming Commission

8. Legal Division – Catherine Blue, General Counsel
  - a. Form of Gaming License – Todd Grossman, Deputy General Counsel and David Acosta, Director – Licensing Division
  
9. Information Technology Division – John Glennon, Director
  - a. Slots Standards and Approval Process Policy and Regulations
  - b. Gaming Lab Presentation
  
10. Ombudsman Report – John Ziemba
  - a. General Update
  - b. Order for January 22<sup>nd</sup> Category 1 Application Presentations
  
11. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that on this date, this Notice was posted as “Gaming Commission Meeting” at [www.massgaming.com](http://www.massgaming.com) and emailed to: [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us), [melissa.andrade@state.ma.us](mailto:melissa.andrade@state.ma.us).

1/6/13  
(date)

  
Stephen P. Crosby, Chairman

**Date Posted to Website:** January 7, 2014 at 9:30 a.m.



Massachusetts Gaming Commission

**SECTION 1 – NO DOCUMENTS FOR  
REVIEW**

**SECTION 2 – NO DOCUMENTS FOR  
REVIEW**



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## Meeting Minutes

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**Date/Time:** December 13, 2013 – 9:30 a.m.

**Place:** Boston Convention and Exhibition Center  
415 Summer Street, Room 151A&B  
Boston, Massachusetts

**Present:** Commissioner Stephen P. Crosby, Chairman  
Commissioner Gayle Cameron  
Commissioner James F. McHugh  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga

**Absent:** None

Clicking on the time posted in the margin will link directly to the appropriate section of the video.

### Licensing Regulations

- 9:34 a.m. Chairman Crosby opened the 97th public meeting and introduced discussions on the Commission's proposed licensing regulations.
- 10:53 a.m. Hakim Cunningham, representing the Boston Worker's Alliance, presented comments relative to the proposed regulations.
- 11:04 a.m. Lisa Clauson, representing Unite Here, presented comments relative to the proposed regulations.
- 11:20 a.m. Aaron Tanaka, former director at the Boston Worker's Alliance, presented comments relative to the proposed regulations.
- 11:29 a.m. Bill Messner, representing MCCTI, presented comments relative to the proposed regulations.
- 11:36 a.m. Bill Kelley, representing the Beer Distributors of Massachusetts Incorporated, presented comments relative to the proposed regulations.

11:41 a.m. The Commission continued discussing proposed changes to the licensing regulations.

11:50 a.m. The Commission took a recess for lunch.

### **FBT Everett Land Discussion**

1:02 p.m. The Commission discussed the IEB's concerns regarding a potential undisclosed ownership interest in Wynn MA, LLC's option to purchase land in the City of Everett and Wynn MA LLC's proposed resolution to the IEB's concerns. Chairman Crosby was not present for the discussion or the vote.

2:37 p.m. *Motion made by Commissioner McHugh that Commission accept the resolution proposed by Wynn MA to the issues that arose out of the land transaction about which the Commission heard today, with the essential ingredients that were outlined: (1) that the sale price be no more than \$35 million with the \$10 million proviso for cleanup cost; (2) that the three members of FBT Everett Realty, LLC, who are nominally going to receive the proceeds be required to sign a notarized document under oath saying that they are the exclusive recipients of the proceeds; and (3) that the IEB be instructed to deliver its entire file in this matter to the U.S. Attorney, the District Attorney for Suffolk County, and the Attorney General for such action, if any, as one or more of those bodies chooses to take. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 4-0 vote.*

2:39 p.m. Meeting adjourned.

### **List of Documents and Other Items Used**

1. Massachusetts Gaming Commission December 13, 2013 Notice of Meeting and Agenda
2. Massachusetts Gaming Commission proposed licensing regulations for 205 CMR 134.00 and amendments to 205 CMR 101.00 – 133.00
3. Massachusetts Gaming Commission Public Comments relative to the Commission's proposed licensing regulations
4. Excerpt from the Massachusetts Gaming Commission Investigations and Enforcement Bureau Suitability Report of Wynn MA, LLC

/s/ Catherine Blue  
Catherine Blue  
Assistant Secretary



## Meeting Minutes

**Date/Time:** December 16, 2013 – 1:00 p.m.

**Place:** Boston Convention and Exhibition Center  
415 Summer Street, Room 151A&B  
Boston, Massachusetts

**Present:** Commissioner Stephen P. Crosby, Chairman  
Commissioner Gayle Cameron  
Commissioner James F. McHugh  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga

**Absent:** None

Clicking on the time posted in the margin will link directly to the appropriate section of the video.

### Surrounding Community Arbitration

- 1:00 p.m. Chairman Crosby opened the 99th public meeting.
- 1:01 p.m. Ombudsman Ziembra discussed the status of surrounding community negotiations for Category 2 applicants and stated that the deadline for negotiations is December 26. The Commission staff has prepared a draft guidebook for arbitrators.
- 1:04 p.m. The Commission discussed how to interpret the “best and final offer” language of 205 CMR 125.01(c)(3) and how the arbitrator will determine what is a reasonable offer.
- 1:13 p.m. Meeting adjourned.

### List of Documents and Other Items Used

1. Massachusetts Gaming Commission December 16, 2013 Notice of Meeting and Agenda

/s/ Catherine Blue  
Catherine Blue  
Assistant Secretary



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## Meeting Minutes

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**Date/Time:** December 19, 2013 – 9:30 a.m.

**Place:** Boston Convention and Exhibition Center  
415 Summer Street, Room 151  
Boston, Massachusetts

**Present:** Commissioner Stephen P. Crosby, Chairman  
Commissioner Gayle Cameron  
Commissioner James F. McHugh  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga

**Absent:** None

Clicking on the time posted in the margin will link directly to the appropriate section of the video.

### Call to Order

See transcript page 2.

9:30 a.m. Chairman Crosby opened the 100th public meeting.

### Approval of Minutes

See transcript pages 2-5.

9:30 a.m. Commissioner McHugh stated that the minutes for the December 3 and December 10 public meetings are ready for approval. The minutes for December 13 are not yet ready.

*Motion made by Commissioner McHugh that the minutes of December 3, 2013 be accepted subject to any mechanical or typographical corrections that may later be found. Motion seconded by Commissioner Cameron. The motion passed unanimously.*

*Motion made by Commissioner McHugh that the minutes of December 10, 2013 be accepted subject to any mechanical or typographical corrections that may later be found. Motion seconded by Commissioner Stebbins. The motion passed unanimously.*



**Racing Report**

See transcript pages 5-29.

- 9:32 a.m. Director Jennifer Durenberger provided an administrative update and an overview of the conferences that she attended.
- 9:49 a.m. Attorney Danielle Holmes presented the small business impact statement and the final version of 205 CMR 3.29 and 4.52. Attorney Holmes requested that the Commission approve the filing of the regulations and small business impact statement conditional on receiving no adverse comments from the legislature.
- 9:53 a.m. *Motion made by Commissioner McHugh that the Commission authorize the filing of the small business impact statement with the appropriate authorities forthwith. Motion seconded by Commissioner Stebbins. The motion passed unanimously.*
- 9:54 a.m. *Motion made by Commissioner McHugh that the Commission file with the Secretary of State the new versions of 205 CMR 3.29 and 4.52 as soon as the legislature has had the full 60 days to review the regulations and sufficient time elapses after the filing of the small business impact statement. Motion seconded by Commissioner Cameron. The motion passed unanimously.*

**Legal Division**

See transcript pages 29-78.

- 9:55 a.m. General Counsel Catherine Blue presented Mohegan Sun and Revere's waiver request to the Commission. As the Commission discussed and permitted at the December 10 public meeting, Mohegan Sun Massachusetts, LLC and the City of Revere properly and timely filed a request that the Commission waive its requirement that a positive referendum vote be submitted along with the RFA-2 application.
- 9:58 a.m. *Motion made by Commissioner McHugh that the Commission grant the request by Mohegan Sun Massachusetts, LLC and the City of Revere for a waiver of 205 CMR 119.01(7) to permit the filing of a certified copy of the results of the vote that they have committed to hold after the December 31, 2013 deadline for submission of RFA-2 applications. Motion seconded by Commissioner Stebbins. The motion passed unanimously.*
- 10:00 a.m. The Commission discussed the arbitration guidebook and specifically how to interpret best and final offer, what discretion the arbitrator has to modify the offers, and the applicability of the Uniform Arbitration Act. Commissioner McHugh made an effort to articulate the extent of the arbitrator's discretion in terms of deciding between the two best and final offers: "picking between the one or the other of the offers is the preferred outcome with such changes as are necessary to deal with some provision of the agreement that clearly violates G.L. c. 23K. It is not a broad

empowerment to the arbitrator to impose her own notions of what is fair and reasonable.” The Commission staff will update the arbitrator guidebook to reflect the Commission’s discussion.

10:38 a.m. *Motion made by Commissioner McHugh that the Commission adopt the document entitled “Handbook for Binding Arbitration Between an Applicant for a Gaming Establishment License and a Surrounding Community to Reach a Surrounding Community Agreement” with modifications conforming to the discussion the Commission just concluded, and that will be reflected in the transcript of the Commission’s meeting. Motion seconded by Commissioner Cameron. The motion passed unanimously.*

10:39 a.m. The Commission discussed whether timeframes that are tied to the submission of the Category 1 RFA-2 Applications, such as the 10 day period for filing Surrounding Community petitions, should begin on the December 31, 2013 deadline for submission or on the date the application is in fact filed. The Commission discussed the granting of a variance to allow the timeframes to begin on December 31, 2013 if the application is filed prior to December 31. The Commission considered the four criteria required for granting a variance.

10:44 a.m. *Motion made by Commissioner McHugh that the Commission grant a variance from its regulations modifying all timelines that are tied in the Commission’s regulations to the date on which an RFA-2 Application for a Category 1 license is filed such that those timelines commence on December 31, 2013 and not on the earlier date on which the application is in fact filed.*

10:46 a.m. The Commission discussed whether Keno machines count against the total number of slot machines that a gaming establishment is authorized by statute to operate. The Commission agreed that Keno machines should not be considered slot machines for this purpose.

### **Ombudsman Report**

See transcript pages 78-95.

10:50 a.m. Ombudsman John Ziembra presented the schedule for Category 1 and 2 licenses.

11:05 a.m. Ombudsman Ziembra updated the Commission on the status of surrounding community agreements.

### **Other Matters**

See transcript pages 95-99.

11:10 a.m. Chairman Crosby discussed the MOU with the Department of Public Health relative to the Public Health Trust Fund and stated that the Commission has agreed to provide some interim financial support to the Department until the trust is running.

11:13 a.m. Meeting adjourned.

**List of Documents and Other Items Used**

1. Massachusetts Gaming Commission December 19, 2013 Notice of Meeting and Agenda
2. Massachusetts Gaming Commission December 3, 2013 Meeting Minutes
3. Massachusetts Gaming Commission December 10, 2013 Meeting Minutes
4. December 16, 2013 Massachusetts Gaming Commission Memorandum Regarding Changes and Amended Small Business Impact Statement
5. Waiver Request of Mohegan Sun Massachusetts, LLC and the City of Revere of 205 CMR 119.01(7)
6. Draft of Handbook for Binding Arbitration Between an Applicant for a Gaming Establishment License and a Surrounding Community to Reach a Surrounding Community Agreement
7. Massachusetts Gaming Commission 12/17/2013 Licensing Schedule Update

/s/ Catherine Blue  
Catherine Blue  
Assistant Secretary

**SECTION 3 – NO DOCUMENTS FOR  
REVIEW**

205 CMR: MASSACHUSETTS GAMING COMMISSION  
205 CMR 133.00: VOLUNTARY SELF-EXCLUSION

Section

- 133.01: Scope and purpose
- 133.02: Placement on the self-exclusion list
- 133.03: Contents of the application
- 133.04: Duration of exclusion and reinstatement from the list
- 133.05: Transmittal of information to licensees
- 133.06: Responsibilities of gaming establishments
- 133.07: Sanctions against a gaming establishment

133.01: Scope and purpose

In accordance with M.G.L. c.23K, §45(f), 205 CMR 133.00 shall govern the procedures and protocols relative to the list of self-excluded persons from a gaming establishment. The voluntary self-exclusion list shall consist of the names and information relative to those individuals who have complied with the requirement of 205 CMR 133.00 and have been placed on the list by the commission.

133.02: Placement on the self-exclusion list

(A) An individual whose name is placed on the voluntary self-exclusion list shall be prohibited from entering a gaming establishment for the duration of the exclusion period, and shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. Provided, however, that an employee of a gaming establishment or vendor who is licensed or registered as a key gaming employee, gaming employee, or gaming service employee in accordance with 205 CMR 134.00 and who is on the voluntary self-exclusion list may be on the premises of a gaming establishment solely for purposes of performing their job functions.

(B) A person may request to have their name placed on the voluntary self-exclusion list by completing the application and procedure outlined in 205 CMR 133.02. Applications shall be submitted on a form approved by the commission and shall be available on the commission's website and at designated locations.

(C) Designated agents An application for placement on the voluntary self-exclusion list may only be accepted, and an intake performed, by a designated agent. A person may only become a designated agent by successfully completing a course of training approved by the commission. The course of training shall include, at a minimum, instruction on completion of the application, information relative to problem gambling and available resources, and an understanding of 205 CMR 133.00.

(D) Upon submission of an application, a designated agent shall review the contents and statements contained in the application, as provided by 205 CMR 133.03, with the applicant. If the application is complete the designated agent shall sign the application indicating that the review has been performed and the application has been accepted. A designated agent may not sign an application if any required information is not provided or they are of the belief that the applicant is under the influence of alcohol and/or an illegal substance.

(E) The designated agent shall forward the signed application for voluntary self-exclusion to the commission within 48 hours of completion.

(E) Upon receipt of an application, the commission, or its designee, shall review it for completeness. If the application meets all requirements of 205 CMR 133.02 the application shall be approved and the individual's name shall be added to the voluntary self-exclusion list. If the application is incomplete, the commission, or its designee, may deny the application and make efforts to contact the applicant advising them of such.

(F) If the person has elected the services identified in 205 CMR 133.03(G) the commission, or its designee, shall contact the designated coordinating organization for the provision of requested services.

#### 133.03: Contents of the application

The application for voluntary self-exclusion shall require provision of, at a minimum, the following content:

- (A) Name, home address, date of birth, and social security number of the applicant;
- (B) A passport style photo of the applicant without headwear;
- (C) An acknowledgement by the applicant that the person is a problem gambler;
- (D) Election of the duration of the exclusion in accordance with 205 CMR 133.04;
- (E) An acknowledgement by the applicant that the person will not enter a gaming establishment for the duration of the exclusion period (except as provided by 205 CMR 133.02(A));
- (F) An acknowledgement by the applicant that the person shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment for the duration of the exclusion period;
- (G) An offer for the applicant to engage in an assessment and up to ten additional counseling sessions with a clinician credentialed and approved by the Massachusetts Department of Public Health;
- (H) An offer for the applicant to participate in a program assessment module;
- (I) An acknowledgement by the applicant that the application is being submitted by the person freely, knowingly, and voluntarily, and

(J) A statement that the person is not under the influence of alcohol or illegal drugs.

133.04: Duration of exclusion and removal from the list

(A) As part of the request for voluntary self-exclusion, the individual must select the duration for which they wish to be voluntarily excluded. An individual may select any of the following time periods as a minimum length of exclusion:

- 1) Six months;
- 2) One year;
- 3) Three years; or
- 4) Five years.

(B) An individual on the voluntary self-exclusion list may not apply to decrease the duration of exclusion. An individual who is on the list may submit a request to increase the minimum length of exclusion.

(C) Upon expiration of the selected duration of exclusion, an individual may request that their name be removed from the list. An individual shall remain on the list after the expiration of the selected duration of exclusion until such time as they submit a petition for removal in accordance with 205 CMR 133.04(D) and it is approved by the commission or its designee.

(D) Petition for removal At any time after the expiration of the selected duration of exclusion, an individual may request that their name be removed from the list by submitting a petition for removal on a form approved by the commission. Any petition for removal received by the commission prior to the expiration of the duration of the selected exclusion period shall be denied. The commission shall approve a completed petition for removal.

To be eligible for removal from the list, a person shall provide meet the following conditions:

1. The person has submitted a completed petition for removal on a form provided by the commission, and
2. The person has participated in an exit interview with an approved agent.

(E) Upon approval of a petition for removal from the voluntary self-exclusion list a written notice of removal from the list shall be forwarded by the commission, or its designee, to each gaming licensee and to the petitioner. Notice may be forwarded to the petitioner by email or first class mail to the email address or home address provided by the petitioner in the petition. The petitioner shall be deemed to be removed from the voluntary self-exclusion list when the notice is sent by the commission or its designee.

If a petitioner does not meet the eligibility requirements for removal from the list provided in 205 CMR 133.04(D), the petition shall be denied. The petitioner shall be notified of the denial by email or first class mail to the email address or home address provided by the petitioner in the petition. In the event of a denial of a petition, the individual shall remain on the voluntary self-

exclusion list.

(F) A person whose name has been removed from the voluntary self-exclusion list may reapply for placement on the list at any time by submitting an application in accordance with 205 CMR 133.02.

133.05: Transmittal of information to licensees

(A) The commission shall notify each gaming licensee of the placement of the name of any individual on the voluntary self-exclusion list. Each gaming licensee shall provide the commission with the contact information for an individual who shall be responsible for the receipt and processing of information received in accordance with 205 CMR 133.00. All information contained in the individual's application for voluntary exclusion may be disclosed to a gaming licensee.

(B) The list of voluntary self-exclusion is exempt from disclosure under M.G.L. c.66 and shall not be publicly disclosed by a gaming establishment. Provided, however, that a gaming establishment may share the list with other gaming establishments in Massachusetts or its affiliates in other jurisdictions for the purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments.

133.06: Responsibilities of gaming establishments

A gaming establishment shall have the following responsibilities relative to the administration of the voluntary self-exclusion list:

- (A) A gaming establishment shall eject from or refuse entry into the gaming establishment for any individual whose name appears on the voluntary self-exclusion list;
- (B) A gaming establishment shall immediately notify the commission, or its designee, if an individual on the voluntary self-exclusion list is found in a gaming establishment;
- (C) A gaming establishment shall not market to persons on the voluntary self-exclusion list and shall deny access to complimentaries, check cashing privileges, club programs and other similar benefits to persons on the list;
- (D) A person who is prohibited from gaming in a gaming establishment under 205 CMR 133.00 shall not collect any winnings as a result of prohibited gaming. Such winnings shall be forfeited to the commission and deposited into the Gaming Revenue Fund.
- (E) A gaming establishment shall confiscate from the self-excluded person any jackpots, chips, tokens, machine credits and ticket vouchers. The monetary value of the jackpot, chips, tokens, machine credits and ticket vouchers shall be paid to the commission for deposit into the Gaming Revenue Fund within 45 days.
- (F) A person who is prohibited from gaming in a gaming establishment under 205 CMR 133.00 shall not be entitled to recover losses as a result of prohibited gaming based solely on their inclusion on the list.



(G) A gaming establishment shall submit a written policy for compliance with the voluntary exclusion program for commission approval at least 60 days before the gaming establishment opening. The commission shall review the plan for compliance with 205 CMR 133.00. If approved the plan shall be implemented and followed by the gaming establishment. The plan for compliance with the voluntary self-exclusion program, shall include at a minimum the following:

1. Procedures to prevent employees from permitting an individual on the voluntary exclusion list from engaging in gambling activities at the gaming establishment;
2. Procedures to identify and remove voluntary excluded persons from the gaming establishment;
3. Procedures to prevent an individual on the voluntary exclusion list from receiving any advertisement, promotion, or other direct marketing mailing fifteen days after receiving notice from commission that the individual has been placed on the voluntary exclusion list;
4. Procedures to prevent an individual on the voluntary exclusion list from having access to credit or from receiving complimentary services, check-cashing services, junket participation and other benefits;
5. Procedures to ensure the confidentiality of the identity and the information of the voluntarily excluded individual.

(H) A gaming establishment shall notify the commission within ten days if an employee or agent knowingly fails to exclude or eject from its premises any person on the list of self-excluded persons.

(I) Nothing in this 205 CMR 133.0 shall be construed so as to prohibit a gaming establishment from seeking payment of a debt from a person whose name is on the voluntarily self-excluded list if the debt was accrued by the individual before their name was placed on the list.

#### 133.07: Sanctions against a gaming establishment

The commission may revoke, limit, condition, suspend or fine a gaming establishment if the establishment knowingly or recklessly fails to exclude or eject from its premises any person placed on the list of self-excluded persons.

**SECTION 4 – NO DOCUMENTS FOR  
REVIEW**



## **MASSACHUSETTS GAMING COMMISSION**

### **Vendor Advisory Team**

The Massachusetts Gaming Commission is committed to the priority of maximizing vendor and supplier opportunities for Massachusetts small businesses, including those businesses certified or classified as minority business enterprises, women business enterprises and veteran business enterprises, to serve potential casino gaming licensees as a result of the “Expanded Gaming Act of 2011.” The commission is also committed to ensuring supplier bases are fully inclusive of the diverse populations that make up the citizenry of Massachusetts. The Massachusetts Gaming Commission plays a very active role in this strategy as it will be responsible for licensing approved and qualified vendors that will service our gaming licensees.

We wish to proactively engage and work with various business support resources to help casino applicants maximize their impact on the Commonwealth’s economy. These resources and a collaborative partnership may make just the difference between growing their business and missing out on an opportunity to provide product and services to a large anchor business. We acknowledge that casino license applicants may also have vendor support programs and we welcome the chance to partner closely with them to identify potential vendors who may need financing or technical support to compete for key contracts.

In addition to providing valuable feedback regarding licensing and registration regulations impacting small business, group members assist in three additional support categories.

**BUSINESS IDENTIFICATION** –join with local towns and municipalities and Chambers of Commerce to identify those small business(s) located close to a casino operation.



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**TECHNICAL ASSISTANCE** –assist small businesses with technical support and identifying programs to help a small business maximize their growth opportunities.

**FINANCING ASSISTANCE** –identify sources of financing to help Massachusetts small businesses position themselves to serve a large anchor business like a resort destination casino.

**The MGC Vendor Advisory Team members include the following organizations and government organizations:**

Associated Industries of Massachusetts  
Center for Women in Enterprise  
Greater New England Minority Supplier Development Council  
General Services Administration- Small Business Procurement  
Initiative for a Competitive Inner City  
Massachusetts Association of Chamber of Commerce Executives (MACCE)  
Massachusetts Department of Agriculture  
Massachusetts Department of Fish and Game  
Mass Development  
Massachusetts Office for Access and Opportunity  
Massachusetts Office of Business Development  
Massachusetts Office of Energy Resources  
Massachusetts Office of Small and Local Business  
Massachusetts Supplier Diversity Office  
Massachusetts Small Business Development Center  
Massachusetts Department of Veterans Services  
Mass Growth Capital Corporation  
Massachusetts Gaming Diversity Coalition  
Minority Business Development Agency- Boston Business Center  
NAACP, New England Area Conference  
National Federation of Independent Businesses  
Massachusetts District Office-US Small Business Administration  
Small Business Association of New England  
Urban League



Massachusetts Gaming Commission



**Memorandum**  
January 2, 2014

**To:** Members of the Massachusetts Gaming Commission

**From:** Jill Lacey Griffin, Director of Workforce, Supplier and Diversity Development  
Bruce Stebbins, Commissioner

**Cc:** Rick Day, Executive Director  
Derek Lennon, Chief Financial and Accounting Officer

**Re:** Category 2 Small Business Capacity Building Funds Request

One of the priority concerns for the Massachusetts Gaming Commission is working to ensure that expectations and priorities of the Expanded Gaming Act (C. 23K) are met. One of those priorities is maximizing opportunities created by the introduction of casino gaming for small business. Small businesses dominate the Massachusetts economy with more than 85% employing fewer than 20 according to the most recent 2008 US Census.

Making sure that the goals identified in the legislation are met requires planning and preparation. To assist with supporting potential casino vendors, we assembled a team of statewide agencies, business organizations and resources in fall 2012. These entities provide technical assistance, financing and can assist with identifying possible business partners for Massachusetts companies. We organized this Vendor Advisory Team with a goal of providing input to our regulatory process and to help assist small business with resources to make sure they can successfully compete for available vendor opportunities. We want to ensure that our Class 1 and 2 licensees can find the qualified businesses with capacity to support their operations. A capacity building effort will provide small businesses with the technical assistance needed to enhance their management capacity that comes with expected growth and meet the supplier requirements of large anchor institutions.

**Formulating the Capacity Building Program**

To create a program to assist with meeting this goal, we are engaging with economic development organizations, chambers of commerce, business associations and other stakeholders in the communities where we have licensed applicants. These local



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organizations would partner with our Vendor Advisory Group members to provide a program to assist local businesses who are potential slot parlor vendors.

The Massachusetts Gaming Commission would award one grant to fund a program developed by the local applicant that 1) clearly identifies the target audience, 2) involves all key local organizations, 3) and plans a comprehensive program that demonstrates how they will assist local entrepreneurs to win a contract with the Class 2 licensee. Our Class 2 licensee is certainly welcome to be a partner in the program application.

Program areas must include but are not limited to, one on one and or group counseling, training programs or other initiatives that advance:

- Identifying area and Massachusetts businesses providing identified goods and services
- Identifying and recruiting Minority, Women and Veteran Owned Businesses
- Providing business plan development
- Assessing and securing required financing
- Planning for business expansion
- Considering other programs that may impact measurable economic growth

### **Capacity Building Program Funding Request**

We recommend that the Commission dedicate \$20,000 to fund a pilot Capacity Building Program for the immediate or surrounding communities where a slots parlor is awarded.

A review committee led by MGC will evaluate proposals and recommend a grant recipient. The timing of the small business capacity building grant award is important since the slots parlor license is expected to be awarded in early March. The RFP should be advertised in January with the selection and capacity building program funds released in February or March. If successful, the commission should consider a similar program and grant award for the Class 1 resort casino host communities.



Massachusetts Gaming Commission

**SECTION 5 – NO DOCUMENTS FOR  
REVIEW**

205 CMR: MASSACHUSETTS GAMING COMMISSION  
205 CMR 134.00: LICENSING AND REGISTRATION OF EMPLOYEES, VENDORS, JUNKET  
ENTERPRISES AND REPRESENTATIVES, AND LABOR ORGANIZATIONS

Section

- 134.01: Key gaming employee licensees
- 134.02: Gaming Employee licensees
- 134.03: Gaming service employees
- 134.04: Vendors
- 134.05: Labor organizations
- 134.06: Junket enterprises and junket representatives
- 134.07: Forms
- 134.08: Submission of application
- 134.09: Investigation, Determination, and Appeals for Gaming Establishment Employees and Vendors
- 134.10: Affirmative license standards for the licensing of employees and vendors of the gaming establishment
- 134.11: Affirmative registration standards for the registration of employees and vendors of the gaming establishment and Labor Organizations
- 134.12: Temporary licenses
- 134.13: Fingerprinting
- 134.14: Identification
- 134.15: Fees
- 134.16: Term of licenses
- 134.17: Renewals
- 134.18: Duties of applicants and licensees
- 134.19: Disciplinary action

134.01: Key gaming employee licensees

(A) No **individual** ~~person~~ shall be employed by or perform services for a gaming licensee as a key gaming employee, as defined by G.L. c.23K, §2, unless the ~~person~~ **individual** has been licensed in accordance with G.L. c.23K, §30 and 205 CMR 134.00. **For purposes of 205 CMR 134.00 a gaming licensee shall include all qualifiers issued a positive determination of suitability in accordance with 205 CMR 115.05(3).** There shall be two categories of key gaming employee licensees: key ~~qualifiers~~ **gaming employee- executive** and ~~keys~~ **key gaming employee- standard**.

(A) An **individual** ~~person~~ holding one of the following positions at a gaming establishment, and any person in a similar or equivalent position, regardless of job title, whose employment relates ~~directly~~ to a gaming ~~establishment~~ shall be designated as a key **gaming employee- executive** ~~qualifier~~:

- (1) Assistant General Manager
- (2) ~~Audit Manager~~ **Chief Internal Audit Officer**
- (3) ~~Casino~~ **Gaming Manager**



- (4) Chief Financial Officer
- (5) Chief of Security
- ~~(3) Managers or supervisors of security employees~~
- (6) General Manager
- (7) Chief Surveillance Officer ~~Manager~~
- (8) Chief Compliance Officer
- (9) Principal executive Officer
- (10) Principal operating Officer
- (11) Principal accounting Officer
- (12) Chief Information Officer
- (13) Other executive level employees who are not identified as a key gaming employee-standard in accordance with 205 CMR 134.01(B) as determined by the commission.

(B) An individual person holding one of the following positions at a gaming establishment, and any person in a similar or equivalent position, regardless of job title, whose employment relates directly to a gaming establishment shall be designated as a key gaming employee- standard:

- (1) Controller
- ~~(2) Chief Information Officer~~
- (3) Electronic gaming device or slot machines manager
- (4) Human resources manager
- (5) Information technology manager
- (6) ~~Table games manager/Pit boss~~
- (7) Shift manager supervisor of table games, of a slot department, credit department, security, surveillance, accounting department, cage, or player development
- (8) Credit manager
- (9) Cage manager
- (10) Hotel Manager
- (11) Entertainment Director
- (12) Food & Beverage Manager
- (13) Other Executive or managerial employees who are not identified as a key ~~qualifiers~~ gaming employee- executive in accordance with 205 CMR 134.01(A)(1), but who have the power to exercise significant influence over a gaming establishment operator or management company including, but not limited to, a hotel manager, entertainment director, and food and beverage manager function in a supervisory capacity, are empowered to make discretionary decisions which impact gaming establishment operations, or as determined by the commission.

~~(B) A person employed as a key gaming employee of a gaming establishment may not be employed concurrently by a gaming vendor applicant or licensee, except that a person holding a key gaming employee license may be employed by a licensed management company that is also licensed as a gaming vendor.~~

(C) Any individual person who is a qualifier but who does not otherwise performing any of the duties of the positions identified in 205 CMR 134.01(A)(1) or (2) does not have to become

licensed as a key gaming employee. Such ~~person~~ **individual** does have to be approved as a qualifier **and issued a positive determination of suitability** in accordance with 205 CMR 111.00, 115.00, and 116.00. An individual who has been issued a positive determination of suitability in accordance with 205 CMR 111.00 and who will be performing the responsibilities requiring licensure as a key gaming employee shall apply for licensure in accordance with 205 CMR 134.08(B) subject to the term limitation of 205 CMR 134.16(E).

#### 134.02: Gaming employee licensees

(A) No ~~individual person~~ shall be employed by or perform services for a gaming licensee as a gaming employee, as defined by G.L. c.23K, §2, unless the ~~person individual~~ has been licensed in accordance with G.L. c.23K, §30 and 205 CMR 134.00. **For purposes of 205 CMR 134.00 a gaming licensee shall include all qualifiers issued a positive determination of suitability in accordance with 205 CMR 115.05(3).** An ~~person individual~~ holding one of the following positions at a gaming establishment, and any person in a similar or equivalent position, regardless of job title, whose employment relates directly to a gaming establishment shall be designated as a gaming employee:

- (A) Boxpersons
- (B) Cashiers
- (C) Change personnel
- (D) Clerks
- (E) Count room personnel
- (F) Data processing personnel
- (G) Dealers and croupiers
- (H) Floorpersons
- (I) **Gaming Hosts**
- (J) Internal audit and accounting personnel **whose duties include reviewing, verifying, and recording gaming revenue entries, the processing or control of active accounting documents related to gaming activity, or that have access to active accounting documents related to gaming activity**
- (K) An ~~person individual~~ who is directly connected to the operation or maintenance of a slot machine or game taking place in a gaming establishment **(whether employed by the gaming licensee or a vendor licensed in accordance with 205 CMR 134.00)**
- (L) ~~Machine mechanics, computer machine technicians, and table game device technicians~~
- (M) Personnel authorized to extend complimentary services, including employees performing functions similar to those performed by a junket representative
- (N) Junket representative **employed by the gaming licensee or affiliate of the gaming license or a junket enterprise licensed as a gaming vendor in accordance with 205 CMR 134.00**
- (O) Personnel authorized to issue credit ~~under \$5000~~
- (P) Personnel authorized to issue promotional play **including persons who identify patrons or groups of patrons who shall receive complimentaries based on actual patron play, authorize such complimentaries, or determine the amount of such complimentaries**
- (Q) Personnel with security administrator access to a slot machine tracking system
- ~~(R) Promotional play supervisors~~
- (S) Security personnel, including guards and game observers, or an employee with knowledge of security procedures of the gaming establishment
- ~~(T) Skills~~

- (U) Surveillance personnel, including surveillance equipment maintenance and repair technicians (whether employed by the gaming licensee or a vendor licensed in accordance with 205 CMR 134.00)
- (V) Any employee who conducts or participates in the conduct of gaming, who participates in the transfer or handling of chips, tokens or money, or who participates in audit or accounting functions
- (W) Any employee whose has access to a restricted area of a gaming establishment
- (X) A person who supervises a person required to be licensed as a gaming employee in accordance with 205 CMR 134.02.
- (Y) An employee of a gaming establishment whom the Bureau deems necessary to be licensed to ensure compliance with the G.L. c.23K and 205 CMR and to protect the public and ensure the credibility and integrity of gaming in the Commonwealth.

#### 134.03: Gaming service employees

~~No person shall be employed by or perform services for a gaming licensee as a gaming service employee, as defined by G.L. c.23K, §2, unless the person has been registered in accordance with G.L. c.23K, §30 and 205 CMR 134.00. An person holding a position individual employed at in a gaming establishment who is not classified as a key gaming employee in accordance with 205 CMR 134.01, or a gaming employee in accordance with 205 CMR 134.02, shall be designated as a gaming service employee and shall register in accordance with 205 CMR 134.089 prior to engaging in the provision of employment services. An individual employed by a vendor of a gaming establishment for work in a gaming establishment shall be considered a gaming service employee unless otherwise specified in 205 CMR 134.02.~~

#### 134.04: Vendors

~~(A) No person shall conduct business with a gaming licensee as a vendor to a gaming establishment unless such person has been licensed as a gaming vendor, as defined by G.L. c.23K, §2, or registered as a non-gaming vendor, as defined by G.L. c.23K, §2, in accordance with 205 CMR 134.00. A person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service. For purposes of 205 CMR 134.00 a gaming licensee shall include all qualifiers issued a positive determination of suitability in accordance with 205 CMR 115.05(3).~~

~~A subcontractor to a vendor shall not be required to obtain licensure or registration under 205 CMR 134.00. For purposes of 205 CMR 134.00 a subcontractor shall be considered a person that contracts with a licensed or registered vendor to provide goods or services necessary to fulfill the licensed or registered vendor's contract with a gaming licensee. As part of the application process, vendors shall be required to identify all of its known or anticipated subcontractors and shall have a continuing duty to update the Bureau relative to any new subcontractors.~~

#### (A) Gaming vendors

##### (1) Gaming vendors- primary.

A person who ~~offers to~~ **conducts business with** a gaming applicant or gaming licensee on a regular or continuing basis **for provision of** goods or services which directly relates to gaming, as defined by G.L. c.23K, §2, including, but not limited to a person who does any of the following, shall be designated as a gaming vendor-**primary**:

- (a) Manufactures, sells, leases, supplies, or distributes devices, machines, equipment (**except gaming table layouts**), accessories, or items that meet at least one of the following conditions:
  - (b) are designed for use in a gaming area as defined by G.L. c.23K, §2;
  - (c) are designed for use in a simulcast wagering area;
  - (d) are needed to carry out a game in the gaming area;
  - (e) have the capacity to affect the calculation, storage, collection, **electronic security**, or control of the gaming revenues from a gaming establishment;
- (f) provides maintenance services or repairs gaming or simulcast wagering equipment, including slot machines;
- ~~(g) provides services directly related to the management or administration of a gaming area;~~
- (h) acts as a junket enterprise; or
- (i) provides items or services that the Commission has determined are used in or are incidental to gaming or to an activity of a gaming facility.

**Exception** Any person, by submission of a written petition, may request a determination from the commission that the person providing goods or services deemed by the Bureau to meet a description contained in 205 CMR 134.04(A)(1) need not be licensed as a Gaming Vendor-primary on the grounds that they are not providing services on a regular or continuing basis or that they do not directly relate to gaming.

- ~~(B) (1) A person who conducts over \$250,000 in gross sales with a gaming licensee within a 12 month period shall be designated a gaming vendor regardless of the goods or services being provided.~~
- ~~(j) A person who conducts over \$100,000 in gross sales with a gaming licensee within a 3 month period shall be designated a gaming vendor regardless of the goods or services being provided.~~

(2) Gaming vendors- secondary

Any person who regularly conducts over \$250,000 in gross sales with any one gaming licensee within a 12 month period or a person who conducts over \$100,000 in gross sales with any one gaming licensee within a 3 month period, and who does not otherwise qualify for designation as a Gaming Vendor-primary in accordance with 205 CMR 134.04(1)(A)(1), may be designated a Gaming Vendor-secondary by the Commission regardless of the type of goods or services being provided. This designation may be made either by virtue of submission of a *Business Entity Disclosure Form- Gaming Vendor-secondary* application by the vendor in anticipation of meeting the monetary threshold, or in accordance with 205 CMR 134.04(2)(B).

**(B) Non-gaming vendors**

(A) A person who offers to a gaming establishment or gaming licensee goods or services which are not directly related to gaming, as defined by G.L. c.23K, §2, including, but not limited to any of the following, shall be designated as a non-gaming vendor:

- (1) construction company
- (2) vending machine provider
- (3) linen supplier
- (4) garbage handler
- (5) maintenance company
- (6) limousine service company
- (7) food purveyor
- (8) supplier of alcoholic beverages
- (9) a person that sells, distributes, tests, or repairs antique slot machines as described in G.L. c.271, §5A
- (10) suppliers of gaming table layouts

(C) The Bureau Division of Licensing shall determine upon review of the agreement submitted in accordance with 205 CMR whether a registered non-gaming vendor has met the conditions provided in 205 CMR 134.04(A)(2). If the Bureau Division of Licensing determines that the non-gaming vendor registrant has met the threshold it shall forward notice of such to the vendor of its obligation to submit an application for licensure as a gaming vendor-secondary. Within 45 days of service of the notice, the registrant shall either submit a completed *Business Entity Disclosure Form- Gaming Vendor-secondary* as set forth in 205 CMR 134.07(G) for licensure as a gaming vendor-secondary, discontinue providing the goods or services it is contracted to provide, file for an exemption in accordance with 205 CMR 134.04(5), or file a written request to the Bureau Division of Licensing for reconsideration from the determination requiring filing of an application for licensure as a gaming vendor-secondary on the grounds that they are not providing services on a regular or continuing basis.

**(D) Gaming vendor qualifier**

(1) The following persons shall be required to qualify as gaming vendor qualifier:

(a) If the gaming vendor applicant is a sole proprietor:

1. The owner

(b) If the gaming vendor applicant is a corporation:

1. Each officer
2. Each inside director and those outside directors serving on the audit or compliance committees.
3. Any person owning more than 5 per cent of the common stock of a company applying for licensure as a gaming vendor as provided by 205

CMR 134.04(A)(1), or a holding, intermediary or subsidiary company of such company.

4. Any person who will act as a sales representative or regularly engage in the solicitation of business from a licensed gaming establishment.
5. In the judgment of the Bureau in accordance with 205 CMR 134.04(3)(b) any person with significant and substantial responsibility for the applicant's business in the Commonwealth.÷
  1. ~~each lender~~
  2. ~~each holder of evidence of indebtedness~~
  3. ~~each underwriter~~
  4. ~~each close associate~~
  5. ~~each executive~~
  6. ~~each agent~~
  7. ~~each employee~~

(3) If the applicant is a limited liability corporation:

1. Each Member
2. Each transferee of a Member's interest
3. ~~Each Director~~
4. Each Manager
5. In the judgment of the Bureau in accordance with 205 CMR 134.04(3)(b) any person with significant and substantial responsibility for the applicant's business in the Commonwealth.÷
  - a. ~~each lender~~
  - b. ~~each holder of evidence of indebtedness~~
  - c. ~~each underwriter~~
  - d. ~~each close associate~~
  - e. ~~each executive~~
  - f. ~~each agent~~

(4) If the applicant is a limited partnership:

1. Each General Partner
2. Each Limited Partner

3. In the judgment of the Bureau in accordance with 205 CMR 134.04(3)(b) **any person with significant and substantial responsibility for the applicant's business in the Commonwealth.:**

~~a. each lender~~

~~b. each holder of evidence of indebtedness~~

~~c. each underwriter~~

~~d. each close associate~~

~~e. each executive~~

~~f. each agent~~

(5) If the applicant is a partnership:

1. Each Partner

2. In the judgment of the Bureau in accordance with 205 CMR 134.04(3)(b) **any person with significant and substantial responsibility for the applicant's business in the Commonwealth.:**

~~a. each lender~~

~~b. each holder of evidence of indebtedness~~

~~c. each underwriter~~

~~d. each close associate~~

~~e. each executive~~

~~f. each agent~~

(c) In all cases, any person who, in the opinion of the ~~commission~~ **Bureau**, can exercise control or provide direction to a gaming vendor or applicant for a gaming vendor license or holding, intermediary or subsidiary companies thereof **may be designated a Gaming Vendor qualifier.**

(d) Other Qualifiers. The ~~commission~~ **Bureau** may, at its sole discretion, require other persons ~~or companies~~ that have a business association of any kind with the applicant **for a gaming vendor license** to be licensed as a gaming vendor qualifier. These ~~affiliated companies or~~ persons include, but are not limited to **an affiliate or** holding, intermediary or subsidiary companies of the applicant.

(e) **An applicant may appeal any determination made by the Bureau in accordance with 205 CMR 134.04(3) to the commission by filing a petition on a form prescribed by the commission. The commission shall decide the appeal at a public hearing on the matter at which it may allow representatives of the petitioner and Bureau to testify.**

**(E) Waiver**

Upon written petition, the commission may waive the requirement to be licensed as a gaming vendor qualifier for:

8. ~~institutional investors holding up to 15 per cent of the stock of the company~~ **gaming vendor or applicant for a gaming vendor license**, or holding, intermediary or subsidiary company ~~thereof such company~~, upon a showing by the person seeking the waiver that ~~the applicant~~ **it** purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the ~~company~~ **gaming vendor or applicant for a gaming vendor license** or a holding, intermediary or subsidiary company ~~thereof such company~~. ~~Provided, however, a~~ **Any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the gaming vendor or applicant for a gaming vendor license, or a holding, intermediary or subsidiary company thereof** shall provide not less than 30 days' notice to the commission of such intent and shall file an application and be subject to the licensing requirements of 205 CMR 134.00 before taking any action that may influence or affect the affairs of the ~~applicant company~~ **gaming vendor or applicant for a gaming vendor license** or a holding, intermediary or subsidiary company ~~thereof the applicant company~~. Any ~~company~~ **person** holding over 15 per cent of a gaming vendor or **applicant for a gaming vendor license**, or a holding, intermediary or subsidiary company ~~thereof a gaming vendor~~, shall be required to apply for a license before doing business in the Commonwealth; ~~or,~~
9. Any person who, in the opinion of the ~~Bureau or the~~ **commission**, cannot exercise control or provide direction to a gaming vendor or applicant for a gaming vendor license or a holding, intermediary or subsidiary company thereof. Provided, however, a person who is not an institutional investor and who holds more than 5 per cent of the common stock of a company, or holding, intermediary or subsidiary company of such a company may not petition for waiver in accordance with 205 CMR 134.04(4)(B).

**(F) Exemptions**

~~For purposes of 205 CMR 134.04 the following entities shall not be considered the conduct of business with a gaming applicant or gaming licensee that~~ **persons engaged in the following fields of commerce who provide goods or services to a gaming applicant or gaming licensee, and that are not otherwise required to be licensed as a key gaming employee, gaming employee, or gaming service employee, shall not be deemed to be conducting business for purposes of G.L. c.23K, §31 and accordingly shall not be required to obtain licensure or registration as a vendor:**

1. ~~provision of insurance~~ **companies and insurance agencies**
2. ~~advertising and media services~~ **television, radio, newspaper, internet or other similar media outlets used for advertising purposes**
3. **transactions with a governmental entity**
4. **professional legal, accounting, and financial services**
5. **physicians**
6. **labor organizations, unions, or affiliates registered in accordance with 205 CMR 134.00**
7. **utility companies**



8. telecommunications companies
9. training seminars, publication subscriptions, conference registration or membership dues for professional associations intended to directly contribute to the work performance or professional development of an employee
10. non-profit charitable corporations or organizations, provided that no consideration is received for the contribution
11. court order or stipulation of settlement or for settlement of guest losses or guest refunds
12. payments for freight charges to freight transporters select by the vendor for delivering goods
13. professional entertainers and/or celebrity appearances
14. any other person that, by submission of a written petition, can demonstrate to the commission that registration as a non-gaming vendor is not necessary to protect the public interest.

For purposes of 205 CMR 134.00 a gaming licensee shall include all qualifiers issued a positive determination of suitability in accordance with 205 CMR 115.05(3).

#### 134.05: Labor organizations

(A) Each labor organization, union or affiliate seeking to represent employees who are employed at a gaming establishment shall register with the Commission in accordance with 205 CMR 134.05.

(B) Within 30 days of the date on which it begins organizing activities directed at the employees who are employed in at a gaming establishment, a labor organization, union or affiliate shall file with the Bureau a labor organization registration **statement** in accordance with 205 CMR 134.08. Organizing activities shall include, without limitation, soliciting membership by means of any direct personal contact, or any public notices such as the posting or distribution of fliers, posters or advertisements.

(C) Each officer, agent or principal employee of the labor organization, union or affiliate shall file a Labor Organization Individual Disclosure Form **in accordance with 205 CMR 134.08** at the time the pertinent labor organization, union or affiliate registers or should register, or within 30 days of the date on which the individual is elected, appointed or hired, whichever is later, or within such additional time as the Bureau may, upon a showing of good cause, permit.

(D) Notwithstanding 205 CMR 134.05~~(D)~~(1) a Labor Organization Individual Disclosure Form need not be filed by an officer, **agent or principal employee** of a national or international labor organization who exercises no authority, discretion or influence over the operation of such labor organization with regard to any employment matter relating to employees who are employed in a Massachusetts gaming establishment provided that the Bureau may direct such officer to file such form or to provide any other information in the same manner and to the same extent as may be required of any other officer of a labor organization which is required to register.

(E) Neither a labor organization, union, or affiliate, nor its officers who are not otherwise licensed or registered as a key gaming employee, gaming employee, ~~or~~ gaming service employee, **gaming vendor, gaming vendor qualifier, or non-gaming vendor**, may hold any financial interest in a gaming establishment whose employees are represented by the **labor organization, union, or affiliate**.

134.06: Junket enterprises and junket representatives

(RESERVED)

134.07: Forms

(A) Multi-jurisdictional Personal History Disclosure Form For Key Qualifiers Gaming Employees-executive and Gaming Vendor Qualifiers

The *Multi-jurisdictional Personal History Disclosure Form For Key Qualifiers Gaming Employees-executive and Gaming Vendor Qualifiers* shall contain the following information:

- (1) Name, including maiden name and any aliases or nicknames and applicable dates of use;
- (2) Date of birth;
- (3) Physical description;
- (4) Current address and residence history;
- (5) Social Security Number, which information is voluntarily provided in accordance with 5 U.S.C. § 552a;
- (6) Citizenship and, if applicable, information regarding resident alien status, including information regarding passports;
- (7) Marital history, spouse, dependents and other family data;
- (8) The gaming licensee or qualifier, gaming vendor licensee or qualifier or holding company, as applicable, with which the qualifier is affiliated, and the nature of the qualifier's position with or interest in such entity;
- (9) Telephone number at the current place of employment, and home number;
- (10) Email address;
- (11) Employment history of the qualifier and qualifier's immediate family;
- (12) Education and training;
- (13) Record of military service;
- (14) Government positions and offices presently or previously held, and the offices, trusteeships, directorships or fiduciary positions presently or previously held with any business entity;
- (15) Trusteeships or other fiduciary positions held by the qualifier and the qualifier's spouse, and any denial or suspension of, or removal from, such positions;
- (16) Current memberships in any social, labor or fraternal union, club or organization;
- (17) Licenses and other approvals held by or applied for by the qualifier or, where specified, the qualifier's spouse, in the Commonwealth of Massachusetts or any other jurisdiction, as follows:
  - (a) Any professional or occupational license held by or applied for the by the qualifier or the qualifier's spouse;
  - (b) Motor vehicle registrations and operator licenses held by or applied for the by the qualifier or the qualifier's spouse, and any revocation or suspension thereof;
  - (c) Possession or ownership of any pistol or firearm, or any application for any firearm permit, firearm dealer's license, or permit to carry a pistol or firearm;
  - (d) Any license, permit, approval or registration required to participate in any lawful gambling operation in the Commonwealth of Massachusetts or any jurisdiction held by or applied for by the qualifier; and

- (e) Any denial, suspension or revocation by a government agency of a license, permit or certification held by or applied for by the qualifier or the qualifier's spouse, or any entity in which the qualifier or the qualifier's spouse was a director, officer, partner or any owner of a 5% or greater interest;
- (18) Any interest in or employment presently or previously held by the qualifier with any entity which has applied for a permit, license, certificate or qualification in connection with any lawful gambling or alcoholic beverage operation in the Commonwealth of Massachusetts or any other jurisdiction; and any current employment or other association by the qualifier's family with the gambling or alcoholic beverage industries in the Commonwealth of Massachusetts or any other jurisdiction;
- (19) Civil, criminal and investigatory proceedings in any jurisdiction, as follows:
  - (a) ~~Arrests, charges or offenses committed by the qualifier or any member of the qualifier's immediate family~~ Any arrest, indictment, charge, or conviction of the applicant;
  - (b) Any instance where the ~~qualifier~~ applicant has been named as ~~an unindicted party or~~ a co-conspirator in a criminal proceeding or held as a material witness;
  - (c) Any appearance before, investigation by or request to take a polygraph examination by any governmental agency, court, committee, grand jury or investigatory body, and any refusal to comply with a request to do so;
  - (d) Any pardons, dismissals, suspensions or deferrals of any criminal investigation, prosecution, or conviction;
  - (e) Lawsuits to which the ~~qualifier~~ applicant was or is a party;
  - (f) Any citation or charge for a violation of a statute, regulation or code or any jurisdiction, other than a criminal disorderly persons, petty disorderly persons or motor vehicle violation; and
  - (g) Any use, distribution, or possession of any narcotic, hallucinogenic, drug, barbiturate, amphetamine or other substance listed in M.G.L. c. 94C other than pursuant to a valid prescription issued by a licensed physician;
- (20) Any exclusion or barring from any casino, gaming establishment or gambling/gaming related entity in any jurisdiction;
- (21) Financial data, as follows:
  - (a) All assets and liability~~ies~~ of the ~~qualifier~~ applicant, and the ~~qualifier's~~ applicant's spouse and dependent children as indicated on the net worth statement and supporting schedules in a format prescribed by the commission, including cash, bank accounts, notes payable and receivable, real estate and income taxes payable, loans, accounts payable and any other indebtedness, contingent liabilities, securities, real estate interests, real estate mortgages and liens, life insurance, pension funds, vehicles and other assets;
  - (b) Bank accounts, including any right of ownership in, control over or interest in any foreign bank account, and safe deposit boxes;
  - (c) Real estate interests held by the ~~qualifier~~ applicant or the ~~qualifier's~~ applicant's spouse or dependent children;
  - (d) Businesses owned;
  - (e) Copies of Federal tax returns and related information;
  - (f) Judgments or petitions for bankruptcy, insolvency or liquidation concerning the qualifier or any business entity in which the qualifier held a 5% or greater interest, other than a publicly traded corporation, or in which the qualifier served as an officer or director;

- (g) Any business entity in which the qualifier was an owner, director or officer which has been placed under some form of governmental administration or monitoring;
  - (h) Any garnishment or attachment of wages, charging order or voluntary wage execution, including the amount, court, nature of the obligation and the holder of the obligation;
  - (i) Any repossessions of real or personal property;
  - (j) Any guarantees, co-signatures or insuring of payments of financial obligations of any persons or business entities;
  - (k) Status as executor, administrator or fiduciary of any estate;
  - (l) Life insurance policies on the **qualifier's applicant's** life which name someone other than the **qualifier's applicant's** family as a beneficiary;
  - (m) Positions held, assets held, or interest received in any estate or trust;
  - (n) Whether the **qualifier applicant** has ever been bonded for any purpose or been denied any type of bond, including the nature of the bond and if applicable, the reason for denial;
  - (o) Insurance claims in excess of \$100,000.00 by the **qualifier applicant** or the **qualifier's applicant's** spouse or dependent children;
  - (p) Referral or finder's fees in excess of \$10,000.00;
  - (q) Loans in excess of \$10,000.00 made or received by the **qualifier applicant**, the **qualifier's applicant's** spouse or dependent children;
  - (r) Gifts in excess of \$10,000.00 given or received by the **qualifier applicant** or the **qualifier's applicant's** immediate family;
  - (s) Brokerage or margin accounts with any securities or commodities dealer;
  - (t) Currency exchanges in an amount greater than \$10,000.00;
  - (u) Information regarding any instance where the **qualifier applicant** or any entity in which the **qualifier applicant** was a director, officer or holder of a five percent or greater interest has traded in foreign currencies or in a foreign commodities exchange, sold or purchased discounted promissory notes or other commercial paper, or been a party to any leasing arrangements in excess of \$50,000.00; and
  - (v) Information regarding any ownership interest or financial investment by the **qualifier applicant** in any entity which holds or is an applicant for a license issued by the commission, or in any gambling venture which does not require licensure by the commission, including persons providing or reasonably anticipated to provide the **qualifier applicant** with support in the financing of such investment or interest; the extent and nature of the **qualifier's applicant's** involvement in the management and operation of the entity; whether the **qualifier applicant** has or has agreed to assign, pledge or hypothecate such interest or investment, the nature and terms of any such transaction and a copy of any such agreement.
- (22) The name, address, occupation and phone number of persons who can attest to the qualifier's good character and reputation;
- (23) ~~A waiver of liability as to the Commonwealth of Massachusetts and its instrumentalities and agents for any damages resulting from any disclosure and publication of information acquired during the license or investigation process;~~
- (24) ~~Consent to **fingerprinting, photographing**, inspection, searches and seizures and the supplying of handwriting exemplars; and~~
- (25) A signed, dated Statement of Truth affidavit.

(B) Massachusetts Supplement Form For Key Qualifiers *Gaming Employees- executive and Gaming Vendor Qualifiers*

The *Massachusetts Supplement Form For Key Qualifiers Gaming Employees-executive and Gaming Vendor Qualifiers* shall contain the following information:

- (1) Name, including maiden name and any aliases or nicknames and applicable dates of use;
- (2) Date of birth;
- (3) Physical description, ~~including a color photograph taken within the past six months;~~
- (4) Current address, mailing and home, if different;
- (5) Home, cell, and work telephone numbers;
- (6) Social Security Number, which information is voluntarily provided in accordance with 5 U.S.C. § 552a;
- (7) **Whether any civil judgments have been obtained against the applicant pertaining to antitrust or security regulation;**
- (7) The gaming license applicant or holding company, as applicable, with which the **qualifier applicant** is affiliated, and the nature of the **qualifier's applicant's** position with or interest in such entity;
- (8) Citizenship and, if applicable, resident alien status, including any employment authorization with expiration date; country of which the **qualifier applicant** is a citizen, place of birth, port of entry to the United States, and name and addresses of sponsor(s) upon the **qualifier's applicant's** arrival;
- (9) Whether during the last ten years any entity in which the **qualifier applicant** has been a director, officer, principal employee or a holder of 5% or more interest has:
  - (a) Made or been charged with (either itself or through third parties acting for it) bribes or kickbacks to any government official, domestic or foreign, to obtain favorable treatment or to any company, employee or organization to obtain a competitive advantage;
  - (b) Held a foreign bank account or has had authority to control disbursements from a foreign bank account;
  - (c) Maintained a bank account or other account, whether domestic or foreign, which is not reflected on the books or records of the business or which is in a name other than the name of the business;
  - (d) Donated, loaned or used funds or property for the use or benefit or in opposing any government, political party, candidate or committee either domestic or foreign;
  - (e) Compensated any of its directors, officers or employees for time and expenses incurred in performing services for the benefit of or in opposing any government or political party domestic or foreign; or
  - (f) Made any loans, donations or other disbursement to its directors, officers or employees for the purpose of making political contributions or reimbursing such individuals for political contributions whether domestic or foreign;
- (10) Copies of Federal and foreign tax returns and related information for the last five years; ~~and~~
- (11) The name, address, occupation and phone number of persons who can attest to the **qualifier's** good character and reputation;
- (12) A signed, dated and notarized release authorization which shall direct all courts, **law enforcement agencies**, probation departments, military organizations, selective service boards, employers, education institutions, banks, financial and other institutions and all

governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the qualifier as requested by the commission, the bureau or a contractor investigator;

- (13) A signed, dated ~~and notarized~~ Statement of Truth.
- (14) A waiver of liability as to the Commonwealth of Massachusetts and its instrumentalities and agents for any damages resulting from any disclosure and publication of information acquired during the license or investigation process; and
- (15) Consent to fingerprinting, photographing, supplying of handwriting exemplars, and any lawful inspection, search, or seizure of the applicant, licensee, or registrant while present in a gaming establishment, and/or their personal effects present in a gaming establishment conducted in accordance with 205 CMR

(C) Key Gaming Employee- standard Application Form

A Key *Gaming Employee-standard Application Form* shall ~~be in a format prescribed by the Commission and shall, at a minimum, require the applicant to provide~~ **contain** the following information:

- (1) Name, including maiden name and any aliases or nicknames along with applicable dates of usage;
- (2) Date and place of birth;
- (3) Physical description;
- (4) Current address and telephone number, and residence history for the past 10 years;
- (5) Social Security Number, which information is voluntarily provided in accordance with section 7 of the Privacy Act, 5 U.S.C. § 552a;
- (6) Citizenship and, if applicable, resident alien status, including any employment authorization and expiration date, country of which the applicant is a citizen, place of birth, port of entry to the United States, and name and address of sponsor(s) upon the applicant's arrival;
- (7) Reason for filing the Key Form;
- (8) Marital history and other family data;
- (9) Employment history, including any gaming-related employment, for the past 10 years;
- (10) Education and training;
- (11) Record of military service;
- (12) **Whether any civil judgments have been obtained against the applicant pertaining to antitrust or security regulation;**
- (12) Licenses and other approvals held by or applied for by the applicant or, where specified, the applicant's spouse, in this State or any other jurisdiction, including:
  - (a) Any license, permit, approval or registration required to participate in any lawful gambling operation in this State or any jurisdiction;
  - (b) Any denial, suspension or revocation by a government agency in this State or any other jurisdiction of a license, permit, approval or registration held by or applied for by the applicant or the applicant's spouse; and
  - (c) Motor vehicle registrations and operator licenses held by or applied for by the applicant or the applicant's spouse, and any revocation or suspension thereof;
- (13) Civil, criminal and investigatory proceedings in any jurisdictions, as follows:
  - (a) ~~Arrests, charges or offenses committed by the applicant or any member of the applicant's immediate family~~ **Any arrest, indictment, charge, or conviction of the applicant;**
  - (b) Any appearance before, investigation by or request to take a polygraph

- examination by any governmental agency, court, committee, grand jury or investigatory body; and
- (c) Lawsuits to which the applicant was or is a party in the past ten years; and
- (14) Financial data, as follows:
- (a) All assets and liabilities of the applicant, and the applicant's spouse and dependent children as indicated on the net worth statement and supporting schedules in a format prescribed by the Commission, including cash, bank accounts, notes payable and receivable, real estate and income taxes payable, loans, accounts payable, credit card debt and any other indebtedness, contingent liabilities, securities, real estate interests, real estate mortgages and liens, life insurance, pension funds, vehicles and other assets;
  - (b) Bank accounts, including any right of ownership in, control over or interest in any foreign bank account during the last ten year period as well as with regard to safe deposit boxes;
  - (c) Real estate interests held by the applicant or the applicant's spouse or dependent children in the past 10 years regardless of whether such interest was held under a recorded or unrecorded instrument;
  - (d) Any business in which the applicant has held an ownership interest for the past 20 years;
  - (e) Copies of Federal and State tax returns and related information for the last five years;
  - (f) Judgments or petitions for bankruptcy or insolvency concerning the applicant or any business entity in which the applicant held a five percent or greater interest, other than a publicly traded corporation, in the past 20 years or in which the applicant served as an officer or director;
  - (g) Any garnishment or attachment of wages, charging order or voluntary wage execution, during the past 10-year period including the amount, court, nature of the obligation and the name and address holder of the obligation;
  - (h) Positions held or interest received in any estate or trust during the last 10-year period;
  - (i). Insurance claims in excess of \$100,000 by the applicant or the applicant's spouse or dependent children filed within the past 10-year period;
  - (j) Loans in excess of \$10,000 made or received by the applicant, the applicant's spouse or dependent children in the last 10-year period;
  - (k) During the last five-year period, any gifts in excess of \$10,000, either individually or in the aggregate, given or received, whether tangible or intangible, by the applicant or the applicant's immediate family in any one-year period; and
  - (l) Referral or finder's fees in excess of \$10,000 in the past 10 years;
- (15) The name, address, occupation and phone number of persons who can attest to the ~~qualifier's~~ **applicant's** good character and reputation;
- (16) ~~Consent to fingerprinting, photographing, and the supplying of handwriting exemplars;~~ Consent to fingerprinting, photographing, supplying of handwriting exemplars, and any lawful inspection, search, or seizure of the applicant, licensee, or registrant while present in a gaming establishment, and/or their personal effects present in a gaming establishment conducted in accordance with 205 CMR;
- (1617) A signed, dated and notarized release authorization which shall direct all courts, **law enforcement agencies**, probation departments, military organizations, selective service

boards, employers, education institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the applicant as requested by the commission, the bureau or a contractor investigator; and

(1718) A signed, dated and notarized Statement of Truth.

#### (D) Gaming Employee License Form

The *Gaming Employee License Form* shall be in a format prescribed by the Commission and may require the applicant to provide contain the following information:

- (1) **Name and address of the applicant** ~~Personal background information;~~
- (2) **Detailed e**Employment history;
- (3) Education and training;
- (4) Record of military service;
- (5) Government positions and offices presently or previously held, and offices, trusteeships, directorships or fiduciary positions presently or previously held with any business entity;
- (6) Licenses, registrations, permits, certification and other approvals held by or applied for in this State or any other jurisdiction;
- (7) Any denial, suspension or revocation by a governmental agency of a license, registration, permit or certification held by or applied for the applicant or any entity in which the applicant a director, officer, partner or an owner of a five (5) percent or greater interest;
- (8) Any interest in or employment presently or previously held by the applicant with an entity which has applied for a permit, license, certificate or qualification in connection with any lawful gambling or alcoholic beverage operation in this State or any other jurisdiction;
- (9) ~~Arrests, charges or offenses committed by the applicant~~ **Any arrest, indictment, charge, or conviction of the applicant;**
- (10) Civil litigation history where the applicant was or is a party; and
- (11) Gaming regulatory history;
- (12) All governmental financial liens or judgments, including state tax liens, delinquent child support obligations, defaulted student loans, unemployment judgments, unpaid motor vehicle surcharges, welfare judgments, **bankruptcy or insolvency findings, wage garnishments, etc.**
- (12) **Whether any civil judgments have been obtained against the applicant pertaining to antitrust or security regulation;**
- (13) ~~Consent to fingerprinting, photographing, and the supplying of handwriting exemplars;~~ **Consent to fingerprinting, photographing, supplying of handwriting exemplars, and any lawful inspection, search, or seizure of the applicant, licensee, or registrant while present in a gaming establishment, and/or their personal effects present in a gaming establishment conducted in accordance with 205 CMR;**
- (1314) A signed, dated and notarized release authorization which shall direct all courts, **law enforcement agencies**, probation departments, military organizations, selective service boards, employers, education institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the applicant as requested by the commission, the bureau or a contractor investigator; and
- (1415) A signed, dated and notarized Statement of Truth.



(E) Gaming Service Employee Registration Form

A *Gaming Service Employee Form* shall be in a format prescribed by the Commission and may require the applicant to provide **contain** the following information:

- (1) Name, including maiden name and any aliases and nicknames;
- (2) Date of birth;
- (3) Physical description;
- (4) Current address and residence history for the past five years;
- (5) Social Security Number, which information is voluntarily provided in accordance with section 7 of the Privacy Act, 5 U.S.C. § 552a;
- (6) Citizenship, and, if applicable, resident alien status, including any employment authorization and expiration date; country of which the applicant is a citizen, place of birth, port of entry to the United States and name and address of sponsor(s) upon the applicant's arrival;
- (7) Last three jobs, and any gaming-related employment during the last 10 years;
- (8) Any license, permit, approval or registration held by or applied for by the applicant and required to participate in any ~~lawful gambling~~ **gaming** operation in ~~this State or any other~~ jurisdiction;
- (9) Any license, permit, approval or registration held by the applicant to work in the gaming industry **that was** suspended, revoked or denied or had any disciplinary action taken **against** in ~~New Jersey or any other~~ jurisdiction;
- (10) ~~Arrests, charges or offenses committed by the applicant~~ **Any arrest, indictment, charge, or conviction of the applicant;**
- (11) All governmental financial liens or judgments, including state tax liens, delinquent child support obligations, defaulted student loans, unemployment judgments, unpaid motor vehicle surcharges, welfare judgments, etc.;
- (12) ~~Consent to fingerprinting, photographing, and the supplying of handwriting exemplars;~~ **Consent to fingerprinting, photographing, supplying of handwriting exemplars, and any lawful inspection, search, or seizure of the applicant, licensee, or registrant while present in a gaming establishment, and/or their personal effects present in a gaming establishment conducted in accordance with 205 CMR;**
- (13) A signed, dated ~~and notarized~~ Statement of Truth; and
- (14) A signed, dated and notarized Release Authorization which shall direct all courts, **law enforcement agencies**, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local both foreign and domestic, to release any and all information pertaining to the applicant as requested by the Commission and/or the Bureau.

(F) Business Entity Disclosure Form – Gaming Vendor- **primary**

A *Business Entity Disclosure Form Gaming Vendor-**primary*** (BED GVP) shall be in a format prescribed by the Commission and may require the vendor to provide **contain** the following information:

- (1) The current or former official and trade names used and the dates of use;
- (2) **The current post office address and, if a corporation, the name of the state under the laws of which it was incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders.**

- (3) The ~~current~~ and former business addresses within the last 10-year period and dates of use;
- (4) The business telephone number;
- (5) The name, title and telephone number of the contact person;
- (6) Whether the application is for initial licensure or retention of that license and, if retention, the license number and date of last submission;
- (7) If the license applicant is other than the vendor filing this form, the reason for filing and the nature of the filing vendor's relationship to the license applicant;
- (8) The business form and, as appropriate, a copy of the certificate of incorporation, charter, bylaws, partnership agreement and all amendments, trust agreement or other documentation relating to the legal organization of the enterprise;
- (9) If a publicly traded corporation, the stock exchange its stock is traded on and its symbol;
- (10) The Federal Employer Identification Number;
- (11) A description of the present and any former business engaged in or intended to be engaged in by the vendor and any parent, holding, intermediary or subsidiary company within the past five years and similar information for former businesses for the past 10 years;
- (12) A description of the nature, type, number of shares, terms, conditions, rights and privileges of all classes of stock issued by the vendor, if any, and the amount outstanding of each, or which the vendor plans to issue;
- (13) **The identity of every person having a direct or indirect interest in the business and the nature of such interest; provided, however, that if the disclosed entity is a trust, the application shall disclose the names and addresses of all beneficiaries; provided further, that if the disclosed entity is a partnership, the application shall disclose the names and addresses of all partners, both general and limited; and provided further, that if the disclosed entity is a limited liability company, the application shall disclose the names and addresses of all members**
- (14) The name, address, date of birth (if appropriate), class of non-voting stock, number and percentage of shares held by each person or entity having a beneficial interest in any non-voting stock;
- (15) The name, home address, date of birth, current title or position and, if applicable, number of shares and class of stock and percentage of ownership for the following persons:
  - (a) Each officer, director or trustee;
  - (b) Each partner whether general, limited or otherwise;
  - (c) A sole proprietor;
  - (d) Each natural person or entity that directly or indirectly holds any beneficial or ownership interest of five percent or more of the entity completing the form;
  - (e) Each sales representative or other person who will regularly solicit business from a casino licensee;
  - (f) Each management person who supervises a regional or local office which employs sales or junket representatives or other persons who regularly solicit business from a casino hotel;
  - (g) Any other person not otherwise specified in 13(a) through (f) above who has signed or will sign any agreement with a casino licensee;
  - (h) Each natural person who indirectly holds any beneficial or ownership interest of 10 percent or more of an applicant for a junket enterprise license; and
  - (i) If a junket enterprise, each junket representative who will deal directly with casino licensees and their employees;
- (16) A flow chart which illustrates the ownership of any other vendor which holds an interest in the filing vendor;

- (17) The name, last known address, date of birth, position, dates the position was held, and reason for leaving for any former officers or directors who held such office during the preceding 10 years;
- (18) The annual compensation of each partner, officer, director and trustee;
- (19) The name, home address, date of birth, position, length of time employed and the amount of compensation of each person, other than the persons identified in 13 above, who is currently expected to receive annual compensation of more than \$300,000;
- (20) A description of all bonus, profit sharing, pension, retirement, deferred compensation or similar plans in existence or to be created by the vendor;
- (21) If the vendor is a partnership, a description of the interest held by each partner, whether limited or general, amount of initial investment, amount of additional contribution, amount and nature of any anticipated future investments, degree of control of each partner, percentage of ownership of each partner, and method of distributing profits to each partner;
- (22) A description of the nature, type, terms, covenants, and priorities of all outstanding debt and the name, address and date of birth of each debt holder or security holder, type and class of debt instrument held, original debt amount and current debt balance;
- (23) A description of the nature, type, terms and conditions of all securities options;
- (24) Within the last 10 years, the following information for each account held by a bank, savings and loan association or other financial institution, whether foreign or domestic, in the name of the vendor or its nominee or which is otherwise under the direct or indirect control of the vendor:
  - (a) The name and address of the financial institution;
  - (b) The type of account;
  - (c) The account numbers; and
  - (d) The dates held;
- (25) A description of the top 10 dollar value contracts or agreements with individuals including name, address and nature of the contract or goods or service provided during the past year;
- ~~(26) The name and address of each company in which the vendor holds stock, type of stock held, purchase price per share, number of shares held, and percentage of ownership indicating any holding of five percent or more of ownership held;~~
- ~~(27) Information regarding any transaction during the past five years involving a change in the beneficial ownership of the vendor's securities on the part of an officer or director who owned more than 10 percent of any class of equity security either directly or indirectly;~~
- (28) A description of any civil, criminal, administrative and investigatory proceedings in any jurisdiction in which the vendor or its subsidiaries have been involved as follows:
  - (a) Any arrest, indictment, charge or conviction for any criminal or disorderly persons offense;
  - (b) Any criminal proceeding in which the business or its subsidiaries has been a party or has been named as an unindicted co-conspirator;
  - (c) Existing civil litigation if damages are reasonably expected to exceed \$100,000, except for claims covered by insurance;
  - (d) Any judgment, order, consent decree or consent order entered against the vendor pertaining to a violation or alleged violation of the Federal antitrust, trade regulation or securities laws or similar laws of any state, province or country; and
  - (e) Any judgment, order, consent decree or consent order entered against the vendor pertaining to a violation or alleged violation of any other state or Federal statute, regulation or code which resulted in the imposition of a fine or penalty of

- \$50,000 or more;
- (29) Within the last 10 years, for the vendor and any holding or intermediary company, information regarding any judgments or petitions by or against it for bankruptcy or insolvency and any relief sought under any provision of the Federal Bankruptcy Act or any state insolvency law, and any receiver, fiscal agent, trustee, reorganization trustee, or similar officer appointed for the property or business of the vendor or its parent, any holding, intermediary or subsidiary company;
  - (30) Within the last 10 years, whether the vendor has had any license or certificate denied, suspended or revoked by any government agency in this State or any other jurisdiction, the nature of such license or certificate, the agency and its location, the date of such action, the disposition, the reasons therefore, and the facts related thereto;
  - (31) Whether the vendor has ever applied for a license, permit or authorization to participate in any lawful gaming operation in this State or any other jurisdiction, the agency and its location, date of application, the nature of the license permit or authorization, number and expiration date;
  - (32) Within the last 10 years, whether the vendor or any director, officer, partner, employee or person acting for or on behalf of the vendor has made bribes or kickbacks to any employee, company, organization or government official, foreign or domestic, to obtain favorable treatment or to obtain a competitive advantage;
  - (33) ~~Within the last 10 years, whether the vendor has:~~
    - ~~(a) Donated or loaned its funds or property for the use or benefit of or in opposing or supporting any government, political party, candidate or committee, either foreign or domestic;~~
    - ~~(b) Made any loans, donations or disbursements to its directors, officers, partners or employees for the purpose of making political contributions or reimbursing such individuals for political contributions either foreign or domestic; or~~
    - ~~(c) Maintained a bank account or other account, either foreign or domestic, not reflected on its books or records, or maintained any account in the name of a nominee for the vendor;~~
  - (34) The names and addresses of any current or former directors, officers, partners, employees or third parties who would have knowledge or information concerning 30 and 31 above;
  - (35) A copy of each of the following:
    - (a) Annual reports for the past five years;
    - (b) If the enterprise is a corporation registered under the Securities Act of 1933 or the Securities Exchange Act of 1934, any annual reports prepared within the last five years on Form 10K pursuant to the Securities Exchange Act of 1934;
    - (c) An audited financial statement for the last fiscal year, including, without limitation, an income statement, balance sheet and statement of sources and application of funds, and all notes to such statements and related financial schedules;
    - (d) Copies of all annual financial statements, whether audited or unaudited, prepared in the last five fiscal years, any exceptions taken to such statements by an independent auditor and the management response thereto; **and an independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans or any other financial transactions to or from a gaming entity or operator in the past 5 years;**
    - (e) Any current report prepared due to a change in control of the vendor, an

acquisition or disposition of assets, a bankruptcy or receivership proceeding, a change in the vendor's certifying accountant or any other material event, or, if the vendor is registered with the SEC, a copy of the most recently filed Form 8K;

- (f) The most recent Proxy or Information Statement filed pursuant to Section 14 of the Securities Exchange Act of 1934; and
  - (g) Registration Statements filed in the last five years pursuant to the Securities Act of 1933;
- (36) An organizational chart of the vendor, including position descriptions and the name of the person holding each position;
  - (37) Copies of all Internal Revenue Forms 1120 (corporate income tax return), all Internal Revenue Forms 1065 (partnership return) or all Internal Revenue Forms 1040 (personal return) filed for the last five years; and
  - (38) A copy of a business registration certificate or other proof of valid business registration in Massachusetts
  - (39) *A Subcontractor Identification Form completed in accordance with 205 CMR 134.07(K)*
  - (39)(40) In addition to the information above, a completed BED GVP shall include the following documents, which shall be dated and signed by the president, chief executive officer, partners, general partner, sole proprietor or other authorized person and notarized:
    - (a) A Statement of Truth;
    - (b) A Release Authorization directing all courts, **law enforcement agencies**, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the vendor as requested by the Commission; and
    - (c) An acknowledgment of receipt of notice regarding confidentiality, ~~consent to search~~ and non-refundability of filing fees.

(G) Business Entity Disclosure Form – Gaming Vendor- secondary

*A Business Entity Disclosure Form Gaming Vendor-secondary (BED GVS) shall contain the following information:*

- (1) *The current or former official and trade names used and the dates of use;*
- (2) *The current post office address and, if a corporation, the name of the state under the laws of which it was incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders.*
- (3) *The former business addresses within the last 10-year period and dates of use;*
- (4) *The business telephone number;*
- (5) *The name, title and telephone number of the contact person;*
- (6) *Whether the application is for initial licensure or retention of that license and, if retention, the license number and date of last submission;*
- (7) *If the license applicant is other than the vendor filing this form, the reason for filing and the nature of the filing vendor's relationship to the license applicant;*
- (8) *The business form and, as appropriate, a copy of the certificate of incorporation, charter, bylaws, partnership agreement and all amendments, trust agreement or other documentation relating to the legal organization of the business;*
- (9) *If a publicly traded corporation, the stock exchange its stock is traded on and its symbol;*

- (10) The Federal Employer Identification Number;
- (11) A description of the nature, type, number of shares, terms, conditions, rights and privileges of all classes of stock issued by the vendor, if any, and the amount outstanding of each, or which the vendor plans to issue;
- (12) The identity of every person having a direct or indirect interest in the business and the nature of such interest; provided, however, that if the disclosed entity is a trust, the application shall disclose the names and addresses of all beneficiaries; provided further, that if the disclosed entity is a partnership, the application shall disclose the names and addresses of all partners, both general and limited; and provided further, that if the disclosed entity is a limited liability company, the application shall disclose the names and addresses of all members
- (13) The name, address, date of birth (if appropriate), class of non-voting stock, number and percentage of shares held by each person or entity having a beneficial interest in any non-voting stock;
- (14) The name, home address, date of birth, current title or position and, if applicable, number of shares and class of stock and percentage of ownership for the following persons:
  - a. Each officer, director or trustee;
  - b. Each partner whether general, limited or otherwise;
  - c. A sole proprietor;
  - d. Each natural person or entity that directly or indirectly holds any beneficial or ownership interest of five percent or more of the entity completing the form;
  - e. Each sales representative or other person who will regularly solicit business from a casino licensee;
  - f. Any other person not otherwise specified in 13(a) through (f) above who has signed or will sign any agreement with a casino licensee;
- (15) The annual compensation of each partner, officer, director and trustee;
- (16) The name, home address, date of birth, position, length of time employed and the amount of compensation of each person, other than the persons identified in 17 above, who is currently expected to receive annual compensation of more than \$300,000;
- (17) If the vendor is a partnership, a description of the interest held by each partner, whether limited or general, amount of initial investment, amount of additional contribution, amount and nature of any anticipated future investments, degree of control of each partner, percentage of ownership of each partner, and method of distributing profits to each partner;
- (18) A description of the nature, type, terms, covenants, and priorities of all outstanding debt and the name, address and date of birth of each debt holder or security holder, type and class of debt instrument held, original debt amount and current debt balance;
- (19) A description of the nature, type, terms and conditions of all securities options;
- (20) Within the last 10 years, the following information for each account held by a bank, savings and loan association or other financial institution, whether foreign or domestic, in the name of the vendor or its nominee or which is otherwise under the direct or indirect control of the vendor:
  - (a) The name and address of the financial institution;
  - (b) The type of account;
  - (c) The account numbers; and
  - (d) The dates held;
- ~~(21) The name and address of each company in which the vendor holds stock, type of stock held, purchase price per share, number of shares held, and percentage of ownership indicating any holding of five percent or more of ownership held;~~

- (22) A description of any civil, criminal, administrative and investigatory proceedings in any jurisdiction in which the vendor or its subsidiaries have been involved as follows:
- (a) Any arrest, indictment, charge or conviction for any criminal or disorderly persons offense
  - (b) Any criminal proceeding in which the business or its subsidiaries has been a party or has been named as an unindicted co-conspirator;
  - (c) Existing civil litigation if damages are reasonably expected to exceed \$100,000, except for claims covered by insurance;
  - (d) Any judgment, order, consent decree or consent order entered against the vendor pertaining to a violation or alleged violation of the Federal antitrust, trade regulation or securities laws or similar laws of any state, province or country; and
  - (e) Any judgment, order, consent decree or consent order entered against the vendor pertaining to a violation or alleged violation of any other state or Federal statute, regulation or code which resulted in the imposition of a fine or penalty of \$50,000 or more;
- (23) Within the last 10 years, for the vendor and any holding or intermediary company, information regarding any judgments or petitions by or against it for bankruptcy or insolvency and any relief sought under any provision of the Federal Bankruptcy Act or any state insolvency law, and any receiver, fiscal agent, trustee, reorganization trustee, or similar officer appointed for the property or business of the vendor or its parent, any holding, intermediary or subsidiary company;
- (24) Within the last 10 years, whether the vendor has had any license or certificate denied, suspended or revoked by any government agency in this State or any other jurisdiction, the nature of such license or certificate, the agency and its location, the date of such action, the disposition, the reasons therefore, and the facts related thereto;
- (25) Whether the vendor has ever applied for a license, permit or authorization to participate in any lawful gaming operation in this State or any other jurisdiction, the agency and its location, date of application, the nature of the license permit or authorization, number and expiration date;
- (26) Within the last 10 years, whether the vendor or any director, officer, partner, employee or person acting for or on behalf of the vendor has made bribes or kickbacks to any employee, company, organization or government official, foreign or domestic, to obtain favorable treatment or to obtain a competitive advantage;
- (27) ~~Within the last 10 years, whether the vendor has:~~
- ~~(a) Donated or loaned its funds or property for the use or benefit of or in opposing or supporting any government, political party, candidate or committee, either foreign or domestic;~~
  - ~~(b) Made any loans, donations or disbursements to its directors, officers, partners or employees for the purpose of making political contributions or reimbursing such individuals for political contributions either foreign or domestic; or~~
  - ~~(c) Maintained a bank account or other account, either foreign or domestic, not reflected on its books or records, or maintained any account in the name of a nominee for the vendor;~~
- (28) The names and addresses of any current or former directors, officers, partners, employees or third parties who would have knowledge or information concerning 26 and 27 above;
- (29) A copy of each of the following:
- (a) Annual reports for the past five years;

- (b) If the enterprise is a corporation registered under the Securities Act of 1933 or the Securities Exchange Act of 1934, any annual reports prepared within the last five years on Form 10K pursuant to the Securities Exchange Act of 1934;
  - (c) An audited financial statement for the last fiscal year, including, without limitation, an income statement, balance sheet and statement of sources and application of funds, and all notes to such statements and related financial schedules;
  - (d) Copies of all annual financial statements, whether audited or unaudited, prepared in the last five fiscal years, any exceptions taken to such statements by an independent auditor and the management response thereto; and an independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans or any other financial transactions to or from a gaming entity or operator in the past 5 years;
  - (e) Any current report prepared due to a change in control of the vendor, an acquisition or disposition of assets, a bankruptcy or receivership proceeding, a change in the vendor's certifying accountant or any other material event, or, if the vendor is registered with the SEC, a copy of the most recently filed Form 8K;
  - (f) The most recent Proxy or Information Statement filed pursuant to Section 14 of the Securities Exchange Act of 1934; and
  - (g) Registration Statements filed in the last five years pursuant to the Securities Act of 1933;
- (30) An organizational chart of the vendor, including position descriptions and the name of the person holding each position;
  - (31) Copies of all Internal Revenue Forms 1120 (corporate income tax return), all Internal Revenue Forms 1065 (partnership return) or all Internal Revenue Forms 1040 (personal return) filed for the last five years;
  - (32) A copy of a business registration certificate or other proof of valid business registration in Massachusetts
  - (33) A *Subcontractor Identification Form* completed in accordance with 205 CMR 134.07(K)
  - (34) In addition to the information above, a completed BED GVS shall include the following documents, which shall be dated and signed by the president, chief executive officer, partners, general partner, sole proprietor or other authorized person and notarized:
    - (a) A Statement of Truth;
    - (b) A Release Authorization directing all courts, law enforcement agencies, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the vendor as requested by the Commission; and
    - (c) An acknowledgment of receipt of notice regarding confidentiality and non-refundability of filing fees.

(H) Non-gaming Vendor Registration Form

~~No non-gaming vendor registration shall be deemed complete unless a non-gaming vendor has filed both a completed *Non-Gaming Vendor Registration Form* and a completed Non-Gaming Vendor~~



~~Registration Supplemental Disclosure Form. All non-gaming vendors shall register by filing through the casino licensee or applicant with which such non-gaming vendor intends to conduct business a Non-Gaming Vendor Registration Form in a format prescribed by the Commission, which shall include the following information attested to and certified by a person who is authorized to act on behalf of the registering non-gaming vendor~~ **A Non-Gaming Vendor Registration Form shall contain the following information:**

- (1) Any official or trade name used by the non-gaming vendor;
- (2) The current address and telephone number of the non-gaming vendor;
- (3) The nature of the non-gaming vendor's business and the type of goods and services ~~being to be provided to the casino industry~~ **a gaming licensee;**
- (4) The Federal Employer Identification Number;
- (5) The name, residence address, **social security number**, and date of birth of each of the following persons:
  - (a) The sales representative(s) or other person(s) who solicit(s) business from a ~~casino~~ **gaming** licensee or applicant and such person's immediate supervisors; and
  - (b) Any person authorized to sign any agreement with the ~~casino~~ **gaming** licensee or applicant **on behalf of the vendor;** and
  - (c) The name(s), address(es) and percentage of ownership held by each entity or person directly owning more than five percent of the enterprise.

~~Within 30 days of the filing of the Non-Gaming Vendor Registration Form, the non-gaming vendor shall file directly with the Commission a Non-Gaming Vendor Registration Supplemental Form in a format prescribed by the Commission, which shall include the following information attested to and certified by a person who is authorized to act on behalf of the registering non-gaming vendor:~~

- (1) ~~Whether the non-gaming vendor or any of its entity or individual holders of an ownership interest or any of the individuals identified above has been denied, suspended, revoked or withdrawn any license, permit, approval or registration in this or any other jurisdiction and the facts related thereto; and~~
- (2) ~~Whether the non-gaming vendor or any of its entity or individual holders of an ownership interest or any of the individuals identified above has been involved in any civil, criminal, administrative or investigatory proceedings in this or any other jurisdiction and the facts related thereto.~~

~~If a non-gaming vendor fails to file a completed Non-Gaming Vendor Registration Form or Non-Gaming Vendor Registration Supplemental Form within 30 days of the filing of a completed Non-Gaming Vendor Registration Form, the Commission may administratively prohibit such non-gaming vendor from conducting business with a casino licensee or an applicant without the need for a hearing before taking such action.~~

- (6) **A Subcontractor Identification Form completed in accordance with 205 CMR 134.07(K)**
- (7) **Consent to fingerprinting, photographing, and the supplying of handwriting exemplars signed by any individual identified in accordant to 205 CMR 134.07 (H)(5).**
- (8) **A Release Authorization directing all courts, law enforcement agencies, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the vendor as requested by the Commission**

(I) Labor Organization Registration Statement

A *Labor Organization Registration Statement* shall be in a format prescribed by the Commission and may require the labor organization, union, or affiliate to provide **contain** the following information:

- (1) The name of the registrant as shown on its charter or in its constitution;
- (2) The current business addresses of the registrant, including the address, telephone and fax numbers of any office where matters pertaining to employees of a ~~casino~~ **gaming** licensee will be conducted;
- (3) The name, title, email address, telephone and fax numbers of a **primary contact** person ~~to be contacted in reference to the statement~~;
- (4) Whether the submission is an initial or biennial renewal registration;
- (5) The names of the registrant's parent organization and all affiliates of the registrant or its parent organization, whether chartered by the parent organization or governed by the same constitution or bylaws;
- (6) The name and nature of the actual or probable involvement of any affiliate which represents or is seeking to represent employees who are employed in a ~~casino hotel, casino or slot only casino facility by a casino licensee,~~ **gaming establishment** or which is involved or seeking to be involved in the control or direction of such representation;
- (7) Financial data, including information concerning any financial interests held in a ~~casino hotel, casino, slot only casino facility or casino licensee~~ **gaming establishment**; and
- (8) The name, address and, where applicable, date of birth, title or position and authority or responsibility, of the following persons or entities:
  - (a) Any pension or welfare system maintained by the registrant;
  - (b) Each officer and agent of any pension or welfare system maintained by the registrant;
  - (c) Each officer and officer-elect of the registrant;
  - (d) Each agent authorized to represent the registrant **in Massachusetts**; and
  - (e) Each principal employee of the registrant.

~~In addition to the information above, a completed Labor Organization Registration Statement may include the following:~~

- (1) A notarized statement of truth, which shall be dated and signed by the registrant's president or other authorized officer;
- (2) ~~A Release Authorization directing all courts, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the registrant as requested by the Commission;~~
- (3) A waiver of liability as to the State and its instrumentalities and agents for any damages resulting to the registrant from any disclosure or publication of information acquired during the investigation process; ~~and~~

(J) Labor Organization Individual Disclosure Form

A *Labor Organization Individual Disclosure Form* shall be in a format prescribed by the Commission and may require the applicant to provide **contain** the following information:

- (1) Name, including maiden name and any aliases or nicknames;
- (2) Title or position with the labor organization;
- (3) Date and place of birth;
- (4) Physical description ~~including photograph taken within the past 12 months and name~~

- ~~printed across the front bottom border;~~
- (5) Current address and home telephone number, email address, and residence history for the past year;
  - (6) Social Security Number, which information is voluntarily provided in accordance with section 7 of the Privacy Act, 5 U.S.C. § 552a;
  - (7) Citizenship and, if applicable, information concerning resident alien status;
  - (8) Full name of the labor organization represented;
  - (9) Telephone number and email address at current place of employment;
  - (10) Employment history:
    - (a) All positions held with a labor organization, union or affiliate, whether or not compensated, for the past five years; and
    - (b) Last three jobs, indicating any gaming-related positions;
  - (11) Licenses or other approvals held or applied for which are required to participate in any lawful gambling operation in this State **the Commonwealth** or any jurisdiction;
  - (12) ~~Civil, criminal and investigatory proceedings in any jurisdiction as follows:~~
    - ~~(a) Convictions for crimes or disorderly persons offenses; and~~
    - ~~(b) Convictions for contempt for refusal to testify or cooperate with any legislative investigatory body or other official investigatory body of this state or the United States where the investigatory body was investigating crimes relating to gaming, official corruption or organized crime activity; and~~
  - (13) ~~Financial data, including information concerning any financial interests held in a casino-hotel, casino, casino simulcasting facility or casino licensee.~~

In addition to the information above, a completed Labor Organization Individual Disclosure Form may include the following:

- ~~(1) The name, address, occupation and phone number of references;~~
- ~~(2) A signed, dated and notarized statement of truth;~~
- ~~(3) A signed, dated and notarized Release Authorization which shall direct all courts, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the officer, agent or principal employee as requested by the Commission; and~~
- (4) A waiver of liability as to the State **Commonwealth** and its instrumentalities and agents for any damages resulting to the officer, agent or principal employee from any disclosure or publication of information acquired during the investigation process.

#### **(K) Subcontractor Identification Form**

***A Subcontractor Identification Form shall contain the following information:***

- (1) A list of all known and anticipated subcontractors including the official or trade name (for purposes of 205 CMR 134.07(K) a subcontractor shall be considered a person that contracts with a licensed or registered vendor to provide goods or services necessary to fulfill the licensed or registered vendor's contract with a gaming licensee)**
- (2) The current address, telephone number, email address, and any website for the subcontractor;**
- (3) The nature of the subcontractor's business and the type of goods and services to be provided to the vendor including the term and value of the contract;**
- (4) The Federal Employer Identification Number of the subcontractor;**

- (5) The name, residence address, social security number, and date of birth of each of any person authorized to sign any agreement with the vendor on behalf of the subcontractor; and
- (6) Consent to fingerprinting, photographing, and the supplying of handwriting exemplars signed by any individual identified in accordance with 205 CMR 134.07(K)
- (7) The name(s), address(es) and percentage of ownership held by each entity or person directly owning more than five percent of the enterprise.
- (8) A Release Authorization directing all courts, law enforcement agencies, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the subcontractor as requested by the Commission

134.08: Submission of application

(A) An application for the initial issuance of a key gaming employee license in accordance with 205 CMR 134.01, a gaming employee license in accordance with 205 CMR 134.02, a gaming service employee registration in accordance with 205 CMR 134.03, a gaming vendor license in accordance with 205 CMR 134.04(A)(1), a non-gaming vendor registration in accordance with 205 CMR 134.04(A)(2), a Gaming Vendor qualifier license in accordance with 205 CMR 134.04(A)(3), a Labor Organization registration in accordance with 205 CMR 134.05, and officers, agents, and principal employees of a Labor Organization in accordance with 205 CMR 134.05 shall include all of the following:

- (1) A completed application form as follows:
  - (a) An applicant for a key qualifier license shall file a *Multi-jurisdictional Personal History Disclosure Form For Key Qualifiers Gaming Employees- executive and Gaming Vendor Qualifiers* as set forth in 205 CMR 134.07(A) and a *Massachusetts Supplement Form For Key Qualifiers Gaming Employees- executive and Gaming Vendor Qualifiers* as set forth in 205 CMR 134.07(B);
  - (b) An applicant for a key license shall file a *Key Gaming Employee-secondary Application Form* as set forth in 205 CMR 134.07(C);
  - (c) An applicant for a gaming employee license shall file a *Gaming Employee License Form* as set forth in 205 CMR 134.07(D);
  - (d) An applicant for a gaming service employee registration shall file a *Gaming Service Employee Registration Form* as set forth in 205 CMR 134.07(E);
  - (e) An applicant for a gaming vendor-**primary** license shall file a *Business Entity Disclosure Form- Gaming Vendor-primary* as set forth in 205 CMR 134.07(F);
  - (f) **An applicant for a Gaming Vendor-secondary license shall file a *Business Entity Disclosure Form- Gaming Vendor-secondary* as set forth in 205 CMR 134.07(G);**
  - (g) An applicant for a non-gaming vendor registration shall file a *Non-gaming Vendor Registration Form* as set forth in 205 CMR 134.07(GH);
  - (h) A gaming vendor qualifier (individual) shall file a *Multi-jurisdictional Personal History Disclosure Form For Key Gaming Employees- executive and Vendor Qualifiers* as set forth in 205 CMR 134.07(A) and a *Massachusetts Supplement*

~~Form For Key Qualifiers~~ *Gaming Employees- primary and Vendor Qualifiers*  
as set forth in 205 CMR 134.07(B);

- (i) A gaming vendor qualifier (entity) shall file a *Business Entity Disclosure Form- Gaming Vendor-~~primary~~* as set forth in 205 CMR 134.07(F);
  - (j) A Labor Organization shall file a *Labor Organization Registration Statement* as set forth in 205 CMR 134.07(HI);
  - (k) Officers, agents, and principal employees of a Labor Organization shall file a *Labor Organization Individual Disclosure Form* as set forth in 205 CMR 134.07(IJ).
- (2) A passport style photograph of the applicant, taken within the preceding 12 months;
  - (3) Proof of fingerprinting in accordance with 205 CMR 134.13;
  - (4) The documents required for identification by 205 CMR 134.14
  - (5) Any applicable fee required by 205 CMR 134.15.
  - (6) (For ~~Key Gaming Employees~~, Gaming Employees, and Gaming Service Employees) Proof of an offer of employment from a gaming licensee pending licensure or registration of the applicant.

(B) An applicant for a key gaming employee license who has previously been issued a positive determination of suitability by the Commission as part of an RFA-1 investigation ~~shall~~ may file a ~~Massachusetts Supplement Form For Key Qualifiers~~ *Gaming Employees- primary and Vendor Qualifiers* as set forth in 205 CMR ~~205 CMR 134.07(B)~~ supplemental licensing information intended to update their previous filing submitted as part of the qualifier suitability investigation as directed by the Division of Licensing in lieu of the full application identified in 205 CMR 134.08(A)(1).

(C) Each applicant shall file a complete application pursuant to 205 CMR 134.05(A) with the Bureau by mail, in person at the address specified on the application form, or via the Commission's website. The Bureau shall not accept an incomplete application.

(D) Reciprocity for vendors If an applicant for a gaming vendor license or **non-gaming** vendor or ~~supplier~~ registration is licensed or registered in another jurisdiction within the United States with comparable license and registration requirements, **as determined by the Bureau**, and is in good standing in all jurisdictions in which it holds a license or registration, the commission may enter into a reciprocal agreement with the applicant, **upon the recommendation of the Bureau**, to allow for an abbreviated licensing or registration process and issue a gaming vendor license or registration ~~under this section~~ **in accordance with 205 CMR 134.00**; provided, however, **as part of any such an agreement** that the commission shall reserve its rights to investigate the qualifications of an applicant at any time and may require the applicant to submit to a full application for a gaming vendor license or provide further information for registration. **The reciprocal agreement shall identify the nature of the investigation to be conducted prior to issuance of the requested license or registration including, but not limited to, such provisos as the review of any investigatory reports from any jurisdictions in which the applicant is approved to conduct business, interviewing of any witnesses, and the filing of all required Massachusetts business filings.**

(E) Scope of duties An employee of a gaming establishment may, where otherwise qualified, engage in the following duties without further licensure by the commission:

- (1) A person who is licensed as a ~~key qualifier~~ **Key Gaming Employee- primary** may, where otherwise qualified, engage in the performance of duties of a **key Key Gaming Employee- secondary**, gaming employee or gaming service employee.
- (2) A person who is licensed as a **key Key Gaming Employee- secondary** may, where otherwise qualified, engage in the performance of duties of a gaming employee or gaming service employee.

- (3) A person who is licensed as a gaming employee may engage in the performance of duties of a gaming service employee.

134.09: Investigation, Determination, and Appeals for Gaming establishment employees and Vendors

(A) Upon receipt of an application for a key gaming employee license in accordance with 205 CMR 134.01, a gaming employee license in accordance with 205 CMR 134.02, a gaming service employee registration in accordance with 205 CMR 134.03, a gaming vendor license in accordance with 205 CMR 134.04(A)(1), a non-gaming vendor registration in accordance with 205 CMR 134.04(A)(2), a gaming vendor qualifier license in accordance with 205 CMR 134.04(B), or a Labor Organization in accordance with 205 CMR 134.05 the **Division of Licensing shall conduct a review of each application for administrative completeness and then forward the application to the Bureau which shall conduct an investigation of the applicant. In the event an application is deemed incomplete, the Division of Licensing may either request supplemental information from the applicant or forward the application to the commission with a recommendation that it be denied.** For ~~natural persons~~ **individuals**, the investigation shall include obtaining and reviewing criminal offender record information from the Department of Criminal Justice Information Services (DCJIS) and exchanging fingerprint data and criminal history with the Massachusetts Department of State Police and the United States Federal Bureau of Investigation. The investigation shall be conducted for purposes of determining whether the applicant is suitable to be issued a license or registration in accordance with 205 CMR 134.10 and 134.11. In determining the weight to be afforded any information bearing on suitability in accordance with 205 CMR 134.10 and 205 CMR 134.11, the Division of Licensing, Bureau, or Commission, as applicable, shall consider: the relevance of the information to employment in a gaming establishment or doing business with a gaming establishment in general, whether there is a pattern evident in the information, and whether the applicant is likely to be involved in gaming related activity. In determining the weight to be afforded to any information bearing on suitability in accordance with 205 CMR 134.10 and 205 CMR 134.11, the information will be considered in the light most favorable to the applicant unless the information cannot be so viewed pursuant to G.L. c. 23K or the information obtained does not otherwise support such view. For purposes of 205 CMR 134.00 and M.G.L. c.23K, §16 an adjudication of delinquency shall not be considered a conviction. Such a finding may, however, be considered for purposes of determining the suitability of an applicant.

- (1) Keys Gaming Employee- executive, Key qualifiers Gaming Employee- secondary, and Gaming employees

Upon completion of the investigation conducted in accordance with 205 CMR 134.09(A) the Bureau shall either approve or deny the application for a key **gaming employee-executive** license, key ~~qualifier~~ **gaming employee-secondary** license or a gaming employee license pursuant to 205 CMR 134.10. If the application for a Key **Gaming Employee-secondary** license or Gaming Employee license is approved, the Bureau shall **forward a written approval to the Division of Licensing which shall** issue a license to the applicant on behalf of the Commission. If the Bureau approves the application for a Key **Qualifier Gaming Employee- executive**, the decision shall be forwarded to the Commission as a recommendation along with the application materials for review and issuance of the license. If the application is denied, the Bureau shall **forward the recommendation for denial and reasons therefor to the Division of Licensing which shall** issue a written decision to the applicant explaining the reasons for the denial. The decision shall include an advisory to the applicant that they may appeal the decision to the Bureau in accordance with 205 CMR 134.09(B). The decision may be served via first class mail or via email to

the addresses provided by the applicant on the application.

- (2) Gaming service employees The Bureau Division of Licensing shall issue a gaming service employee registration to the applicant on behalf of the Commission in accordance with 205 CMR 134.11(A). In the event that the Bureau determines upon completion of the investigation conducted in accordance with 205 CMR 134.09(A) that the applicant should be disqualified from holding a registration or is otherwise unsuitable in accordance with 205 CMR 134.11, it shall forward the results of the investigation to the Division of Licensing which shall issue a written notice to the registrant revoking the registration. The notice shall include an advisory to the applicant that they shall immediately cease employment at the gaming establishment and may request an appeal hearing before the Bureau in accordance with 205 CMR 134.09(B). The notice may be served via first class mail or via email to the addresses provided by the applicant on the application.
- (3) Gaming vendors and Gaming vendor qualifiers Upon completion of the investigation conducted in accordance with 205 CMR 134.09(A) the Bureau shall either approve or deny the application for a gaming vendor license pursuant to 205 CMR 134.10. If the Bureau approves the application for a Gaming Vendor license and any associated applications for Gaming Vendor qualifier licenses, the decisions shall be forwarded to the Commission as a recommendation along with the application materials for review and issuance of the license. If the an application for a Gaming vendor qualifier license is approved by the Bureau subsequent to the issuance of the Gaming Vendor license by the commission, the Bureau shall forward a written approval to the Division of Licensing which shall issue a license to the applicant on behalf of the Commission. If the application is denied, the Bureau shall forward the recommendation for denial and reasons therefor to the Division of Licensing which shall issue a written decision to the applicant explaining the reasons for the denial. The decision shall include an advisory to the applicant that they may appeal the decision to the Bureau in accordance with 205 CMR 134.09(B). The decision may be served via first class mail or via email to the addresses provided by the applicant on the application.
- (4) Non-gaming vendors The Bureau Division of Licensing shall issue a non-gaming vendor registration to the applicant on behalf of the Commission in accordance with 205 CMR 134.11(A). In the event that the Bureau determines upon completion of the investigation conducted in accordance with 205 CMR 134.09(A) that the applicant should be disqualified from holding a registration or is otherwise unsuitable in accordance with 205 CMR 134.11, it shall forward the results of the investigation to the Division of Licensing which shall issue a written notice to the registrant revoking the registration. The notice shall include an advisory to the applicant that they shall immediately cease doing business with the gaming establishment and may request an appeal hearing before the Bureau in accordance with 205 CMR 134.09(B). The notice may be served via first class mail or via email to the addresses provided by the applicant on the application.
- (5) Labor Organizations The Bureau shall issue a Labor Organization registration to the applicant on behalf of the Commission in accordance with 205 CMR 134.11(A).

(B) If an application for a key gaming employee license, gaming employee license, gaming service employee registration, gaming vendor license, non-gaming vendor registration, or gaming vendor

qualifier license is denied in accordance with 205 CMR 134.09(A) the applicant may appeal the decision and request a hearing before the Bureau within 30 days of service of the decision. The request for an appeal hearing must be in writing on a form provided by the Bureau and contain an explanation of the basis for the appeal.

(C) The Bureau shall appoint a hearing officer to preside over the appeal hearing requested by an applicant in accordance with 205 CMR 134.09(B). The hearing will be conducted in accordance with G.L. c.30A and 801 CMR 1.02: *Informal/Fair Hearing Rules*. **An audio recording of the hearing shall be taken.** The hearing officer shall issue a written decision to the applicant ~~in a reasonably prompt manner~~. The hearing officer may affirm the denial of the application or revocation of the registration, reverse the decision and recommend that the license or registration be issued, or recommend that the license or registration be issued with conditions. The hearing officer may recommend any condition that is reasonably calculated to ensure faithful performance of the employee's duties or vendor's obligations. The decision shall include an advisory to the applicant that they may appeal the decision to the Commission in accordance with 205 CMR 134.09(E). The decision may be served via first class mail or via email to the addresses provided by the applicant on the application.

- (D) After a hearing conducted in accordance with 205 CMR 134.09(C) the following shall apply:
- (1) If the hearing officer recommends that a Key **Gaming Employee- standard** license, Gaming Employee license, gaming service employee registration, Gaming vendor qualifier, or non-gaming vendor registration be issued, the ~~Bureau~~ **Division of Licensing** shall issue a license or registration to the applicant on behalf of the Commission.
  - (2) If the hearing officer recommends that the application for a Key ~~Qualifier~~ **Gaming Employee-executive** or Gaming vendor license be issued, the decision shall be forwarded to the Commission as a recommendation along with the application and appeal materials for review and issuance of the license.
- (E) If an application for a key gaming employee license, gaming employee license, gaming service employee registration, gaming vendor license, non-gaming vendor registration, or gaming vendor qualifier is denied or approved with conditions in accordance with 205 CMR 134.09(C) the applicant may appeal the decision and request a hearing before the Commission within 30 days of service of the decision. The request for an appeal hearing must be in writing on a form provided by the Commission and contain an explanation of the basis for the appeal. The hearing will be conducted at a public meeting solely on the record of the administrative proceedings conducted by the Bureau in accordance with 205 CMR 134.09(C). The Bureau shall forward a copy of the administrative record of the proceeding to the Commission promptly upon receipt of the notice of appeal.
- (F) After the hearing conducted in accordance with 205 CMR 134.09(E) the Commission shall issue a written decision to the applicant. The Commission may affirm the denial of the application or revocation of the registration, reverse the decision and order that the license or registration be issued, order that the license or registration be issued with conditions or remand the matter to the Bureau for further proceedings. The Commission may impose any condition that is reasonably calculated to ensure faithful performance of the employee's duties or vendor's obligations.
- (G) In reviewing the Bureau's decision in accordance with 205 CMR 134.09(F), the Commission may consider whether the decision or any condition imposed is:

- (1) In excess of the statutory or regulatory authority or jurisdiction of the Commission; or



- (2)Based upon an error of law; or
- (3)Made upon unlawful procedure; or
- (4)Unsupported by substantial evidence; or
- (5)Arbitrary or capricious, an abuse of discretion, or otherwise not in accordance with law.

(H) The decision of the commission made in accordance with 205 CMR 134.09(F) and (G) shall be final and an applicant shall not be entitled to further review.

134.10: Affirmative license standards for the licensing of employees and vendors of the gaming establishment

(A) An applicant for a key gaming employee license, gaming employee license, gaming vendor license, and a gaming vendor qualifier license shall establish its individual qualifications for licensure by clear and convincing evidence.

(B) In determining whether an applicant for licensure is suitable for purposes of being issued a key gaming employee license, gaming employee license, gaming vendor license, or gaming vendor qualifier license, or having a license renewed, the Bureau shall evaluate and consider the overall reputation of the applicant including, without limitation:

- (1) the integrity, honesty, good character and reputation of the applicant;
- (2) the financial stability, integrity and background of the applicant; ~~including whether the individual has filed or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend or otherwise resolve the payment of any debt~~
- (3) whether the applicant has a history of compliance with gaming licensing requirements in other jurisdictions;
- (4) whether the applicant, at the time of application, is a defendant in litigation;
- (5) whether the applicant is disqualified from receiving a license under 205 CMR 134.10(C).
- (6) whether the applicant has been convicted of a crime of moral turpitude
- (7) whether and to what extent the individual has associated with members of organized crime and other persons of disreputable character
- (8) the extent to which the individual has cooperated with the Bureau in connection with the background investigation
- (9) (for vendors) the integrity, honesty, and good character of any subcontractor

(C) The Bureau and Commission shall deny an application for a key gaming employee license, gaming employee license, gaming vendor license, or gaming vendor qualifier license if the applicant:

- (1) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury;
- (2) submitted an application for a license under G.L. c.23K, §30 and 205 CMR 134.00 that intentionally contains false or misleading information;
- (3) committed prior acts which have not been prosecuted or in which the applicant was not convicted but form a pattern of misconduct that makes the applicant unsuitable for a license; or

- (4) has affiliates or close associates that would not qualify for a license or whose relationship with the applicant may pose an injurious threat to the interests of the commonwealth in awarding a gaming license to the applicant.

(D) Rehabilitation

- (1) An applicant for a **Key gaming employee license**, gaming employee license or a gaming vendor qualifier license may provide proof of rehabilitation from a criminal conviction as part of the application for licensure.
- (2) An applicant for a Key gaming employee license may not appeal a decision made by the Bureau to the Commission in accordance with 205 CMR 134.09(F) that was based upon a disqualifying prior conviction in accordance with 205 CMR 134.10(C)(1) on the basis that they wish to demonstrate rehabilitation.
- (3) An applicant for a Gaming employee license or gaming vendor qualifier license may appeal a decision made by the Bureau based upon a disqualifying prior conviction in accordance with 134.10(C)(1) on the basis that they wish to demonstrate rehabilitation only if the conviction occurred before the 10 year period immediately preceding the date of submission of the application for licensure or registration.
- (4) In its discretion, the Bureau and/or Commission may issue a Gaming employee license or Gaming vendor qualifier license to an applicant who can affirmatively demonstrate the applicant's rehabilitation. In considering the rehabilitation of an applicant the Bureau and Commission shall consider the following:
  - (a) the nature and duties of the position of the applicant;
  - (b) the nature and seriousness of the offense or conduct;
  - (c) the circumstances under which the offense or conduct occurred;
  - (d) the date of the offense or conduct;
  - (e) the age of the applicant when the offense or conduct was committed;
  - (f) whether the offense or conduct was an isolated or repeated incident;
  - (g) any social conditions which may have contributed to the offense or conduct; and
  - (h) any evidence of rehabilitation, including recommendations and references of persons supervising the applicant since the offense or conduct was committed.
- (5) Any applicant may appeal a decision made by the Bureau based upon a conviction for a crime of moral turpitude as set forth in 205 CMR 134.10(B)(6). In its discretion, the Bureau and Commission may issue a Key gaming employee license, Gaming employee license, or gaming vendor qualifier license to an applicant who can affirmatively demonstrate the applicant's rehabilitation. In considering the rehabilitation of an applicant, the Bureau and Commission shall consider the factors outlined in 205 CMR 134.10(D)(4).

- (E) An applicant for a license or registration shall be at least 18 years of age at the time of application.

134.11: Affirmative registration standards for the registration of employees and vendors of the gaming establishment and Labor Organizations

- (A) ~~Registrations for gaming service employees, non-gaming vendors, and Labor Organizations shall be presumptively issued by the Bureau on behalf of the Commission in accordance with 205 CMR 134.09(A)(2) upon submission of an administratively complete application.~~ **Upon submission of an administratively complete application for registration as a gaming service employee, non-gaming**

vendors, or Labor Organizations by an applicant the Bureau shall issue the registration on behalf of the Commission in accordance with 205 CMR 134.09(A)(2). A registration may be subsequently revoked if it is determined that the applicant is disqualified in accordance with 205 CMR 134.11(B) or unsuitable for any criteria identified in 205 CMR 134.11(C).

- (B) The Bureau and Commission shall deny and revoke a registration as a gaming service employee or non-gaming vendor registrant if the individual:
- (1) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury;
  - (2) submitted an application for a license under G.L. c.23K, §30 and 205 CMR 134.00 that intentionally contains false or misleading information;
  - (3) committed prior acts which have not been prosecuted or in which the applicant was not convicted but form a pattern of misconduct that makes the applicant unsuitable; or
  - (4) has affiliates or close associates that would not qualify for a license or whose relationship with the applicant may pose an injurious threat to the interests of the commonwealth in awarding a gaming license to the applicant.
- (C) In determining whether an applicant for registration is suitable for purposes of being issued a gaming service employee registration or non-gaming vendor registration, or having a registration renewed, the Bureau may evaluate and consider the overall reputation of the applicant including, without limitation:
- (1) the integrity, honesty, good character and reputation of the applicant;
  - (2) the financial stability, integrity and background of the applicant; ~~including whether the individual has filed or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend or otherwise resolve the payment of any debt~~
  - (3) whether the applicant has a history of compliance with gaming licensing requirements in other jurisdictions;
  - (4) whether the applicant, at the time of application, is a defendant in litigation;
  - (5) whether the applicant is disqualified from receiving a license under 205 CMR 134.11(B).
  - (6) whether the applicant has been convicted of a crime of moral turpitude
  - (7) whether and to what extent the individual has associated with members of organized crime and other persons of disreputable character
  - (8) the extent to which the individual has cooperated with the Bureau in connection with the background investigation
  - (9) (for vendors) the integrity, honesty, and good character of any subcontractor
- (D) Rehabilitation
- (1) The holder of a Gaming service employee registration or non-gaming vendor registration may appeal a decision made by the Bureau based upon a disqualifying prior conviction in accordance with 134.11(B) on the basis that they wish to demonstrate rehabilitation only if the conviction occurred before the 10 year period immediately preceding application for licensure or registration.
  - (2) In its discretion, the Bureau and/or Commission may issue a Gaming service employee registration or a non-gaming vendor registration to an applicant who can affirmatively demonstrate the applicant's rehabilitation. In considering the rehabilitation of an applicant the Bureau and Commission shall consider the following:

- (a) the nature and duties of the position of the applicant;
  - (b) the nature and seriousness of the offense or conduct;
  - (c) the circumstances under which the offense or conduct occurred;
  - (d) the date of the offense or conduct;
  - (e) the age of the applicant when the offense or conduct was committed;
  - (f) whether the offense or conduct was an isolated or repeated incident;
  - (g) any social conditions which may have contributed to the offense or conduct; and
  - (h) any evidence of rehabilitation, including recommendations and references of persons supervising the applicant since the offense or conduct was committed.
- (3) Any applicant may appeal a decision made by the Bureau based upon a conviction for a crime of moral turpitude as set forth in 205 CMR 134.11(C). In its discretion, the Bureau and Commission may issue a Gaming service employee registration or non-gaming vendor registration to an applicant who can affirmatively demonstrate the applicant's rehabilitation. In considering the rehabilitation of an applicant, the Bureau and Commission shall consider the factors outlined in 205 CMR 134.11(D)(2).

- (E) An applicant for a registration shall be at least 18 years of age at the time of application.
- (F) The Bureau may deny an application for registration as a non-gaming vendor if it determines that the applicant formed the applicant entity for the sole purpose of circumventing 205 CMR 134.04(A)(1)(B).

#### 134.12: Temporary licenses

- (A) Upon petition to the Commission by a gaming licensee, the Commission may issue a temporary license to an applicant for a key gaming employee license, ~~or~~ a gaming employee license, or a gaming vendor license if:
- (1) the applicant for a key gaming employee license, ~~or~~ a gaming employee license, or a gaming vendor license has filed a completed application with the commission; and
  - (2) the gaming licensee certifies, and the Commission finds, that the issuance of a temporary license is necessary for the operation of the gaming establishment and is not designed to circumvent the normal licensing procedures.
- (B) Unless otherwise stated by the Commission, a temporary license issued in accordance with 205 CMR 134.12 shall expire 6 months from the date of its issuance and may be renewed, at the discretion of the Commission, for an additional 6-month period.
- (C) Standard of review A Temporary license may be issued upon a finding that the license is reasonably likely to be issued upon completion of the investigation.

#### 134.13: Fingerprinting

Each applicant for a key gaming employee license, gaming employee license, gaming service employee registration, gaming vendor license, or non-gaming vendor registration shall be fingerprinted under the supervision of the Commission. The Commission may, for good cause shown, permit an applicant to alternatively submit three sets of classifiable fingerprints on fingerprint impression cards provided by the Commission.

#### 134.14: Identification

(A) Every natural person applicant for a license or registration shall establish his or her identity to a reasonable certainty.

(B) An natural person applicant for a license or registration may establish their identity pursuant to 205 CMR 134.13(A) by providing either:

(1) One of the following authentic documents:

- (a) A current and valid United States passport;
- (b) A Certificate of United States Citizenship, or a Certificate of Naturalization, issued by the United States Department of Homeland Security, Citizenship and Immigration Services (USCIS); or
- (c) A current and valid identification card issued by the USCIS containing a photograph or fingerprints and identifying information such as name, date of birth, sex, height, color of eyes and address; or

(2) A certified copy of a birth certificate issued by a state, county or municipal authority in the United States bearing an official seal, and any one of the following authentic documents:

- (a) A current and valid driver's license containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address;
- (b) A current and valid identification card issued to persons who serve in the United States military or their dependents by the United States Department of Defense containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address;
- (c) A current and valid student identification card containing a photograph, an expiration date, the seal or logo of the issuing institution, and the signature of the card holder;
- (d) A current and valid identification card issued by a Federal, state or local government agency containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address; or

(3) A current and valid foreign passport with an employment authorization issued by the USCIS, and any one of the following authentic documents:

- (a) A current and valid driver's license containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address;
- (b) A current and valid identification card issued to persons who serve in the United States military or their dependents by the United States Department of Defense containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address;
- (c) A current and valid student identification card containing a photograph, an expiration date, the seal or logo of the issuing institution, and the signature of the card holder;
- (d) A current and valid identification card issued by a Federal, state or local government agency containing a photograph or identifying information such as name, date of birth, sex, height, color of eyes and address; or

(C) Any person whose current legal name is different from the name on his or her certified birth certificate (for example, maiden name) must show legal proof of the name change. Such proof includes a certified marriage or civil union certificate, divorce decree or court order linking the new name with the previous name, provided that, a divorce decree may be used as authority to resume using a previous name only if it contains the new name and permits a return to use of the previous name.

(D) Any person required to establish his or her identity pursuant above who is not a United States citizen shall also be required to demonstrate that he or she is authorized to work in the United States.

(E) Any natural person may request that the Commission change the name designated on his or her application, license or registration by establishing identity pursuant above or by providing a certified copy of certificate of marriage, a divorce decree or court order from this or any other state, which evidences the requested name change.

134.15: Fees

(A) The following **non-refundable initial** base fees shall be paid at the time of application for licensure, registration, or renewal:

- (1) Key Gaming Employee Initial fee: \$1000.00, submitted with the application. **The applicant shall be billed, which shall be credited to the total fee. Payment for the efforts of the Commission and the Bureau on matters directly related to the applicant that exceed the initial fee at hourly rates to be set by the Commission in pursuant to G.L.c.23K, §30(i) including pPayment for all unusual or out of pocket expenses incurred by the Commission. and/or the Bureau on matters directly related to the applicant or licensee. Timely Renewal fee: \$1000.00**
- (2) Gaming Employee Initial fee: \$300.00 Renewal fee: \$300.00
- (3) Gaming Service Employee Initial fee: \$75.00 Renewal fee: \$75.00
- (4) Gaming vendor - primary Initial fee: \$15,000.00, submitted with the application. **The applicant shall be billed which shall be credited to the total fee. Payment for the efforts of the Commission and the Bureau on matters directly related to the applicant that exceed the initial fee at hourly rates to be set by the Commission in pursuant G.L.c.23K, §30(i) including pPayment for all unusual or out of pocket expenses incurred by the Commission. and/or the Bureau on matters directly related to the applicant or licensee. Timely Renewal fee: \$15,000.00**
- (5) Gaming vendor – secondary Initial fee \$5,000.00 Renewal fee \$5,000.00
- (6) Gaming vendor qualifier No individual fee. The fee shall be included as part of the application fee for the Gaming vendor. Any additional fees resulting from the investigation of a gaming vendor qualifier shall be assessed to the gaming vendor in accordance with 205 CMR 134.15(B).
- (7) Non-gaming vendor Initial fee: \$100.00 Renewal fee: \$100.00
- (8) Labor organization Initial fee: \$200.00 Renewal fee: \$200.00
- (9) Replacement/Name or address changes \$10.00
- (10) Late fee a 10% late fee will be assessed to the initial application fee if a renewal application is not received by the Commission by the due date.

- (B) The application fee for a license or registration may be increased to the extent that the cost of the background investigation relating to an applicant exceeds the application fee set forth in 205 CMR 134.14(A). The **Commission Bureau** shall advise the applicant in writing that an additional application fee is required and the manner in which the additional fee was calculated. Once an applicant is directed to submit an additional application fee, the **Commission Bureau** will take no additional steps with respect to the application until the increased application fee is paid. **In the event that an application fee is not promptly paid without just cause, the application may be denied.**
- (C) All fees must be submitted to the Bureau in the form of a certified check, cashier's check, **personal check** or electronic funds transfer payable to the *Commonwealth of Massachusetts*.
- (D) A processing fee of \$30 will be assessed for return of dishonored checks.
- (E) **Payroll deduction** Licensing fees for applicants for a Gaming Employee license in accordance with 205 CMR 134.15(A)(2) and a Gaming Service Employee registration in accordance with 205 CMR 134.15(A)(3) shall be submitted on behalf of the applicant by the gaming establishment or vendor with which the individual is employed. The gaming establishment or vendor may recover the cost of the fee by way of deduction from the individual's periodic salary payment.

#### 134.16: Term of licenses

- (A) Licenses and registrations issued in accordance with 205 CMR 134.00 shall be valid for the following terms:
- (1) Key gaming employees Key Gaming employee licenses shall be for an initial term of 3 years. The initial term of a key gaming employee license shall expire and be renewable on the last day of the month on the third anniversary of the issuance date. Key gaming employee license renewals shall be for a term of 3 years. ~~The renewal term of a Key-gaming employee license shall expire and be renewable on the last day of the third anniversary of the issuance date.~~
  - (2) Gaming employees Gaming employee licenses shall be for an initial term of 3 years. The initial term of a gaming employee license shall expire and be renewable on the last day of the month on the third anniversary of the issuance date. Gaming employee license renewals shall be for a term of 3 years. ~~The renewal term of a Gaming employee license shall expire and be renewable on the last day of the third anniversary of the issuance date.~~
  - (3) Gaming service employees Gaming service employee registrations shall be for an initial term of 5 years. The initial term of a Gaming service employee registration shall expire and be renewable on the last day of the month on the fifth anniversary of the issuance date. Gaming service employee registration renewals shall be for a term of 5 years.
  - (4) Gaming vendors-**primary, gaming vendor-secondary**, and gaming vendor qualifiers Gaming vendor licenses and gaming vendor qualifier licenses shall be for an initial term of 3 years. The initial term of a Gaming vendor license and gaming vendor qualifier license shall expire and be renewable on the last day of the month on the third anniversary of the issuance date. Gaming vendor license and gaming vendor qualifier license renewals shall be for a term of 3 years. ~~The renewal term of a Gaming vendor license and gaming vendor-qualifier license shall expire and be renewable on the last day of the third anniversary of the issuance date.~~
  - (5) Non-gaming vendors Non-gaming vendor registration shall be for an initial term of 5 years. The initial term of a Non-gaming vendor license shall expire and be renewable on the last day of the month on the fifth anniversary of the issuance date. **Non-gaming vendor registration renewals shall be for a term of 5 years.**

- (6) Labor organizations Labor organization registrations shall be for an initial term of 1 year. The initial term of a Labor organization registration shall expire and be renewable on the last day of the month on the first anniversary of the issuance date.

(B) Notwithstanding 205 CMR 134.16(A), licenses and registrations issued in accordance with 205 CMR 134.00 may be issued with a conditional expiration date to coincide with any employment authorization issued by the United States which is less than the term of the license or registration. A license or registration that is issued with such a conditional expiration date may be extended upon the presentation of proof of United States citizenship or authorization to work in the United States beyond the previous expiration date. Provided, however, no expiration date shall be extended beyond the term for which such a license would have been issued in accordance with 205 CMR 134.16(A).

(C) If a licensee or registrant has, in accordance with 205 CMR 134.17, made timely and sufficient application for a renewal, their license or registration shall not expire **and the applicant shall remain in good standing** until the Bureau has issued a decision on the application. **If a renewal application is received after the renewal date and the license expires before the Commission issues a new license, the person shall not be employable nor conduct business with the gaming establishment until a new license is issued.**

(D) A person who is rehired or transferred shall maintain the license expiration date in accordance with the original license issue date, unless the license has expired before rehire or transfer.

(E) A license for a person for whom a positive determination of suitability was issued in accordance with 205 CMR 115.05(3) as part of the RFA-1 process and who filed a *Massachusetts Supplement Form* in lieu of the complete application for the position for which they seek licensure shall be issued *nunc pro tunc* to the date of the suitability finding.

(F) All licenses and registrations issued in accordance with 205 CMR 134.00 shall be valid for employment with any Massachusetts gaming licensee.

#### 134.17: Renewals

(A) At a minimum of one hundred fifty (150) days prior to expiration, each Key gaming **employee** licensee, gaming **employee** licensee, gaming vendor licensee, and gaming vendor qualifier licensee shall submit a new and updated application in accordance with 205 CMR 134.08.

(B) At a minimum of thirty (30) days prior to expiration, each gaming service employee registrant and non-gaming vendor registrant shall submit a new and updated application in accordance with 205 CMR 134.08.

(C) It shall be the responsibility of the licensee or registrant to ensure that their license or registration is current.

#### 134.18: Duties of applicants and licensees

(A) All applicants, licensees, and registrants shall have the continuing duty to provide any assistance or information required by the commission or the Bureau and to cooperate in any inquiry or investigation conducted by the commission or the Bureau. Refusal to answer or produce information, evidence or



testimony by an applicant, licensee, or registrant may result in denial of the application or suspension or revocation of the license or registration.

(B) No applicant, licensee, registrant shall willfully withhold information from, or knowingly give false or misleading information to, the commission or the Bureau. If the commission or Bureau determines that an applicant, or a close associate of an applicant, has willfully provided false or misleading information, such applicant shall not be eligible to receive a license or registration under 205 CMR 134.00. Any licensee or registrant who willfully provides false or misleading information shall have its license conditioned, suspended or revoked by the commission.

#### 134.19: Disciplinary action

(A) Grounds for Disciplinary Action Any license or registration issued under 205 CMR 134.00 may be conditioned, suspended, or revoked, if the commission finds that a licensee or registrant has:

- (1) been arrested or convicted of a crime;
- (2) failed to comply with G.L. c.23K, §13; or
- (3) failed to comply with any provision of G.L. c.23K or 205 CMR ~~pertaining to licensees and registrations~~ **Internal Controls, supporting casino policy and procedure.**

#### (B) Complaints

Any person may file a complaint against **any person** licensed or registered **in accordance with 205 CMR 134.00**. All complaints relative to a licensee or registrant must be in writing on a form provided by the Commission. All complaints must be received by the Commission within one year of the date of the alleged wrongdoing. The Commission **or Bureau** may itself initiate a complaint at any time notwithstanding the date of the alleged wrongdoing.

#### (C) Basis of Complaint

A complaint must allege wrongdoing by a licensee or registrant in the form of a violation of 205 CMR 134.18(A), G.L. c. 23K.

#### (D) Review and Investigation of Complaints

- (1) Every complaint filed shall be reviewed by the ~~Bureau~~ **Commission**. A hearing may be convened **or the complaint may be dismissed** in the discretion of the ~~Bureau~~ **Commission**. The Bureau may, if it elects, investigate a complaint prior to scheduling a hearing. **In its discretion, the Bureau may resolve informal patron complaints without formal investigation, notification or parties, or convening a hearing.** Failure of a complainant to cooperate in the investigation ~~shall~~ **may** be grounds for dismissal of a complaint.
- (2) ~~Upon receipt of a complaint, the Bureau shall send a letter acknowledging receipt to the complainant and the licensee or registrant being complained of. A copy of the complaint and all attachments shall be forwarded to the licensee or registrant with the acknowledgment letter. The licensee or registrant may be offered an opportunity to respond in writing to the complaint.~~

#### (E) Notice of Hearing

If the Bureau determines that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the licensee or registrant. Mailing of notice to the address on record with the Commission, or emailing the notice to the address provided by the licensee or registrant on their application for licensure or registration, shall be deemed satisfactory notice. The notice of hearing shall contain.

- (1) The name of the complainant.
- (2) The date, time and place of said hearing.
- (3) The location of the incident giving rise to the complaint

(G) Hearing

Hearings convened pursuant to 205 CMR 134.18 shall be conducted pursuant to 801 CMR 1.02 (Informal/fair hearing rules) and M.G.L. c. 30A. Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The Bureau may question any witness and include any records kept by the Commission as exhibits. The Bureau may conclude the hearing at any time and issue a decision based on the evidence presented.

If a licensee or registrant does not appear for the hearing, the Bureau may conduct a hearing in his or her absence and render a decision based upon the evidence presented, but only after making a finding that the licensee was provided notice as required by 205 CMR 134.18(E).

The Bureau may designate a hearing officer to convene a hearing and either make a recommendation or issue a decision on its behalf.

(H) Subpoenas

The Bureau may issue a subpoena in accordance with M.G.L. c. 30A, §12 requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence or documents, relating to any matter in question in the proceeding.

(I) Decisions and Discipline of License and Registration Holders

The Bureau commission shall issue a written decision after the hearing. Decisions shall be issued in a reasonably prompt manner. The Bureau commission may suspend a license for a fixed period of time, revoke a license permanently, or issue a reprimand the licensee. In conjunction with or in lieu of these disciplinary measures, pursuant to M.G.L. c. 23K, §, the Bureau commission may assess a fine and recoup the costs of investigation of up to \$X per violation. Any license or registration that is suspended or revoked shall be forwarded to the Bureau immediately. A person whose license is revoked may apply in writing to the Commission for reinstatement no sooner than two five years from the date of the revocation.

(J) Appeals

- (1) Any person aggrieved by a decision of the hearing officer may, in writing, request review of said decision by the Commission. The filing of such a petition shall not serve to stay any disciplinary action taken by the hearing officer.
- (2) The Commission may review such decision at its discretion. Such review is an administrative review that shall be based solely on the administrative record and is not to be construed as a

second Hearing on the same complaint(s). After review, the Commission may either deny the petition or remand the matter to the hearings officer for further proceedings as directed. The filing of an appeal with the Commission shall serve to toll the timing provisions of M.G.L. c. 30A, §14 until such time as a final decision is rendered by the Commission.

- (3) Any person aggrieved by a decision of the hearings officer or the Commission may appeal such decision in conformance with M.G.L. c. 30A, §14.

**REGULATORY AUTHORITY**

205 CMR 134: M.G.L. c. 23K, §§3, 12, 16, 30 and 31

205 CMR: MASSACHUSETTS GAMING COMMISSION  
205 CMR 101.00: M.G.L. c.23K ADJUDICATORY PROCEEDINGS

101.02: Hearings Before the Bureau

(1) Except as set forth in M.G.L. c. 23K and 205 CMR 101.00, the bureau will conduct the following types of hearings in accordance with the procedures in 801 CMR 1.01: *Formal Rules:*

(a) Hearings before the bureau pursuant to M.G.L. c. 23K, § 30(g) to contest the findings of the bureau relative to a key gaming employee license or a renewal application with respect thereto; and

(b) Hearings before the bureau pursuant to M.G.L. c. 23K, § 31(n) to contest the findings of the bureau relative to a gaming vendor license application or renewal.

(2) Except as set forth in M.G.L. c. 23K and 205 CMR 101.00, the bureau will conduct the following types of hearings in accordance with the informal procedures in 801 CMR 1.02:

*Informal/Fair Hearing Rules:*

(a) Hearings before the bureau pursuant to M.G.L. c. 23K, § 30(g) to contest the findings of the bureau relative to a gaming employee license, or a gaming service employee registration or a renewal application with respect thereto; and

(b) Hearings before the bureau pursuant to M.G.L. c. 23K, § 31 to contest the findings of the bureau relative to non-gaming vendor registration.

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101.04: Special Procedures for Hearings Before the Bureau

Formal Hearings. For hearings before the bureau pursuant to 205 CMR 101.02(1), the following provisions of M.G.L. c. 23K and 205 CMR 101.00 shall supersede any conflicting provisions of 801 CMR 1.01: *Formal Rules:*

(a) Standing: Same as 205 CMR 101.03(a).

(b) Presiding Officer: The deputy director shall appoint a presiding officer to preside over the hearing who may be any of the following:

1. An attorney from the commission, the bureau, or the attorney general's office;
2. An outside counsel;
3. An administrative law judge from the Massachusetts Division of Administrative Law Appeals;
4. A retired Massachusetts or Federal judge.

(c) Burden of Proof: Same as 205 CMR 101.03(e).

- (d) Decision: Pursuant to M.G.L. c. 23K, § 4(15), in its decision after the hearing, the bureau may approve, deny, limit, condition, restrict, revoke or suspend such finding of suitability, license or renewal as the bureau deems reasonable to effectuate the purposes of M.G.L. c. 23K. Any orders by the bureau denying an application, determination of suitability, license, or renewal shall be accompanied by an explanation of the reasons that an applicant did not meet the qualifications for licensure under M.G.L. c. 23K.
- (e) Notice of Decision: The bureau shall notify the applicant in person or by mail of the decision, of the applicant's right to appeal the decision to the commission and of the 30 day time limit on the right to appeal.
- (f) Appeal to Commission from Bureau Decision: An applicant aggrieved by a decision of the bureau after a hearing pursuant to 205 CMR 101.04 may appeal that decision to the commission by filing a notice of appeal within 30 days of the date of the bureau's notice of decision under 205 CMR 101.04(e). The notice of appeal shall be filed with the commission at its main office and a copy shall be simultaneously transmitted to the bureau.
- (g) Record Review: The commission shall hear and decide any appeal under 205 CMR 101.04(f) on the record of the bureau's hearing under 205 CMR 101.04(1).
- (h) No Further Review: The decision of the commission on any appeal under 205 CMR 101.04(f) shall be final and the applicant shall not be entitled to further review.
- (i) Waiver: If no hearing is timely requested concerning the bureau's decision under 205 CMR 101.02, or if no appeal is timely filed from the bureau's decision after a hearing under 205 CMR 101.04(f), then the bureau's decision shall be the final decision of the commission and the applicant shall not be entitled to further review.

205 CMR: MASSACHUSETTS GAMING COMMISSION  
205 CMR 102.00: CONSTRUCTION AND APPLICATION

102.02: Definitions

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Record means a book, paper, map, photograph, recorded tape, financial statement, statistical tabulation, or any other documentary material or data, regardless of physical form or characteristics.

Restricted area means a part of the gaming establishment ~~in which gaming operations are conducted~~ that is not open to the public as determined by the commission.

Rewards Card is defined in M.G.L. c.23K, §2.

205 CMR: MASSACHUSETTS GAMING COMMISSION  
205 CMR 112.00: REQUIRED INFORMATION D APPLICANT COOPERATION

112.01: Additional information

(1) The commission, the bureau or their agents and employees may request additional information and documents from an applicant **for a gaming license including all qualifiers, key gaming employee license, gaming employee license, gaming service employee registration, any vendor license or registration, or any other license or registration required in accordance with G.L. c.23K or 205 CMR** throughout the application review process including after the application has been deemed administratively complete under 205 CMR 111.00: *Phase I Application Requirements* and 205 CMR 118.03: *RFA-2 Administrative Completeness Review*. Failure by the applicant to timely submit the additional information as requested by the commission, the bureau or their agents and employees may be grounds, in the discretion of the commission, for denial of the application.

(2) All applicants, licensees, registrants and qualifiers under M.G.L. c. 23K and 205 CMR shall comply with all requests of the commission, the bureau and their agents and employees for information and documents as authorized by M.G.L. c. 23K and 205 CMR.

112.02: Obligation to Cooperate

(1) Applicants, licensees, registrants and qualifiers shall respond within ten days or within the time specified in an information request by the commission, the bureau and their agents and employees under 205 CMR 112.01 to said information request.

(2) All applicants, licensees, registrants and qualifiers under M.G.L. c. 23K shall have a continuing duty to provide all information and documents requested by the commission, bureau, and their agents and employees and to cooperate in any investigation or hearing conducted by the commission, bureau, and their agents and employees, as authorized by M.G.L. c. 23K. Without limitation, an applicant, licensee, registrant and qualifier shall have a continuing duty to provide updated information to the commission, the bureau and their agents and employees in connection with the Phase 1 investigation by the bureau pursuant to 205 CMR 115.03: *Phase I Investigation*

*and Recommendations by the Bureau, the Phase 2 application review conducted in accordance with 205 CMR 118.00: Phase 2 Administrative Proceedings, an investigation commenced after submission of an application for licensure or registration in accordance with 205 CMR 134.00 and any hearing by the commission or the bureau pursuant to 205 CMR 101.00: M.G.L. c. 23K Adjudicatory Proceedings.*

(3) If the commission determines that an applicant, licensee, registrant, or qualifier has knowingly withheld information, knowingly failed to provide information or documents requested by the commission, bureau, or their agents and employees, or knowingly failed to cooperate with any investigation or hearing conducted by the commission, bureau, or their agents and employees, the commission may, with respect to such person:

- (a) Find that person ineligible to hold a license or registration or be qualified in connection with a license;
- (b) Suspend the relevant license, registration or qualification; or
- (c) Revoke the relevant license, registration or qualification.





## SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this amended small business impact statement in accordance with G.L. c.30A, §5 relative to the proposed new regulations (205 CMR 134.00) and corresponding changes to the existing regulations (205 CMR 101.00, 102.00, and 112.00). A public hearing on the proposals was conducted on December 13, 2013. These proposals were developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. The proposed regulations set out the process and standards governing the licensing of key gaming employees, gaming employees, and gaming vendors as well as the registration of gaming service employees, non-gaming vendors, and labor organizations. The proposed licensing and registration process is largely directed by the statutory requirements set forth in G.L. c.23K, §12, 16, 30, 31, and 32. To the extent the regulations relate to the licensing or registration of vendors, the interests of small businesses will be be implicated.

In accordance with G.L. c.23K, §31(a), “[n]o person shall conduct a business with a gaming licensee unless such person has been licensed or registered with the commission.” To that end, the proposed regulations outline the specific process, as provided by G.L. c.23K, §31, for the licensure of gaming vendors and registration of non-gaming vendors to a gaming establishment. The regulations, apply to any person or entity that conducts business with a gaming establishment regardless whether the good or service being provided relates directly to gaming.

As provided by G.L. c.30A, §5, the Commission has considered whether any of the methods set out in the statute relative to reducing the impact of a proposed regulations on small businesses would hinder achievement of the purpose of the proposed regulations. The Commission offers the following comments to the statutory inquiries.

(1) The basic compliance requirements for vendors are largely set out by statute. Further, the proposed licensing and registration regulatory scheme for vendors to a gaming establishment is relatively commonplace in the gaming industry. Other than the filing of the required application materials, petitioning for an appeal of a decision, or addressing a complaint filed against the licensee or registrant as described in the draft language there are no reporting requirements imposed by these proposed regulations. The Commission has however, in recognition of the burden associated with the filing of any application for licensure, created a secondary tier of gaming vendors, referred to as gaming vendor-secondary, for which a less onerous application is required and a lower fee required than for the gaming vendor-primary category.

(2) The only compliance deadline imposed by the regulations relates to the requirement that a renewal application be submitted within a certain period in advance of expiration of the license or registration. It is important that such requirement be uniform for all licensees and registrants.



Massachusetts Gaming Commission

(3) As discussed in paragraph (1) above, the requirements to be placed on small business were contemplated by the Commission in the drafting of the proposed regulations. The compliance requirements necessary for licensure or registration have been consolidated and simplified to the extent possible given the statutory mandates and consideration of best practices.

(4) By its nature, licensing and registration regulations of the type proposed in this context must be prescriptive.

(5) G.L. c.23K was enacted to create a new industry in the Commonwealth and to promote and grow local small businesses and the tourism industry, including the development of new small business and tourism amenities such as lodging, dining, retail and cultural and social facilities. The proposed regulations are designed to effectuate those intentions and growth.

(6) Where participation in the proposed licensing and registration process is voluntary, the proposed regulations are unlikely to impose any adverse impacts on small businesses.

Massachusetts Gaming Commission  
By:

Todd M. Grossman  
Deputy General Counsel

DATED: January 9, 2014



Massachusetts Gaming Commission

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**SECTION 6 – NO DOCUMENTS FOR  
REVIEW**

**SECTION 6.a – NO DOCUMENTS FOR  
REVIEW**



Plainridge Racecourse  
301 Washington Street  
Plainville, MA 02762  
508.643.2500

January 2, 2014

To: Jennifer Durenberger  
Director of Racing - Massachusetts Gaming Commission

From: Christopher McErlean

Re: Plainridge Customer Rewards Program

As part of Springfield Gaming and Redevelopment, LLC's ("SGR") 2014 license application to the Massachusetts Gaming Commission ("MGC"), Exhibit 29 included a request to conduct a system of account wagering ("WinLine") with the inclusion of "Players Club" customer wagering incentive program. Such a program and service had previously been approved by the Commission for Plainridge Racecourse.

The Commission approved SGR's license application, including the account wagering system information which included reference to the Players Club, on December 4, 2103.

In prior years the core rewards program offered by Plainridge was regarded as a positive customer loyalty benefit, however I am aware of past concerns raised on how certain parts of this program were implemented under the prior Plainridge racing licensee. Based on our review it appears some aspects of the original intent of the program were not followed and possibly circumvented existing regulations.

We are aware that the current MA statute (G.L. c. 128A) that defines a "rebate" as *"money returned, which was not the result of a winning a prize from the wagered competition pursuant to this chapter and chapter 128C, to a bettor by a racing meeting licensee based on a percentage of his wager."*

SGR is requesting from the MGC positive guidance at its January 9 meeting that the continued implementation of a points based customer rewards program, with the only use of such points earned being for racing programs and handicapping materials (such as The Daily Racing Form), food and (non-alcoholic) beverages at the facility and existing merchandise at the track gift shop, would be permissible under current regulations. We believe that a program structured in this manner would not fall under the rebate definition as stated above, and would in fact provide positive benefits regarding customer satisfaction.

The program itself would be turn key to implement as any systems and programs to handle calculations and recordkeeping are already in place. SGR is also confident it has proper controls and procedures for the program. SGR can share any further information as needed by the Commission regarding this program.

Finally, since SGR took over the operation of Plainridge effective January 1, 2014, I am happy to provide an update to that transition at the January 9 meeting.

SGR appreciates your attention to these matters.

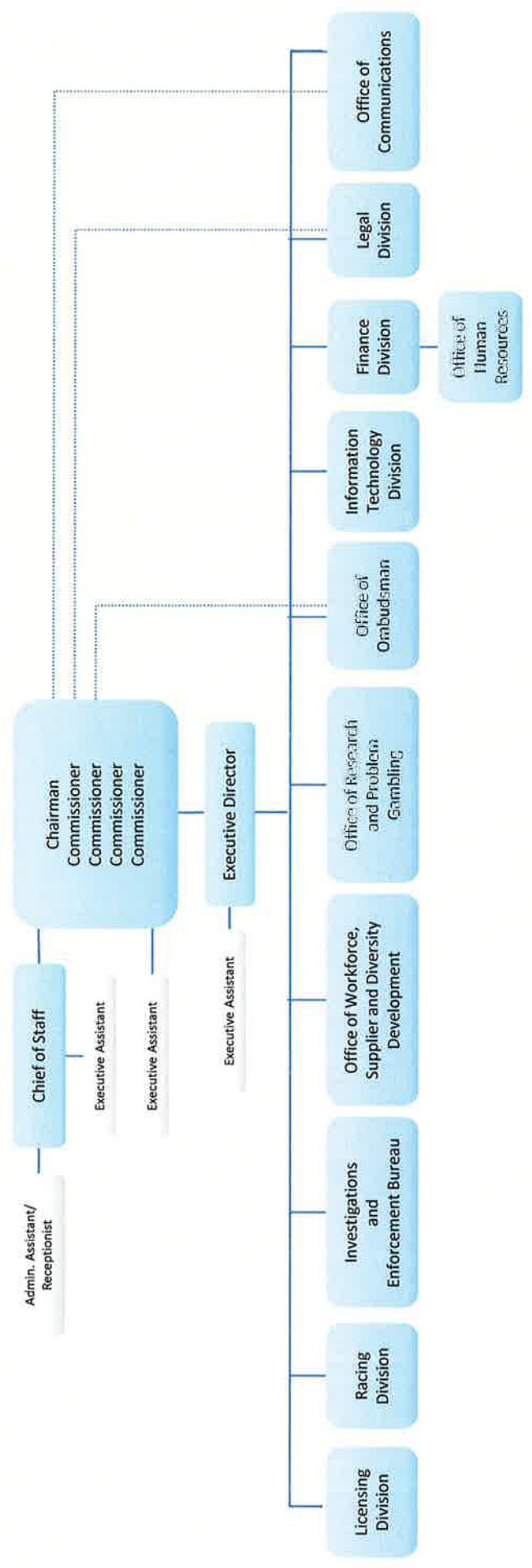
Copy to: C. Sottosanti  
S. O'Toole

Enclosures

**SECTION 7 – NO DOCUMENTS FOR  
REVIEW**

**SECTION 7.a – NO DOCUMENTS FOR  
REVIEW**

*Massachusetts Gaming Commission*  
**Proposed Organizational Chart**  
 January 6, 2014







## Proposed

### Massachusetts Gaming Commission Internet Forum

#### DATE

*The Massachusetts Gaming Commission will strive to ensure that its decision-making and regulatory systems engender the confidence of the public and participants, and that they provide the greatest possible economic development benefits and revenues to the people of the Commonwealth, reduce to the maximum extent possible the potentially negative or unintended consequences of the new legislation, and allow an appropriate return on investment for gaming providers that assures the operation of casino-resorts of the highest quality.*

#### Forum Agenda

- 8:30 - 9:00**      **Registration**
- 9:00 - 9:15**      **Welcome/Introduction**
- 9:15 - 10:00**    **What is internet gambling and social gaming?  
Demonstration and discussion of internet games  
and a comparison to social gaming.**

**Presenter:**

- 10:00 - 10:45**    **State of Internet Gambling Nationally and Around the  
World including legal status of internet gambling in  
Massachusetts**

**Presenters:**

- 10:45 - 11:00**    **BREAK**

- 11:00 - 12:00**    **Money Laundering and Problem Gambling a risk to  
Internet Gambling?**

**Presenters:**



Massachusetts Gaming Commission

- 12:00 – 1:00**      **LUNCH**
- 1:00 – 2:00**      **Panel Discussion of the approach, challenges and successes of internet gambling in Nevada, New Jersey, Delaware and Canadian Provinces**
- Presenters:**
- 2:00 – 3:00**      **Lottery and Internet Gaming in the US**  
**Online lottery games and co-existence with games offered by casinos**
- Presenter:**
- 3:00 – 3:15**      **BREAK**
- 3:15 – 4:15**      **Industry Perspective – How does Internet Gaming coexist with or amplify the business of brick and mortar casinos?**
- Presenters:**
- 4:15 – 4:30**      **Wrap Up**



Massachusetts Gaming Commission



## MASSACHUSETTS GAMING COMMISSION

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### MEMORANDUM

**To: Chairman Crosby and Commissioners Cameron, McHugh, Stebbins and Zuniga**  
**From: Rick Day, Executive Director and Derek Lennon, CFAO**  
**Date: January 6, 2014**  
**Re: Regulation for Cost Assessment**

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#### Background

On November 21, 2013, the Commissioners were presented with a plan for assessing the annual costs of the Commission. The Commission asked for public comment on the proposal. Two responses were received. A joint response from PPE Casino Resorts MA, LLC and Raynham Park LLC, as well as a response from Springfield Gaming and Redevelopment LLC, a subsidiary of Penn National Gaming, Inc. Both responses objected to the cost assessment proposal and recommended alternate solutions.

#### Summary

After reviewing the responses to the Commission's request for public comment, the staff has drafted the attached regulation for consideration. The regulation does the following:

- Define the budget process for the MGC
- Develop a process for an annual slot fee assessment for licensees
- Develop a process for the annual assessment for costs not covered by the slot fees and investigative costs
- Develop a process for the annual assessment of the Public Health Fund Transfer
- Define usage with existing regulation (205 CMR 121.00)
- Require an annual reconciliation of actual revenues to expenses
- Determine the method of payment and remedies MGC has available if payment is not received

205 CMR 121.00 only allows the Commission to assess licensees for operational costs in the initial year of a license. Category 1 licenses are awarded for a 15 year period. Category 2 licenses are awarded for a 5 year period. The proposed regulation is not



Massachusetts Gaming Commission

duplicative, but rather implements the annual assessment process. The proposed regulation would be utilized in conjunction with 205 CMR 121.00 to ensure no licensee is double billed for the same costs in a given fiscal year.

### **Action Requested**

Staff is requesting the Commission to allow the proposed regulation to move through the promulgation process.

Attached to this memo are the following:

- MGL Ch. 23K Section 56
- 205 CMR 121.00
- Proposed Regulation for Annual Budget and Operating Fees/Assessments
- The response from PPE Casino Resorts MA, LLC and Raynham Park LLC,
- The response from Springfield Gaming and Redevelopment LLC, a subsidiary of Penn National Gaming, Inc



Massachusetts Gaming Commission

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**Section 56: Fees and annual assessment of costs not otherwise covered by fees or other sources of funding**

*[ Text of section added by 2011, 194, Sec. 16 effective November 22, 2011.]*

Section 56. (a) In addition to any other tax or fee imposed by this chapter, there shall be imposed an annual license fee of \$600 for each slot machine approved by the commission for use by a gaming licensee at a gaming establishment; provided, however, that not sooner than 5 years after award of an original gaming license, the commission may annually adjust the fee for inflation. The fee shall be imposed as of July 1 of each year for all approved slot machines on that date and shall be assessed on a pro rata basis for any slot machine approved for use thereafter.

(b) The commission shall establish fees for any investigation into a violation of this chapter or regulation promulgated hereunder by a gaming licensee to be paid by the gaming licensee including, but not limited to, billable hours by commission staff involved in the investigation and the costs of services, equipment or other expenses that are incurred by the commission during the investigation.

(c) Any remaining costs of the commission necessary to maintain regulatory control over gaming establishments that are not covered by: (i) the fees set forth in subsections (a) and (b); (ii) any other fees assessed under this chapter; or (iii) any other designated sources of funding, shall be assessed annually on gaming licensees under this chapter in proportion to the number of gaming positions at each gaming establishment. Each gaming licensee shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the commission.

(d) If the fees collected in subsections (a) and (b) exceed the cost required to maintain regulatory control, the surplus funds shall be credited in proportional shares against each gaming licensee's next assessment.

(e) In addition to the fees collected under this section and any additional costs of the commission, the commission shall assess an annual fee of not less than \$5,000,000 in proportional shares against each gaming licensee in proportion to the number of gaming positions at each gaming establishment for the costs of service and public health programs dedicated to addressing problems associated with compulsive gambling or other addiction services. Such assessed fees shall be deposited into the Public Health Trust Fund established in section 58.

(f) All fees and assessments collected under this section, except those collected under subsection (e), shall be deposited into the Gaming Control Fund established in section 57.

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 121.00: LICENSING FEE

Section

121.01: Licensing Fee

121.02: Payment of the Fee

121.01: Licensing Fee

- (1) Within 30 days after the award of a Category 1 license by the commission, the licensee shall pay a non-refundable license fee of \$85,000,000 to the Commission.
- (2) Within 30 days after the award of a Category 2 license by the commission, the licensee shall pay a non-refundable license fee of \$25,000,000 to the commission.
- (3) Within 30 days after the award of a Category 1 or Category 2 license by the commission, the licensee shall remit:
  - (a) a license fee, as provided by M.G.L. c. 23K, § 56(a), of \$600 for each slot machine referenced in 205 CMR 119.01(45) and approved by the commission for use by a gaming licensee at a gaming establishment; and
  - (b) a license fee, as provided by M.G.L. c. 23K, § 56(c), to be determined by the commission upon issuance of the license, to cover costs of the commission necessary to maintain control over gaming establishments, in proportion to the number of gaming positions projected for the gaming establishment; provided, however, that such assessment may be adjusted by the commission at any time after payment is made where required to reflect a licensee's actual share, and accordingly, the license may be required to remit additional funds or a credit may be issued towards the payment the following year; and
  - (c) a license fee, as provided by M.G.L. c. 23K, § 56(e), to be determined by the commission upon issuance of the license, reflecting the applicant's share of \$5,000,000 to be deposited into the Public Health Trust Fund in proportion to the number of gaming positions projected for the gaming establishment; provided, however, that such assessment may be adjusted by the commission at any time after payment is made where required to reflect a licensee's actual share, and accordingly, the license may be required to remit additional funds or a credit may be issued towards the payment the following year.

121.02: Payment of the Fee

- (1) All fees shall be submitted in the form of a certified check or secure electronic funds transfer payable to the "Massachusetts Gaming Commission."
- (2) In the event that a licensee fails to pay the fee as provided in 205 CMR 121.01, the commission may take any remedial action it deems necessary up to and including revocation of the gaming license.

REGULATORY AUTHORITY

205 CMR 121.00: M.G.L. c. 23K, §§ 4(26); 4(37); 5; 10(d); 11(b); and 56.

205 CMR \_\_\_\_ .00 Annual Budget and Operating Fees/Assessments

Section

\_\_\_\_.01 Annual Budget

\_\_\_\_.02 Annual Slot Fees

\_\_\_\_.03 Annual Operating Costs Assessments

\_\_\_\_.04 Public Health Trust Fund Assessments

\_\_\_\_.05 Use of This Regulation with 205 CMR 121.00

\_\_\_\_.06 Annual Reconciliation of Expenses to Revenues

\_\_\_\_.07 Payment of Fees and Assessments for Operations

\_\_\_\_.01 Annual Budget

- a) The Commission shall develop and approve an annual budget prior to the beginning of the subsequent fiscal year. The budget shall include revenue and cost projections for the subsequent fiscal year.
- b) The Commission's fiscal year shall be from July 1<sup>st</sup> to June 30<sup>th</sup>.
- c) If at any time during the fiscal year the Commission anticipates that the expenses for the current fiscal year are projected to exceed revenues, the Commission is authorized to revise assessments to licensees utilizing the formula in Section \_\_\_\_ .03 (a). Within 30 days of receipt of the revised assessment, the licensee shall remit payment to the Commission.

\_\_\_\_.02 Annual Slot Fees

- a) The Commission shall impose a fee on each licensee, on or about July 1, for each slot machine referenced in the licensee's approved application, or as provided by MGL C. 23K § 56(a) once a gaming establishment is open for business, for each slot machine approved as of July 1 of each year and shall be assessed on a pro rata basis for any slot machine approved for use thereafter.
- b) For the purposes of this section, pro rata shall be defined as proportional share of days the slot machine is approved for operation in a given fiscal year.
- c) Within 30 days of receipt of the fee, the licensee shall remit payment to the Commission.

\_\_\_\_.03 Operating Cost Assessments

- a) The Commission shall assess gaming licensees annually after the approval of the annual budget and before June 1 of each year, to cover the costs of the Commission to maintain regulatory control over gaming establishments in the subsequent fiscal year, in proportion to the number

of gaming positions projected for each gaming establishment or as provided by MGL C. 23K § 56(c), once the gaming establishment is open for business in proportion to the number of gaming positions at each gaming establishment.

- b) Each gaming licensee shall pay the amount assessed upon it within 30 days after the date of the notice of assessment from the Commission.

\_\_\_\_.04 Public Health Trust Fund Assessment

- a) Upon a later determined date the Commission shall assess each licensee an annual fee reflecting the licensee's share of not less than \$5,000,000 to be deposited into the Public Health Trust Fund. Each licensee's share shall be in proportion to the number of gaming positions projected for each gaming establishment or as provided by MGL C. 23K § 56(e) once the gaming establishment is open for business the share shall be in proportion to the number of gaming positions at each gaming establishment as of July 1 of each year.
- b) Within 30 days of receipt of the assessment, the licensee shall remit payment to the Commission.

\_\_\_\_.05 Use of This Regulation with 205 CMR 121.00

- a) This section shall be used in conjunction with 205 CMR 121.00, and nothing in this section shall cause a licensee to be doubly assessed for the proportional share of a fiscal year operating costs of the commission as provided by MGL C. 23K, § 56.

\_\_\_\_.06 Annual Reconciliation of Expenditures to Revenues

- a) At the close of each fiscal year (including the state accounts payable period as set by the Office of the State Comptroller), the Commission shall reconcile its actual expenditures with its actual revenues. No commitment or expense shall cause the Gaming Control Fund to end the fiscal year with a negative cash balance.
- b) In the event there are revenues that exceed the expenses for a given fiscal year, the Commission, in its sole discretion, shall decide to either return the excess revenues to the licensees in proportional share to the assessments under section \_\_\_\_\_.03 of that fiscal year, or it may be used to offset the licensee's assessments in the subsequent fiscal year.

\_\_\_\_.07 Payment of Annual Fees and Assessments

- a) All Fees and assessments shall be submitted in the form a certified check or secure electronic funds transfer payable to the "Massachusetts Gaming Commission."
- b) All fees and assessments generated and collected under this regulation, except those collected under section \_\_\_\_\_.04, shall be deposited into the Gaming Control Fund established in MGL, Ch. 23K, Section 57



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- c) In the event that a licensee fails to pay the fee as provided in 205 CMR \_\_\_\_.00, the Commission may take any and all remedial action(s) it deems necessary up to and including revocation of the gaming license.



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**PPE CASINO RESORTS MA,LLC  
RAYNHAM PARK, LLC**

December 13, 2013

Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
84 State Street, 10<sup>th</sup> Floor  
Boston, MA 02109

RE: Request for Public Comment:  
Cost Assessment Plan and Proposal

Dear Chairman Crosby:

This correspondence is submitted jointly by two of the three pending Applicants for a Category 2 gaming license, PPE Casino Resorts MA, LLC (“PPE”) and Raynham Park, LLC (“Raynham Park”) (jointly “Category 2 Applicants”) in response to the Request for Public Comments on the Commission’s Cost Assessment Plan and Proposal issued by the Commission on November 21, 2013. While PPE and Raynham Park are competing aggressively against each other for the single Category 2 license currently scheduled to be awarded by the Commission within the next 90 days, they join together to submit these comments on a critical issue that will have a dramatic impact on whichever of the three applicants is successful in the Category 2 licensing contest. Through these Comments, the Category 2 Applicants propose that the MGC’s Cost Assessment Plan continue to be developed through a collaborative process with the entire gaming industry in order to develop a fair and equitable scheme for recovery of the entire cost of development and operation of the regulatory system from gaming licensees and others (*e.g.* applicants) that receive a benefit from that system.

**I. INTRODUCTION AND SUMMARY**

PPE and Raynham Park were driven to address this issue together after learning of the November 21, 2013 Memorandum from Executive Director Day (“Day Memorandum”) and after hearing the Commissioners’ discussion of that Memorandum at the Commission’s November 21, 2013 Public Meeting. What became clear from that discussion is that the Commission apparently intends to bill the successful Category 2 Applicant an estimated \$4 million regulatory assessment within 30 days of the award of the Category 2 license. This assessment would purportedly finance the projected gap in funding of the MGC FY 14 budget not covered by the \$600 per slot machine annual license fee and other fees assessed directly against applicants or licensees (presumably collection of the investigative fees recovered from the \$400,000 nonrefundable application fee and billed directly to applicants).

The Category 2 Applicants cannot state strongly enough that such an assessment would be both inequitable and inconsistent with the gaming statute. It is completely inequitable because the Category 2 licensee would be improperly penalized for being licensed first and ultimately opening and creating tax revenues for the Commonwealth first. The successful licensee would be forced to bear the entire cost of the unfunded portion of the regulatory system,<sup>1</sup> which accrues to the benefit of all licensees and includes large components which will only benefit Category 1 licensees months before it ever collects one dime of revenue<sup>2</sup> Indeed, the Commission's plan is particularly unfair to the Category 2 Applicants since it is being developed and finalized at this late date in the licensing process precluding these very significant costs from being incorporated into Applicant budgets and plans.

The assessment is also inconsistent with the statute because under Section 56(c) of the Gaming Act, the remaining costs or funding gap which the assessment would finance can only be assessed "in proportion to the number of gaming positions at each gaming establishment." The clear language of the statute does not refer to licensed positions or establishments, or planned or to be constructed positions or establishments, and clearly refers to an operating gaming establishment which has been opened for business.<sup>3</sup> As of the date of the planned assessment, the successful Category 2 licensee will have zero gaming positions. Accordingly, any post-licensure assessment is premature and is not authorized by law.<sup>4</sup>

To address this situation, the Category 2 Applicants recommend two potential approaches, but at the same time fully recognize that the Commission is far more familiar with the agency's internal finances, and that other approaches may be reasonable, or superior. The

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<sup>1</sup> The Day Memorandum discusses a Scenario 2 under which the Category 2 licensee may be reimbursed for a portion of the funding gap if one or more Category 1 licenses are awarded in FY 14. However, the details of such a refund are not provided, and given the ongoing impact of referendums and suitability proceedings on the Category 1 application process, it appears unlikely that any Category 1 licenses will be awarded by the end of FY 14, June 30, 2014.

<sup>2</sup> Most notably, the entire portion of the regulatory system required to be developed to regulate table games will be utilized only by Category 1 licensees. Other activities that will clearly be implemented in FY 14 like development of employee and vendor licensing regulations and systems, actual licensing of vendors and development of internal controls and operating standards are a prerequisite to the operations of every licensee and are equally to the benefit of Category 1 licensees as Category 2 licensees.

<sup>3</sup> There is also a statutory construction issue as to whether Section 56(c) permits recovery of the projected gap between annual regulatory costs or revenues or whether it is intended as a true-up mechanism to fund any remaining costs after all revenues from a given year have been collected, and all costs incurred. Indeed the clear language of the statute appears to support the latter.

<sup>4</sup> Although not addressed in the Day Memorandum, this statutory construction issue also applies to the annual \$5 million Public Health Trust Fund payment which apparently, under the Commission's existing regulations at 205 CMR 121.01(3)(c) would require a \$5 million Public Health Trust Fund payment from the Category 2 licensee within 30 days of award of the license. Equally troubling, under the Commission's draft regulation, it appears that an additional \$5 million Trust Fund payment could be billed on July 1, 2014 in its entirety to the single Category 2 licensee for FY 15, resulting in the same inequities and illegalities as the regulatory cost assessment scheme. Taken together, the successful Applicant would have to pay \$14 million (and maybe more) in fees (in addition to the \$25 million licensing fee) before the gaming establishment generated a dime of revenue, further justifying application of the \$25 million licensing fee to these unallocated costs..

first approach is to utilize the \$25 million licensing fee, which under Section 11(b) of the Act must be paid by the licensee within 30 days of the award of the license. Under Section 56(c), the Commission is only permitted to make an assessment to recover remaining costs if those costs were not recovered 1) by the annual \$600 per slot machine fee and investigative fee assessments; and 2) "any other fee assessed under this chapter." Because the \$25 million licensing fee is a fee assessed under Chapter 23K, it should be utilized to resolve the problem of regulatory cost recovery until all casinos are opened for business.<sup>5</sup>

Finally, this problem of recovery of regulatory costs, pending the construction and opening of all casinos within the state, is not unique to Massachusetts. The Commission should look to the experience of other states in addressing this critical issue. For example, most recently in Pennsylvania, where there are also gaming license categories which were administered and resulted in staggered licensure and openings over a period of years, the Pennsylvania General Assembly established a loan program to assure that early licensed and opening casinos (in this case racinos) were not penalized or treated unfairly in the regulatory cost assessment process for opening early and generating immediate tax dollars for the Commonwealth. Such a loan program has real life experience and has been extremely effective in achieving an equitable scheme for recovery of all regulatory costs from the Industry, without imposing any cost on state government.

Overall, the regulatory assessment cost recovery scheme currently being contemplated by the Commission is neither equitable nor legal, and requires complete restructuring. The Category 2 Applicants welcome the opportunity to work jointly with the MGC and its Staff through a collaborative effort to develop a structure which is equitable and legal and will withstand the test of time.<sup>6</sup>

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<sup>5</sup> The Category 2 Applicants are fully aware that there is an allocation scheme established under Section 93 of the Enabling Act for the Category 1 and 2 licensing fees. However, prior to that allocation scheme taking effect, Section 94 of the Act requires that upon receipt of sufficient funds from the licensing fees, the Commission must first repay \$20 million to the Commonwealth Stabilization Fund, which financed the Commission's start-up regulatory costs. Although, not completely clear, it appears reading all of these provisions together that, because the Commission cannot recover any regulatory assessments from licensees until a gaming establishment opens for business, it will not be in receipt of sufficient funds from the licensing fees to pay back the Stabilization Fund until all regulatory costs at least up to the time of opening of the Category 2 gaming establishment are paid. This would also be the case for the Category 1 licensing fee, between the time of the payment of the fee and the time that a given gaming establishment commences operations. Summarily, the Category 2 Applicants believe that in order to assure that the early opening Category 2 licensee is treated equitably, and not unfairly penalized, the Commission has discretion to continue to fund its regulatory costs out of these licensing fees until Category 1 gaming establishments are opened for business.

<sup>6</sup> While the Introduction and Summary attempts to provide an overview of the position of the Category 2 Applicants with particular focus on the more immediate problem of how the Category 2 licensee will be assessed in the 30 days after licensure, these Comments will also address other issues pertaining to the permanent system of regulatory cost recovery addressed by the draft regulation. For example, the Commission is apparently proposing that the projected gap between annual costs and revenues be billed and collected on an annual, rather than quarterly or monthly basis. Such an approach ignores the cash flow of any casino which recovers its revenues and pays its costs over an entire year.

## II. BACKGROUND

The Gaming Act establishes two categories of licensure, Category 1 for resort casinos and Category 2 for a single slots only gaming establishment. While the Category 1 casinos are much bigger projects with much higher revenue generation and a lower tax rate, the Category 2 facility, consistent with the legislative intent, is placed in a position in which it is licensed and opened for business much earlier than the larger resort casinos, and starts paying gaming taxes to the Commonwealth a number of years before the resorts.

Section 11(b) of the Act establishes a \$25 million licensing fee for the Category 2 licensee which, by statute, must be paid within 30 days of the award of the license. Section 15(11) requires the payment of a \$400,000 nonrefundable application fee and requires applicants to fund their own investigative costs. Section 56 establishes a statutory scheme for the payment of other fees by all licensees.

Under Section 56(a), an annual licensing fee of \$600 per slot machine is imposed on each Category 1 and Category 2 licensee. The language of the section indicates that fee is imposed "for each slot machine approved by the commission for use by a gaming licensee at a gaming establishment," and contemplates the payment of the annual license fee during any period between licensure and opening of the gaming establishment (a period of 2-3 years for the casino resorts). However, Section 56(a) is clear that the annual fee may only be imposed on licensees on July 1 of each year.<sup>7</sup>

Section 56(b) establishes fees to cover the costs of Commission investigations into "a violation of this chapter or regulation promulgated hereunder..." Section 56(c) enables the Commission to recover the portion of the agency's costs of regulation which is not funded from other sources ("remaining costs of the commission necessary to maintain regulatory control over gaming establishments") from licensees on a pro rata basis "in proportion to the number of gaming positions at each gaming establishment." The other funding sources are itemized as: 1) the annual \$600 per slot machine licensing fee under subsection (a); 2) investigative cost fees under subsection (b); 3) "any other fees assessed under this chapter,"<sup>8</sup> and 4) any other designated sources of funding.

The express language of Section 56(c) appears to envision a true-up system in which the funding gap to be recovered is calculated after all annual revenues are realized and all underlying costs are incurred by the Commission for a given year, and are not to be based on projected revenues or costs as the Commission apparently believes. Furthermore, the clear and

<sup>7</sup> This statutory requirement was not incorporated by the Commission in promulgating its regulations at 205 CMR 121.01(3)(a) which appears to impose the annual licensing fee on each licensee within 30 days of the award of the license in direct violation of the July 1 statutory requirement.

<sup>8</sup> As indicated above, this would include the \$25 million license fee imposed under Section 11(b) which expressly must be paid within 30 days of the award of a Category 2 license.

unambiguous language of Section 56(c) only imposes an assessment on licensees “in proportion to the number of gaming positions in the gaming establishment.” This statutory language is in direct contrast to the language in subsection (a) which bases the annual licensing fee on “each slot machine **approved by the commission**” (emphasis added) which would include slot machine positions which have been approved, but are not yet operational. Because no licensee will have a gaming establishment or gaming positions until construction is completed, and the facility is opened for business, there can be no assessment under subsection (c) until facility opening when the gaming establishment starts to generate revenue.<sup>9</sup>

Since the enactment of the statute, the Commission has promulgated a regulations at 205 CMR 121.00 *et seq.* to govern the payment of fees or assessments during the 30 day period after award of each of the Category 1 and Category 2 licenses. As applicable to the Category 2 licensee, which will be the sole licensee for, at a minimum, a multi-month period, the regulation, apparently intends to load all of the remaining fees, generally to be shared by all licensees, on the single Category 2 licensee in addition to the payment of the \$25 million license fee which must be paid by statute, . As discussed above and below, the regulation is inconsistent with the statute in multiple respects and could not be more inequitable. Frankly, now that the Commission has clarified its application at its November 21, 2013 Public Meeting, the Category 2 Applicants have no choice but to strongly impose its implementation.

Section 56(d) requires the Commission to assess an annual fee of not less than \$5 million on all licensees “in proportion to the number of gaming positions at each gaming establishment.” The assessment is paid into the Public Health Trust Fund. The payment allocation language of subsection (d) mimics that of subsection (b) (as compared to that in subsection (a)) and like subsection (b), the fee can only be assessed on licensees after opening when the licensee has an actual gaming establishment with operative gaming positions.

Both the Commission’s existing regulations at 205 CMR 121.01(3)(c) and its pending draft regulations completely overlook, and, in turn, violate Section 56(d) by appearing to assess the \$5 million Public Health Trust Fund fee entirely on the Category 2 licensee within 30 days of award of the licensee for FY 14 (existing regulation) and it appears an additional \$5 million Public Health Trust Fund fee on July 1, 2014 for FY 2015. Putting aside the inconsistency with the statute, such a piling on of fees is completely inequitable to the Category 2 licensee and simply cannot be absorbed on a stand-alone basis.

Finally, at its November 21, 2013 Public Meeting, the Commission released the Day Memorandum and a draft regulation that clarified its near term intentions as to regulatory cost assessments and the potential application of the scheme on an annual basis prospectively. The Day Memorandum discusses two scenarios for assessments on the initial Category 2 licensee. The first scenario is that the Category 2 licensee would be responsible for the entire Section 56(c) remaining cost fee for FY 14, which is estimated at \$4 million. The second scenario is that

<sup>9</sup> The Commission’s regulation at 205 CMR 121.01(3)(b) overlooks and is inconsistent with this statutory scheme by attempting to impose a Section 56(c) assessment within 30 days of the award of the license. However, under the plain statutory language, any such assessment prior to opening could only be for \$0.00.

the Category 2 licensee would have to pay the entire remaining cost fee, but could be partially reimbursed for a portion of the fee if one or more Category 1 licensees were approved prior to the end of the fiscal year on June 30, 2014.

The draft regulation sets forth a permanent system under which each of the Section 56 fees discussed above, will be billed out on July 1 for the coming fiscal year on all existing licensees, except for the Section 56(c) assessment which will be billed out after approval of the MGC's budget but before June 1 of each year for the coming fiscal year. All of the fees are required to be paid in lump sum, rather than divided up on a quarterly or monthly basis. The draft regulation does contain a prohibition on double assessments, but it is unclear from the draft regulation whether the fees envisioned by the existing regulation on the Category 2 licensees would be for FY 2014 with additional fees imposed in June and July of 2014 for FY 2015, or whether the assessments paid by the Category 2 licensee within 30 days of the award would be an advance payment on FY 15 assessments. As discussed above and below, the draft regulation is completely inequitable and may be inconsistent with the statute, depending on how it is implemented, and the Commission should redo the regulation upon consideration of these comments and those received from others.<sup>10</sup>

### III. COMMENTS

A. **The Commission's Cost Assessment Plan and Proposal Is Inequitable to the Category 2 Licensee and the Resulting Assessments Simply Cannot Be Absorbed.**

Summarily, the Commission is currently engaged in two general categories of regulatory activity. The first is the Commission investigations associated with the Phase 1/Phase 2 Applications for both the Category 1 and Category 2 gaming licenses. The second is the development of a regulatory system to maintain regulatory control over gaming establishments once the application process is completed. This latter category includes many activities including the development of licensing regulations and a regulatory structure for licensing suppliers and vendors, the development of internal control requirements and operational standards, the development of accounting and audit standards to measure gaming revenues and associated tax dollars, including the potential development of a central computer system, and the development of a regulatory structure to enforce Commission rules and regulations at gaming establishment sites.

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<sup>10</sup> While the language applicable to the Section 56(c) assessment embodied in subsection (1)(b) of the draft regulation is intended to implement the statutory remaining costs fee, its draft language appears to require recovery of the Commission's entire budget for the coming fiscal year rather than the gap between the budget amount and the projected revenues from other sources as required by the statute (even presuming Section 56(c) allows recovery in advance of the projected gap rather than the actual gap once revenues have been realized and costs incurred for a given fiscal year).



The first category of regulatory activity is generally being funded by the applicants themselves through the assignment of a portion of the \$400,000 nonrefundable application fee and the payment of Phase 1 and Phase 2 invoices issued to individual applicants, under Section 15(11) to recover the direct costs associated with that applicant.<sup>11</sup> The second category of regulatory activity must be paid for by gaming licensees consistent with the statutory requirements of Section 56 of the Gaming Act. Section 56 does contain specific requirements as to the timing and allocation of cost recovery which, of course, are mandatory. What Section 56 does not do is establish the process for the start up of industry funding of the initial development of the regulatory system which will govern all gaming business, and without which no licensee may operate regardless of when it is licensed or opens for business.

In considering this issue, it is important to recognize that the general regulatory system which will provide the framework for regulatory gaming establishments once they are opened for business is absolutely essential and provides equal benefit to all licensees. Furthermore, because a framework will have to be developed to regulate table games, that very significant and costly component of the regulatory system will only provide value to the Category 1 licensees. Accepting the general rule of the cost-causer as an equitable principle, the Category 1 and 2 licensees should pay equally for the general regulatory system, in proportion to their size<sup>12</sup> (under Section 56 measured by the proportionate number of gaming positions), without consideration of the timing of licensure or opening.<sup>13</sup> Accordingly, equity dictates that a cost assessment plan and proposal be developed by the Commission which does not penalize any licensee by requiring a disproportionately high portion of the funding of the general regulatory system, because of the timing of licensure or opening.

The Commission's current view of the cost assessment plan and proposal included in Section 121.01 of its regulations, violates these equity principles by requiring the Category 2 licensee to start paying for the cost of the regulatory system many months before and possibly a year or more before the Category 1 licensees start contributing their fair share. Putting aside its inconsistencies with the statute, which are addressed above and below, such an approach is completely inequitable and will penalize the Category 2 licensee for being the first to market and the first to generate gaming tax dollars for the Commonwealth.

Furthermore, the practical impact of the Commission's plan and proposal is devastating to the Category 2 licensee, and the resulting financial impact cannot be absorbed. As the Category 2 applicants interpret the application of the existing and draft regulation, the Category 2 licensee will have to pay approximately \$10 million within 30 days of the award of the license

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<sup>11</sup> It is noteworthy that each of the Category 2 Applicants has significant experience paying investigative fees in various jurisdictions and the level of investigative invoices from the Commission have been unusually high, well above the levels experienced in other jurisdictions.

<sup>12</sup> Each Category 1 will have 3 to 4 times the number of slot machines and hundreds of table game positions at half the tax rate of the Category 2 licensees.

<sup>13</sup> In fact, the general presumption throughout Section 56 is that the Category 1 casino resorts will pay for the bulk of the regulatory costs, including the cost of the initial development of the regulatory system, because each of these casinos will have many multiples of gaming positions over the 1,250 slot machine Category 2 licensees.

– based on the Day Memorandum \$4 million to fund the FY 14 budget/revenue gap, \$5 million in Public Health Trust Fund fees and \$750,000 dollars for the annual license fee. While if the Commission were to select Scenario 2 from the Day Memorandum and provide partial refunds if a Category 1 license is awarded prior to the end of FY 14, this potential relief seems problematic at the present time since Category 1 awards appear to be timed for FY 15 or later.<sup>14</sup>

While it is unclear to the Category 2 Applicants how the draft regulation relates to the existing regulation from an implementation perspective, if the interrelationship is intended to impose fees on the Category 2 licensee within 30 days of the award for 2014, and then impose those fees again in June and July of 2014 for FY 2015, the resulting scenario is dramatically worse and could result in required payment of \$15 to \$20 million – all of this months before the gaming establishment generates a single dime of revenue.

Requiring that magnitude of unbudgeted payment (whether it be \$10 million or \$20 million or somewhere in between) would have a devastating impact on the Category 2 licensee and simply could not be absorbed. The Category 2 gaming establishments are relatively small, very limited gaming establishments, and such a required payment could completely wipe out all profits for a year or more. It is often presumed that gaming companies have unlimited access to financial resources; forgetting that the gaming business is a highly competitive business with large capital investments with extraordinarily high tax rates (effectively over 50%) and extremely tight margins. Unexpected expenses like the cost assessments being contemplated at this late date in the licensing process simply cannot be absorbed, and require the Category 2 Applicants to protest aggressively on this issue.

The Commission should take these factors into account in rethinking and restructuring its Assessment Plan and Proposal. As fully explained, the current version is neither equitable, legal nor sustainable.

**B. The Many Illegals In The Current Cost Assessment Plan and Proposal Must Be Fixed**

As identified in the Introduction and Summary and Background sections above, the current version of the Commission's Cost Assessment Plan and Proposal, and, in particular, the Commission's current regulation at 205 CMR 121.01 is inconsistent with Section 56 of the statute in many respects and needs to be fixed. For ease of reference, the inconsistencies with the statute are itemized below.<sup>15</sup>

<sup>14</sup> Even if a Category 1 license is awarded in FY 14, it is completely inequitable to require the relatively small Category 2 gaming establishments to finance the payment of regulatory costs for the huge casino resorts.

<sup>15</sup> Whether the draft regulations suffer from the same illegalities depends on how they are implemented, and the timing of Category 1 license awards.

- 1) Section 121.01(3)(a) of the regulations requires payment of the \$600 per slot machine annual licensing fee within 30 days of the award. Such a requirement is inconsistent with Section 56(a) of the statute which only allows the imposition of this fee on licensees to be imposed on July 1 of each year. (“The fee shall be imposed on July 1 of each year for all approved slot machines on that date and shall be assessed on a pro rata basis for any slot machine approved for use thereafter.”)
- 2) Section 121.01(3)(c) imposes a regulatory cost assessment as determined by the Commission to be paid within 30 days of the award. Section 56(c) of the statute requires that this assessment be based on the number of gaming positions at each gaming establishment, however, a Category 2 licensee will have neither a gaming establishment nor gaming positions until it opens for business. The language of Section 56(c) does not permit the assessment to be based on approved or licensed gaming establishments or positions, because, as described in Section 56(a), the legislature knows how to base an assessment on approved positions, and has not permitted that here. Accordingly, the regulatory cost or remaining cost assessment cannot be imposed until a Category 2 licensee opens its gaming establishment for business.
- 3) Section 56(c) provides for a remaining cost assessment to recover costs incurred by the Commission which are not covered by another revenue source. The plain language of the statute permits recovery after costs have been incurred and other revenue accrued, but does not permit prospective recovery based on budgeted costs and projected revenues. It appears from the Day Memorandum that the Commission intends to implement its existing regulation at Section 121.01(c) to improperly provide for prospective recovery from the Category 2 licensee for FY 14. Furthermore, the draft regulation would implement prospective recovery on an annual basis in violation of Section 56(c).
- 4) In measuring the amount of the remaining cost assessment under Section 56(c), the statute is clear that on the revenue side, “any other fees assessed under this chapter” must be offset from the agency costs incurred. The any other fees revenue category includes the fees to recover applicant investigative costs assessed under Section 15(11) both as a component of the nonrefundable application fee and any additional investigative costs which are directly billed to applicants. Another “fee assessed under this chapter” is the licensing fees for all initial licensees which is \$25 million for the Category 2 licensee. While Sections 93 and 94 of the Act addresses allocation of licensing fee funds, this language must be interpreted together with Section 56(c), with the result being that the licensing fees should be utilized to finance unfunded regulatory costs until all gaming establishments are open for business. The Commission’s Cost

Assessment Plan and Proposal overlooks this important funding source;  
and

- 6) The same legal issue regarding timing of imposition of the remaining cost assessment pertains to Public Health Trust Fund fee collected annually under Section 56(e). The subsection contains identical language to Section 56(c) under which the assessment must be in proportion to actual gaming positions at a given gaming establishment and the result is the same. The fee cannot be collected from a licensee until its gaming establishment opens its doors for business.

All of these legal requirements must be accommodated before the Commission continues with development and finalization of its Cost Assessment Plan and Proposal scheme.

**C. The Commission Should Work With The Industry To Develop A Fair, Equitable and Legal Cost Assessment Plan**

Under a fair and equitable Cost Assessment Plan, each Category 1 and Category 2 license will fund the Commission's regulatory costs and the annual Public Health Trust Fund payment on a pro rata basis based on the proportionate size of the gaming establishment. Furthermore, because the comprehensive regulatory scheme being funded is necessary to all operations and is to the equal benefit of all gaming licensees regardless of the timing of license or opening, the industry funding obligation should presume a uniform start date for measuring and allocating the funding obligation. Otherwise, early licensed or early opening licensees and establishments will be unfairly penalized. Nothing in the Act is inconsistent with these important principles, and , in fact, the plain language, intent and spirit of the Act is completely consistent and supportive.

While maintaining these principles is critically important, the Category 2 Applicants also understand that the timing of adequate regulatory cost funding is essential to the funding of the Commission's continued and effective operations. Furthermore, the details of start-up of the regulatory cost recovery system is not completely flushed out in the Act, and it may be necessary to make additional accommodations in order to maintain the principles enunciated above.

In the following Comments, the Category 2 Applicants will make some recommendations as to how to adjust the Commission's Cost Assessment Plan and Proposal to reach a proper and equitable Cost Assessment Scheme. However, the Category 2 Applicants are not privy to the detail of the Commission's internal finances, nor are they intimately familiar with the requirements and constraints on the Commonwealth's budgetary and funding mechanisms. Accordingly, while input can be provided at this time, it appears that the best way for the Commission to proceed is to conduct a collaborative process with all gaming applicants to jointly develop a final plan for implementation.

1. *The Commission Should Utilize the Licensing Fees as a Funding Mechanism to Achieve an Equitable Start-Up of the Regulatory Cost Recovery System.*

The first recommendation of the Category 2 Applicants is to utilize the Category 1 and Category 2 licensing fees as a funding mechanism to enable equitable start-up of the regulatory cost recovery scheme. As explained above, there is support for this concept in the statute since under Section 56(c), which establishes the regulatory cost recovery mechanism, assessments on licensees should only be made after offset of all fees assessed under Chapter 23K. No exception is made for the licensing fees assessed under the Chapter, and, therefore those fees should be included.

The Category 2 Applicants are fully aware that Sections 93 and 94 of the Enabling Act, which are not included in Chapter 23K, establish allocation requirements for the licensing fees for repayment of the Commonwealth Stabilization Fund, and other obligations once the Stabilization Fund is repaid. However, even the \$20 million Stabilization Fund repayment obligation does not commence under Section 94(c) until the Commission is in receipt of sufficient funds from the licensing fees. The Category 2 Applicants believe that the Commission will not be in receipt of sufficient funds until, equitable start-up of the regulatory cost recovery mechanism is achieved consistent with Section 56.

2. *The Commission Should Consider the Experience of Other States in Developing a Resolution.*

This Commission is not the first gaming commission to encounter this problem and to work collaboratively with the Industry to develop a solution. The Pennsylvania Gaming Control Board, with the assistance of the Pennsylvania General Assembly, addressed a very similar situation under virtually identical circumstances.

Like in Massachusetts, the Pennsylvania Gaming Act established multiple categories of licensure, with a sequenced licensing and opening time scheme between the various categories.<sup>16</sup> Like in Massachusetts, while the Pennsylvania Gaming Act included a comprehensive regulatory cost recovery mechanism (see, 66 Pa.C.S. § 1401), it did not include a scheme for equitable start-up of that regulatory cost recovery mechanism. Like in Massachusetts, the applicants/licensees brought this problem to the attention of the gaming agency through the submission of regulatory comments.

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<sup>16</sup> In Pennsylvania, there are three categories of licensure – Category 1 for racinos, Category 2 for stand alone casinos, and Category 3 for existing resorts. Under the Pennsylvania Gaming Act, Category 1 applicants were provided the opportunity to be licensed and opened for business well before the other two categories.

In Pennsylvania, the Gaming Board conducted a collaborative effort with the Industry and ultimately with the Pennsylvania General Assembly.<sup>17</sup> The solution in Pennsylvania was, through Fiscal Code Amendments enacted by the General Assembly, which developed a loan program under which Pennsylvania financed certain gaming agency regulatory costs until all or a critical mass of Pennsylvania gaming establishments were opened for business. At that point, all licensees commenced total funding of regulatory costs on a pro rata basis consistent with the Pennsylvania statute. Furthermore, the Industry commenced repayment of the loans over a reasonable term, again, on a pro rata basis, assuring that at the end of the term, the state will be made whole, and the industry will bear the entire cost of development and operation of the Pennsylvania regulatory system.<sup>18</sup>

Through such a collaborative effort, Pennsylvania developed start-up and maintenance of a fair and equitable regulatory cost recovery system with which all licensees in Pennsylvania are generally satisfied. While the Commission is far closer than the Category 2 Applicants to the processes in Massachusetts which may be necessary for such a program, and whether such a program is feasible from a practical perspective, the Pennsylvania model demonstrates the seriousness of the problem and the critical need for an equitable solution. It also demonstrates how through a collaborative effort between industry and government, difficult problems of this nature can be resolved. Accordingly, the Category 2 Applicants request the Commission to seriously consider the Pennsylvania model and collaborative process in addressing this critical issue.

3. *The Commission Should Implement Monthly or Quarterly payment Scheme into Draft Regulation.*

In its draft regulation which proposes to implement its regulatory assessment program on a permanent basis, the Commission includes an assessment system in which all assessments are billed and collected annually at or towards the end of each fiscal year for the entire coming year. Putting aside the issue of whether prospective recovery is appropriate, except for the annual licensing fee of \$600 per slot machine which must be assessed on July 1 of each year, the statute does not place any requirements or prohibitions on the time or methodology of billing and collection of other assessments. Like the Commission itself and other governmental agencies, gaming companies are under very strict budgets which must accommodate cash flow issues as the gaming establishment generates revenues and meets its cost obligations. A gaming company generates revenues over the course of a year, and requiring large annual lump sum payments can be disruptive to casino budgeting and create cash flow concerns.

To more closely align the regulatory assessment process with the manner in which a gaming licensee generates revenue, and meets obligations, the Commission should consider

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<sup>17</sup> It is noteworthy that 2 of the 3 Category 2 Applicants here, Penn National and Greenwood Racing, were Category 1 or racino applicants in Pennsylvania.

<sup>18</sup> Documents describing the problem and the solution prepared and issued by the Pennsylvania Gaming Control Board are attached for the Commission's review and consideration.

billing the Section 56(c) remaining cost assessment and the Section 56(e) Public Health Trust Fund assessment periodically over the course of the year, through either monthly or quarterly assessments. This will allow licensees to meet their obligations with minimal disruption to budgeting and cash flow concerns.

The Category 2 Applicants wish to thank the Commission for the opportunity to comment on the Commission's Plan and Proposal. In the early stages of Massachusetts gaming, there is no issue more important to the development of a fair and equitable gaming market.

Accordingly, the Category 2 Applicants are hopeful that the Commission will continue with a collaborative process until a proper resolution is achieved. The Category 2 Applicants stand ready to participate in such a collaborative process under the Commission's oversight.

Respectfully submitted,



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**LOAN AMOUNTS TO PGCB AND RELATED AGENCIES**  
**PGCB – Industry Meeting**  
**December 7, 2010**

In July 2004, the General Assembly enacted the Pennsylvania Race Horse Development and Gaming Act which provided in part that the costs and expenses of the PGCB and related agencies (DOR, PSP and OAG) which have statutory responsibilities relating to gaming are to be paid for by each licensee from the accounts established and maintained within the State Treasury for each licensee. *See generally* Section 1401 and 1402.

**1. 2004 Gaming Act Funding**

The original legislation provided for a total payment appropriated loan amount of \$36.1 million for fiscal years 2004-2006. The \$36.1 million was broken down as follows:

\$7.5 million	- PGCB
\$21.1 million	- DOR
<u>\$7.5 million</u>	- PSP
\$36.1 million	- Total

Under Section 1901 of that Act, the \$36.1 million is to be repaid to the General Fund quarterly when all of the licenses have been issued and begin operating. In subsequent amendment, the repayment was specified to be in an amount proportional to each licensee's gross terminal revenue. *See* 4 Pa.C.S. §1901.1. The Act does not, however, specify over how many quarters or for what duration that amount must be repaid.

**2. Subsequent Funding**

During the 2006-2007 fiscal year, there was no provision made by the legislature for funding of the agencies. There was, however, excess funding remaining from the 2004-2006 fiscal years due to the delays incurred in licensing, appeals, construction and commencement of operations. In short, because of these delays, staffing of casinos and other costs associated therewith were delayed resulting in excess funding. As a result, the excess funds from 2004-2006 were redistributed to fund the agencies and did not result in additional loan amounts to be assessed against the licensees.

Commencing the 2007-2008 fiscal year, all casinos obviously were not open and therefore the payback of the 2004-2006 amounts had not been initiated. Moreover, because only a few of the total number of authorized casinos were in operation, complete funding of the four agencies from the Section 1401 escrow accounts was not optimal. Therefore, while the funding of the DOR, PSP and OAG was sought from the Section 1401 accounts for those agencies, there were not sufficient funding sources available for the PGCB based upon the revenues from the casinos open at that point.

Therefore, starting in the 2007-2008 fiscal year, and continuing through the 2009-2010 fiscal year, the legislature provided a funding mechanism for the PGCB utilizing loans from the Property Tax Relief Reserve Fund. Those amounts loaned to the PGCB for operational needs commencing in 2007-2008 and thereafter are as follows:

<u>Fiscal year</u>	<u>Amount Loaned</u>	<u>Amount Lapsed</u>	<u>Total Due</u>
FY 2007-08	\$22,575,000	\$159,907	\$22,415,093
FY 2008-09	\$22,184,000	\$3,279,190	\$18,904,810
FY 2009-10	\$25,631,500*	\$3,100,000	\$22,531,500

\* Includes \$2.1 M supplemental appropriation for table games implementation.

**TOTAL DUE = \$63,851,403**

### The Consultation Process

During the summer of 2010, General Assembly passed Fiscal Code amendments in the form of Act 46 of 2010, which mandated the Board, in consultation with all licensed gaming entities, to establish a schedule governing the repayment of these loans by licensed gaming entities no later than June 30, 2011. Specifically, the Fiscal Code provides:

**Section 1799-E(G) – Establishment of a Repayment Schedule. – No later than June 30, 2011, the Pennsylvania Gaming Control Board, in consultation with all licensed gaming entities, shall establish a schedule governing the repayment by licensed gaming entities of loans provided to the Pennsylvania gaming Control Board under Sections 1720-G, 1720-I and 1720-K. The following shall apply:**

**(1) Repayment of loans provided to the Pennsylvania Gaming Control Board pursuant to Sections 1720-G, 1720-I and 1720-K by licensed gaming entities shall begin at such time as at least 11 slot machine licensees have been issued and 11 licensed gaming entities have commenced operation of slot machines.**

**(2) The Pennsylvania Gaming Control Board shall establish a repayment schedule that, at a minimum:**

**(I) Sets forth the dates upon which the repayment shall be due.**

**Payments may be required on a quarterly, semiannual or annual basis.**

**(II) Assesses to each slot machine licensee costs for repayments of loans from the Property Tax Relief Reserve Fund made under Sections 1720-G, 1720-I and 1720-K in an amount that is proportional to each slot machine licensee's gross terminal revenue.**

**(III) Results in full repayment of amounts loaned pursuant to 1720-G, 1720-I and 1720-K not earlier than five years nor later than ten years**

**following commencement of the loan repayments by the slot machine licensee.**

At a minimum, by June 31, 2011, the Board is required to establish a repayment schedule which:

1. Sets forth the dates upon which the repayments shall be due on a quarterly, semiannual or annual basis;
2. Assess each slot machine licensee costs for repayment in an amount that is proportional to each licensee's gross terminal revenue; and
3. Assure that the schedule results in full repayment of the loans not earlier than five years but no later than ten years following the commencement of the loan repayments.

Issues that are not addressed by the legislation and which will need to be determined by the Board include, at the least, 1) the frequency of the payments, 2) whether the payments in proportion to GTR are based upon GTR from opening of each facility to the June 31, 2011 date or upon the last year, last quarter, or on a periodic basis moving forward, 3) whether the payments begin on the first day the eleventh licensed facility opens or at a later date after the eleventh facility has established a period of GTR, 4) and the length of time over which the payments will be repaid.

While the determination of the repayment schedule is one committed to the Board's discretion, the Board wants to exercise its discretion after having heard from and received input from the industry. If you wish to have the Board receive your input on these issues or others which you believe may relate to the repayment, you can provide that written input directly to the Office of Chief Counsel at the PGCB by letter no later than January 28, 2011.

Finally, you need to be aware of a final provision in the Fiscal Code (Act 46 of 2010). **Section 1799-E(E) Assessments for Property Tax Relief** provides,

**Notwithstanding subsection (G) or any other provision of law to the contrary, if the Secretary of the Budget authorizes a transfer from the Property Tax Relief Reserve Fund and determines that the moneys in the fund are insufficient to support the transfer, the Secretary of the Budget shall notify the Pennsylvania Gaming Control Board and, upon notification, the Board shall immediately assess each slot machine licensee for the repayment of the loans authorized under Sections 1720-G, 1720-I and 1720-K in an amount that is proportional to each slot machine licensee's gross terminal revenue.**

**What this means to the operators** - Each year the Budget Secretary certifies by April 15th of that year a gross amount of property tax relief to be afforded to Pennsylvania

home owners as of October 15<sup>th</sup> of that year. The amount certified will in part be based upon estimated or anticipated revenues from the date of certification through the October date. If the amount of property tax relief tax actually collected, however, is less than the amount certified, the Budget Secretary turns to the Property Tax Relief Reserve Fund to cover the short-fall in moneys for tax relief. In the event that the Relief Reserve Fund did not have sufficient moneys to cover the difference, the Budget Secretary would notify the Board which is then required to assess each slot machine licensee for the repayment of the loans authorized under Sections 1720-G, 1720-I and 1720-K in an amount that is proportional to each slot machine licensee's gross terminal revenue.

On April 15, 2010, the Budget Secretary issued a letter to the Secretary of Education providing the following:

April 15, 2010

Dear Secretary Zahorchak:

This certification marks the third year of statewide property tax relief for Pennsylvania homeowners. This year, \$772.5 million will be available for property tax relief, bringing the total property tax relief provided to date to \$2.4 billion, including funding for the enhanced Property Tax/Rent Rebate Program.

The balance in the Property Tax Relief Fund as of today is \$418.1 million, including \$83 million in the Property Tax Relief Reserve Fund. I am projecting that an additional \$367.7 million in revenue will be deposited into the fund in the next six months, bringing the total amount in the fund to approximately \$785.8 million by October 15, 2010.

To satisfy the sustainability requirements of the Taxpayer Relief Act of 2006, \$69.7 million will be transferred from the Property Tax Relief Reserve Fund to the Property Tax Relief Fund for general property tax relief payments. Delays in facility openings and continued increases in non-taxable promotional play have contributed to the decline in projected revenues. Therefore, I am certifying that the balance in the Property Tax Relief Reserve Fund will be \$13.3 million by October 15, 2010.

Typically, the Budget Secretary has certified an amount of approximately \$770 million for property tax relief. The Relief Reserve Fund currently (as of December 2010) has a balance of approximately \$31.7 million as the amount needed for the October 15, 2010 distribution was less than originally estimated.

In April 2011, the Budget Secretary will again certify an amount to be paid for property tax relief. Should slot machine gaming revenues not be sufficient to sustain the amount certified by October 2011, the Commonwealth will turn first to the Relief Reserve Fund for the shortfall and if that is insufficient to cover the shortfall, the procedure in the Fiscal Code will be implemented, effectively calling at least part of the loans immediately.

## **Pennsylvania Gaming Control Board Overview of Loan Repayment**

### **Overview of the Act**

The original Pennsylvania Race Horse Development and Gaming Act (“the Act”), as passed in 2004, provided for a total appropriation of \$36.1 million for the fiscal years 2004 – 2006 from the General Fund. This funding, which is characterized as a loan from the General Fund, was for start-up operational costs of the Pennsylvania Gaming Control Board (“PGCB”), and the regulatory operations for gaming through the Department of Revenue (“DOR”) and the Pennsylvania State Police (“PSP”). According to section 1901 of the Act, this funding is to be repaid once all of the licenses are issued and all facilities began operation.

The Act also established an agency funding mechanism for ongoing gaming oversight of the industry as casinos commenced operations. Sections 1401 and 1402 of the Act provide, in part, that the costs and expenses of the PGCB and related agencies (DOR, PSP and Office of Attorney General) which have statutory responsibilities relating to gaming are to be paid for by each licensee from escrow accounts established and maintained within the State Treasury for each licensee. These accounts are referred to as “1401 accounts.”

Since few casino facilities were in operation by the start of fiscal year 2007 – 2008, complete funding from the industry through the 1401 accounts was not feasible, as it would place an extraordinarily heavy financial burden on only a few market participants. Therefore, subsequent loans were required for the fiscal years 2007 – 2010<sup>1</sup> to fund PGCB operations. As a result, approximately \$63.8 million was borrowed from the Property Tax Relief Reserve Fund for these fiscal years to fund the PGCB’s operational costs. The DOR, PSP and Office of the Attorney General received funding during these periods from the 1401 accounts by existing operational casino facilities.

### **Changes to the Fiscal Code**

During the summer of 2010, amendments to the Fiscal Code were passed, which mandated that the Board, after consultation with licensed entities, establish a schedule governing the repayment of the loans by licensed gaming entities no later than June 30, 2011. These provisions also called for repayment of the loans to begin when at least eleven slot machine licenses have been issued and eleven

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<sup>1</sup> The 2006 – 2007 fiscal year was funded through a surplus left over from unused funds from the initial appropriation.

licensed gaming entities have commenced operations of slot machines. While the repayment of the initial \$36.1 million in appropriations continues to be deferred until all licensees have begun operations, the repayment start date for the subsequent loans has been established to coincide with the next licensed gaming entity to begin operations, as ten facilities are currently operational.

The legislative provision for the establishment of a repayment schedule mandates that the repayment schedule must, at a minimum: (1) set forth the frequency of the payments (quarterly, semi-annually, or annually); (2) assess the cost of repayment in an amount that is proportional to each slot machine licensee's gross terminal revenue ("GTR"); and (3) result in full repayment not earlier than five years, but not more than ten years following commencement of the loan repayments. Notably, the Fiscal Code is silent on which time period the GTR should be assessed, which could be historical from the opening of each facility or based upon prospective assessments. Also important, the loan payments must commence at any point after the eleventh facility opens and once the repayments begin, the loans must be paid in full within ten years.

### **Input from the Industry**

At the December 7, 2010 Industry Meeting, the PGCB requested that the facilities provide their input regarding repayment options based on the changes in the Fiscal Code, including when the loans will begin repayment: either on the day the eleventh facility opens or at some point subsequent to that day.

The PGCB received letters and documents from seven of the ten currently operating casinos, as well as from Valley Forge Convention Center ("Valley Forge"), which has been awarded a Category 3 license but which is pending appeal before the Pennsylvania Supreme Court. Specifically, the following facilities: Mohegan Sun at Downs ("Mohegan Sun"); the Parx Casino ("Parx"); Harrah's Chester ("Harrah's"); Hollywood Casino at Penn National ("Hollywood"); Sands Bethlehem Resort ("Sands"); the Rivers; Sugarhouse; and Valley Forge have provided input. No response from Presque Isle Downs, the Meadows or Mt. Airy was received.

A copy of each repayment proposal letter is attached.

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December 12, 2013

Stephen P. Crosby, Chairman  
Massachusetts Gaming Commission  
10th Floor  
84 State Street  
Boston, MA 02109

**Re: Cost Assessment -- Response to Request for Public Comments**

Dear Chairman Crosby:

Springfield Gaming and Redevelopment, LLC, a subsidiary of Penn National Gaming, Inc. ("Penn"), submits this response to the Commission's request for public comments on the Commission's November 21, 2013 draft cost assessment proposal.

In light of its experience in multiple new gaming jurisdictions, Penn understands the Commission's need to address the projected budget deficit for FY 2014 and to establish procedures for assessing annual operating costs on licensees. Penn is committed to working collaboratively with the Commission and the other applicants to develop fiscally sound assessment procedures that are as fair and equitable as possible to all licensees.

From Penn's perspective, the November 21 draft cost assessment proposal is a valuable starting point for this process. In its current form, however, the proposal would impose significant, inequitable burdens on the Category 2 licensee. The current draft also raises avoidable legal and regulatory concerns which could be used by those hoping to slow down the implementation of gaming in Massachusetts. The purpose of this submission is to summarize the potential problems Penn sees with the current proposal and, borrowing from the model adopted by the Pennsylvania Gaming Control Board when it faced a similar funding issue, propose a process for the Commission and its staff to consider as an alternative assessment procedure.

### **The November 21 Proposal**

The November 21 Proposal identified the following two funding scenarios to address the projected FY 2014 budget deficit:

#### Scenario 1:

The Category 2 licensee will be solely responsible for covering the projected \$4 million deficit.

Beijing  
Boston  
Frankfurt  
Hartford  
Hong Kong  
London  
Los Angeles  
New York  
Orange County  
San Francisco  
Santa Monica  
Silicon Valley  
Tokyo  
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Stephen P. Crosby, Chairman  
December 12, 2013  
Page 2

Scenario 2:

Assuming the Commission awards three licenses in FY 2014, the Category 2 licensee will pay the projected \$4 million deficit, subject to receiving either a credit or a refund towards future assessments based on its proportional share of projected gaming positions as additional licenses are awarded.

**Comments on Scenario 1**

Scenario 1 imposes a significant and inequitable financial burden on the Category 2 licensee and, in addition, unnecessarily raises potential legal issues not implicated by alternative assessment procedures.

Scenario 1 forces one category of licensee to disproportionately fund the cost of a regulatory infrastructure that serves and benefits all categories of licensees. The Commission decided to license one slots parlor before any casinos "in order to facilitate the earliest possible opening of a facility generating economic benefits to the Commonwealth." Commission Policy Matrix (Question 8). The decision was not intended to impose inordinate costs on the sole slot parlor licensee or to advantage multiple full-service resort casinos, as implementing Scenario 1 would do.

Increasing the initial licensee fee by \$4 million also would place a significant and unanticipated financial burden on a licensee in its first year of operation. It appears, moreover, that the November 21 proposal contemplates assessing new costs far in excess of \$4 million. Page 3 of the proposal indicates that a similar assessment may be imposed on the Category 2 licensee with respect to the \$5 million obligation to the Public Health Trust Fund. In addition to this aggregate cost of \$9 million, the proposal seems to anticipate that the Category 2 licensee may be assessed similar fees in July 2014 with respect to the FY2015 budget. The Category 2 licensee thus may face unanticipated, non-reimbursable assessments of \$9- \$18 million during its first year of operations.

Under these circumstances, assessing the full cost of the operating deficit on the Category 2 licensee would be greatly disproportionate to the costs generated by one facility and would burden one licensee with funding costs attributable to all licensees. This would not only penalize a licensee for being the first to market but, in addition, would create a windfall for subsequent entrants who would reap the benefits of programs and systems funded exclusively by the Category 2 licensee.

Imposing new, non-reimbursable costs on the Category 2 licensee also would raise legal issues that could be avoided by implementing a more equitable assessment procedure. One legal issue raised by the November 21 proposal is whether ch. 23K authorizes the Commission to assess a regulatory fee (as opposed to an annual license fee) based on the number of slot machines that have been "approved by the Commission."

Section 56(a) of ch. 23K governs the annual license fee of \$600 per slot machine. The statutory language makes clear that the legislature understood that *this specific fee* likely



would first be assessed before the establishment opened for business. The legislature accomplished that result by expressly providing that the fee “shall be imposed as of July 1 of each year *for all approved slot machines on that date* and shall be assessed on a pro rata basis for any slot machine approved for use thereafter.” M.G.L. ch. 23K, § 56(a) (emphasis added).

In contrast, assessing additional license fees to cover the regulatory costs of the Commission is governed by § 56(c). Unlike § 56(a), the language of § 56(c) does not clearly permit the Commission to assess a fee based on the number of “approved slot machines.” Instead, § 56(c) only permits the Commission to assess an additional fee “in proportion to the number of gaming positions *at each gaming establishment.*” M.G.L. ch. 23K, § 56(c) (emphasis added).

The different language employed by the legislature reflects two very different assessment procedures. The legislature deemed it appropriate to assess annual license fees—including the initial fee due after a license is granted but before operations begin—based on the number of machines “approved” by the Commission. When deciding how to assess additional regulatory fees on a per machine basis, however, the legislature limited the Commission’s authority to assessments based on the number of machines actually “at” a gaming establishment. The distinction requires that gaming establishments must be permitted to generate revenue before being assessed additional fees on a per machine basis.

The legislature adopted an identical approach with respect to Public Health Trust Fund assessments. Section 56(e) of ch. 23K authorizes the Commission to assess such fees in proportion to the number of gaming positions “at each gaming establishment.” Had the legislature intended to authorize the Commission to assess these fees based on the number of “approved” machines, it would have used the language it chose for assessing § 56(a)’s annual license fee. As the Commission’s Strategic Plan explains:

The Act anticipates the circumstance where the Commission may not receive sufficient funding for operational costs by allowing, under Section 56(c), an assessment of the gaming licensees for costs not covered by other sources such as the slot fees. *However, the assessment must be based on the apportioned number of gaming positions at each gaming establishment and this means that the Commission must wait until the casinos are operational before receiving funds under Section 56(c).* ... Since there is no remedy within the Act to solve the funding gap, a change in legislation may be the best option for fixing this problem. Strategic Plan at 54 (emphasis added).<sup>1</sup>

<sup>1</sup> The Strategic Plan noted that “[o]ne option might be for Section 94 (a) to be amended to provide for an additional appropriation until the gaming establishments are operational and paying the fees established in Section 56.” Strategic Plan at 169.

Stephen P. Crosby, Chairman  
December 12, 2013  
Page 4

The November 21 proposal is based on the assumption that § 56 draws no distinction between annual fees that may be assessed based on the number of “approved” machines at each establishment and regulatory fees that must be based on the number of machines actually “at” each establishment. The proposal also contemplates assessing Public Health Trust Fund fees on an “approved” machine basis, despite statutory language to the contrary. Penn believes that this statutory issue, and others like it, can be avoided by considering alternative assessment procedures, some of which are described below.<sup>2</sup>

### **Comments on Scenario 2**

Like its counterpart, Scenario 2 also is based on the premise that regulatory fees and Public Health Trust Fund fees can be assessed on a per-machine basis before any machines are installed or operational. Scenario 2 mitigates the impact on the Category 2 licensee, however, by providing for a credit or a refund towards future assessments based on the licensee’s proportional share of projected gaming positions as additional licenses are awarded. The proposed “true-up” is based on the assumption that the Commission awards a total of three licenses in FY 2014, making it uncertain whether Scenario 2 will produce any relief to the Category 2 licensee. Scenario 2 does not appear to contemplate solutions to that problem, such as having the Category 2 licensee advance the funds needed to cover the FY 2014 deficit and then be repaid on a proportional basis, by Category 1 licensees at a modest interest rate limited to the actual cost of capital.

### **Penn’s Proposal**

Penn supports the Commission’s effort in Scenario 2 to mitigate the financial impact of imposing additional license fees exclusively on the Category 2 licensee. Penn submits, however, that further study and discussion is warranted to determine if the funding requirements of the Commission can be met in a fiscally responsible manner that more equitably allocates expenses to *all* licensees.

As a starting point, Penn proposes that the Commission consider the alternative assessment procedure adopted by the Pennsylvania Gaming Control Board. A copy of the Board’s July 11, 2011 Administrative Order explaining its assessment procedures is attached to this submission. In brief, the Board was faced with a situation similar to the one now faced by the Commission. Because of delays in commencing gaming operations, complete funding of operational budgets was not feasible during the first few years after the Pennsylvania Gaming Act was enacted.

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<sup>2</sup> Another significant legal issue raised by the November 21 proposal is its treatment of the \$85 million and \$25 million non-refundable license fees assessed against Category 1 and Category 2 licensees respectively. Although those licensing fees are earmarked for nine particular uses by § 93 of the Enabling Act, § 94 of the Enabling Act appears to authorize the Commission to apply license fees otherwise subject to § 93 to other uses. Further study of this issue is warranted as part of the Commission’s deliberations on the assessment issue.

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December 12, 2013  
Page 5

The solution adopted in Pennsylvania was to borrow state funds to be fully repaid by licensees in quarterly payments starting after operations began. All licensees shared repayment obligations in accordance with a formula determining each establishment's gross terminal revenue percentage of the state's total percentage. This shared approach, which also takes into account the opening date of each facility, equitably addressed the financial impact the assessments had on licensees. As the Board explained, forcing the first establishments to open to bear the entire financial burden "would penalize the early opening facilities for simply taking advantage of being the first in the market." Order at 4.

[In addition], "those facilities that opened later have benefited from the development of the regulatory system that began years before they opened. As a result of the initial expected inefficiencies necessarily associated with regulating, licensing and opening the first few facilities, the regulatory system developed into a more efficient licensing and opening process. This allowed later opening facilities to have a smoother progression towards their respective openings than enjoyed by the early opening facilities. ... Assessing each operating facility based upon an averaged gross terminal revenue percentage represents the best option because it achieves a mid-line between two methods of calculation that affect two groups of operating facilities differently. *Id.* at 4-5.

Penn does not presume to suggest that the procedures adopted by the Pennsylvania Gaming Control Board should be adopted wholesale by the Commission. Penn does submit, however, that the Board's Administrative Order demonstrates the benefits of engaging in a collaborative process with licensee applicants to arrive at a fiscally responsible means of funding the Commission's budget in an equitable manner, with the costs fairly shared by all licensees, and with payments spread over time to facilitate successful early operations and revenue generation. For these reasons, Penn respectfully requests that the Commission establish a schedule for the exchange of additional information between the applicants and the Commission staff, with the goal of formulating alternative proposals for assessing costs on licensees.

Stephen P. Crosby, Chairman  
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Thank you for your consideration.

Very truly yours,



Jonathan M. Albano

cc: Catherine Blue, Esq., General Counsel,  
Massachusetts Gaming Commission  
John S. Ziemba,  
Massachusetts Gaming Commission  
Frank T. Donaghue, Esq.  
Carl Sottosanti, Esq.

ATTACHMENT TO  
PENN NATIONAL  
GAMING'S PUBLIC  
COMMENTS ON  
PROPOSED  
ASSESSMENT  
PROCEDURES

**COMMONWEALTH OF PENNSYLVANIA  
GAMING CONTROL BOARD**

IN RE: Adopted Loan Repayment Schedule

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:  
:

**ADMINISTRATIVE ORDER**

The Pennsylvania Race Horse Development and Gaming Act, 4 Pa. C.S. § 1101, et. seq., (the “Gaming Act”), provides for the funding of the Pennsylvania Gaming Control Board, Pennsylvania State Police, Department of Revenue and the Office of Attorney General (Commonwealth agencies with various responsibilities under the Gaming Act) to be accomplished through draws on accounts established under Chapter 14 of the Gaming Act (“Section 1401 accounts”). The Gaming Act initially contemplated that a total of fourteen licenses be issued and that the regulatory costs of all four agencies be assessed and spread among all operating casinos. Due to delays in commencing operations, however, during the fiscal years 2007 – 2010, complete funding of all four agencies’ operational budgets by facilities was not feasible given the limited number of facilities open during that period. As a result, approximately \$63.8 million was borrowed from the Property Tax Relief Reserve Fund to fund PGCB operations costs for that three year period. Funding of the Pennsylvania State Police, the Department of Revenue and the Office of Attorney General was accomplished through the Section 1401 account assessments.

Amendments to the Fiscal Code during the summer of 2010 mandated that the Board establish a schedule governing the repayment of the loans by operating facilities no later than June 30, 2011. These provisions also called for repayment of the fiscal year 2007 – 2010 loans to begin when at least eleven slot machine licenses have been issued and eleven licensed gaming entities have commenced operations of slot machines. The legislative provision for the establishment of a repayment schedule mandates that the repayment schedule must, at a minimum: (1) set forth the frequency of the payments (quarterly, semi-annually, or annually); (2) assess the cost of repayment

in an amount that is proportional to each slot machine licensee's gross terminal revenue; and (3) result in full repayment not earlier than five years, but not more than ten years following commencement of the loan repayments.

Industry input was solicited and received on two occasions and comments were received from elected officials. The Office of Chief Counsel presented numerous calculation methods that were direct suggestions from the industry and permutations devised by counsel.<sup>1</sup> Taking the comments and suggestions into consideration and analyzing other repayment schedule calculation options, during the public meeting held on June 28, 2011, the Board adopted a repayment schedule that reflects a fair and equitable distribution of the repayment obligations.

1. The loan repayment term shall be ten years.
2. Each year during the loan repayment term, 1/10 of the total initial loan balance as it exists on July 1, 2011 will be repaid collectively by the operating casinos.
3. Each year during the loan repayment term, each operating facility's gross terminal revenue will be calculated at the close of the fiscal year (or June 30<sup>th</sup>).
4. The individual operating facility's gross terminal revenue will be divided by the statewide gross terminal revenue for the corresponding fiscal year. This results in a percentage that reflects the proportional share of gross terminal revenue for each operating facility for the single fiscal year.
5. The individual operating facility's cumulative gross terminal revenue will be divided by the cumulative statewide gross terminal revenue. This results in a percentage that reflects the proportional share of cumulative gross terminal revenue.

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<sup>1</sup> On April 14, 2011, the Office of Chief Counsel presented several repayment calculations, including: the single fiscal year approach; the cumulative gross terminal revenue approach; the historical approach, which reflected the staggered facility openings and had only a portion of the facilities repaying in the first few years; and the weighted approach, which reduced the loan amount due for the year based upon the percentage of facilities open during the corresponding year. Additionally, a calculation method submitted by some facilities was presented that advocated only those facilities open during the years in which the loans were authorized should make repayments. As with any repayment method, each of these calculations had pros and cons associated with them; however, each method is skewed towards benefiting either early opening facilities or later opening facilities. Self-interest on the part of the facilities was reflected in the suggested repayment methods submitted to the Board.

6. The single fiscal year percentage and the cumulative percentage will then be averaged to produce an average gross terminal revenue percentage.
7. The average percentage for each operating facility will be multiplied by the amount due (approximately \$6.38 million), resulting in the determination of the payment amount that is due from each operating facility for that fiscal year.
8. The Board will issue an annual assessment to each operating licensee in July of every year.
9. Amounts of repayment will be recalculated each year to reflect changing yearly allocations of both cumulative gross terminal revenue and single fiscal year gross terminal revenue for each licensed casino.

Subsequent to the June 28<sup>th</sup> Board meeting, the General Assembly enacted Senate Bill 907 of 2011(Fiscal Code) which provided at Section 1799-E(G) that repayment of the loan funds by licensed gaming entities shall begin January 1, 2012. The Section deleted reference to the payments commencing when at least eleven slot machine licensees have commenced operations. Thus, while the repayments begin upon a date which will only include ten operating casinos at this time, the formula adopted by the Board remains valid and appropriate in light of the Fiscal Code changes.

Pursuant to Senate Bill 907, the annual assessment to the licensed facilities is due by January 1, 2012. Licensed gaming entities may pay the annual assessment in four equal quarterly installments beginning January 1, 2012, with subsequent payments due by April 1, July 1, and October 1. Beginning the loan repayment on the earliest date permitted by statute ensures that funds will be deposited in the Property Tax Relief Reserve Fund to alleviate concerns that it will not have sufficient financial support to maintain sustainable property tax relief to Pennsylvania's citizens. Allowing facilities to make quarterly repayments still results in expedited repayment in light of the Fiscal Code changes. Repayment under the previous Fiscal Code language would not begin until eleven facilities were operational, which would have been during the third quarter of calendar year 2012 at the earliest and possibly later. Since the repayment "trigger point" has been



replaced with a date certain, repayment can begin at least seven months before previously estimated.

The repayment schedule adopted herein recognizes two competing and counteracting theories. First, the majority of the loans were taken in fiscal years in which only a few facilities were in operation. The majority of the expenses of the Board (and therefore, the loans) were spent on the regulation and oversight of those few facilities. Consequently, those few facilities should bear a higher burden of the debt. Additionally, to ignore revenues earned during the time period in which only a handful of facilities were in operation would be counterintuitive, given the fact that they were enjoying very limited competition in legalized slot machine play in the Commonwealth. Using a proportional percentage based on cumulative gross terminal revenue reflects the idea that these facilities should pay an amount which recognizes that they enjoyed longer periods of operation than those facilities that opened later.

Conversely, those facilities that have been in operation the longest have also been paying the full cost of the Pennsylvania State Police, the Department of Revenue and the Office of Attorney General through the Section 1401 accounts during the relevant time period. It is unfair to effectively saddle these facilities with the full assessment based upon the years in which the loans were taken. The loans subject to this repayment plan were authorized by the General Assembly to defer full industry funding of the PGCB. In turn, the deferment allowed some facilities to be the first entrants to the gaming market in the Commonwealth with the assurance that they would not be laden with funding PGCB operations on their own. To then assess the early opening facilities for their entire cumulative gross terminal revenue would penalize the early opening facilities for simply taking advantage of being the first in the market.

Lastly, those facilities that opened later have benefited from the development of the regulatory system that began years before they opened. As a result of the initial expected inefficiencies necessarily associated with regulating, licensing and opening the first few facilities,

the regulatory system developed into a more efficient licensing and opening process. This allowed later opening facilities to have a smoother progression towards their respective openings than enjoyed by the early opening facilities. Using a percentage based on a single fiscal year's gross terminal revenue reflects the idea that cost allocation must be considered by spreading out the proportion to every operating facility. Utilizing only a single year's gross terminal revenue, however, fails to take into account the years of earnings of the early opening casinos.

Striking a balance between these two realities is essential to ensure fairness and equity to all facilities that must repay the loans. Assessing each operating facility based upon an averaged gross terminal revenue percentage represents the best option because it achieves a mid-line between two methods of calculation that affect two groups of operating facilities differently. Averaging the two percentages takes cumulative gross terminal revenue into account, yet offsets it against the gross terminal revenue for a single fiscal year, providing some relief from the entire burden. The result is consideration of both the cumulative gross terminal revenue and the facilities' current proportion of gross terminal revenue.

The loan repayment calculation, as expressed by a formula is below:

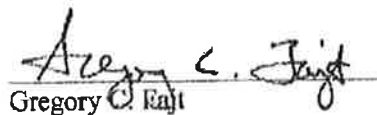
$$\frac{\text{Individual Casino Cumulative Gross Terminal Revenue}}{\text{Statewide Cumulative Gross Terminal Revenue}} = \text{Cumulative \%}$$

$$\frac{\text{Individual Casino Single Year Gross Terminal Revenue}}{\text{Statewide Single Year Gross Terminal Revenue}} = \text{Single Year \%}$$

$$\frac{(\text{Cumulative \%} + \text{Single Year \%})}{2} \times \$6.38 \text{ million} = \text{Payment amount}$$

IT IS ORDERED that the Board adopts the loan repayment schedule as set forth above.

BY THE BOARD:

  
Gregory C. Rajt  
Chairman

DATED: July 11, 2011

**SECTION 7.e – NO DOCUMENTS FOR  
REVIEW**

**SECTION 8 – NO DOCUMENTS FOR  
REVIEW**

# MASSACHUSETTS GAMING COMMISSION

## CATEGORY 2 GAMING LICENSE



*On this 28th day of February 2014, the Massachusetts Gaming Commission, pursuant to the power and authority granted to it by Chapter 23K of the General Laws, hereby awards a Category 2 Gaming License to*

**INSERT APPLICANT NAME, LLC**

*to operate a slots parlor on the premises of the Gaming Establishment described herein and subject to the conditions provided for herein. The term of this license expires on:*

**February 28, 2019**

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**AUTHORITY**

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[REDACTED] (“Applicant” or “Licensee”) submitted to the Massachusetts Gaming Commission (hereinafter “Commission” or “MGC”) an application for a Category 2 Gaming License for a Gaming Establishment at [REDACTED] (“Host Community”). The Commission has the authority to issue a single Category 2 Gaming License (“License”) pursuant to M.G.L. c.23K.

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**BACKGROUND**

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On January 15, 2013, the Commission received an RFA-1 application the Applicant. The Applicant then underwent a thorough investigation by the Investigation and Enforcement Bureau (“IEB”). Pursuant to 205 CMR 101.01, an adjudicatory hearing was held before the full Commission at the conclusion of the investigation to determine the suitability of the Applicant. The Applicant’s hearing was held on [REDACTED]. The Commission issued a Phase 1 Suitability Decision on [REDACTED], deeming the Applicant suitable to hold a gaming license.

Following the positive suitability determination, the Applicant submitted its Host Community Agreement to the Commission in accordance with 205 CMR 123.02(3). A referendum vote pursuant to G.L. 23K, §15(13) was held in the Host Community on [REDACTED], and the Applicant received a majority vote in favor of a Gaming Establishment being located in the Host Community.

The Applicant submitted an RFA-2 Application, in accordance with 205 CMR 118.01(2), to the Commission on October 4, 2013 (including all amendments and additions thereto, the “RFA-2 Application”). Pursuant to 205 CMR 118.04(1)(e), the Commission heard an informal presentation by the Applicant explaining its RFA-2 Application on October 7, 2013. On [REDACTED], the Commission held a public hearing in the town of [REDACTED] to receive comments from residents impacted by the proposed Gaming Establishment. The Commission also accepted written submissions from the public. On [REDACTED], the Commission held a public hearing in the Host Community, pursuant to G.L. 23k, §17(c).

The Applicant has executed agreements with all designated Surrounding Communities and Impacted Live Entertainment Venues, and has submitted those agreements to the Commission.

The Commission also received applications for a License from PPE Casino Resorts MA LLC, Raynham Park LLC, and Springfield Gaming and Redevelopment LLC. All three applicants for the License underwent the same evaluation process.

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**FINDINGS**

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In evaluating the applicants for a Category 2 license, the Commission considered all information in the RFA-1 and RFA-2 applications of PPE Casino Resorts MA, LLC (Exhibit 1), Raynham

Park, LLC (Exhibit 2), and Springfield Gaming and Redevelopment, LLC (Exhibit 3); [REDACTED] (Exhibit 4); and any witness testimony taken at the public hearings.

The Commission considered, in accordance with G.L. c.23K, §18, the ability of the three applicants in:

1. Protecting the lottery from any adverse impacts due to expanded gaming including, but not limited to, developing cross-marketing strategies with the lottery and increasing ticket sales to out-of-state residents;
2. Promoting local businesses in host and surrounding communities, including developing cross-marketing strategies with local restaurants, small businesses, hotels, retail outlets and impacted live entertainment venues;
3. Realizing maximum capital investment exclusive of land acquisition and infrastructure improvements;
4. Implementing a workforce development plan that utilizes the existing labor force, including the estimated number of construction jobs a proposed gaming establishment will generate, the development of workforce training programs that serve the unemployed and methods for accessing employment at the gaming establishment;
5. Building a gaming establishment of high caliber with a variety of quality amenities to be included as part of the gaming establishment and operated in partnership with local hotels and dining, retail and entertainment facilities so that patrons experience the diversified regional tourism industry;
6. Taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling and prevention programs targeted toward vulnerable populations;
7. Providing a market analysis detailing the benefits of the site location of the gaming establishment and the estimated recapture rate of gaming-related spending by residents travelling to out-of-state gaming establishments;
8. Utilizing sustainable development principles including, but not limited to: (i) being certified as gold or higher under the appropriate certification category in the Leadership in Environmental and Energy Design program created by the United States Green Building Council; (ii) meeting or exceeding the stretch energy code requirements contained in Appendix 120AA of the Massachusetts building energy code or equivalent commitment to advanced energy efficiency as determined by the secretary of energy and environmental affairs; (iii) efforts to mitigate vehicle trips; (iv) efforts to conserve water and manage storm water; (v) demonstrating that electrical and HVAC equipment and appliances will be EnergyStar labeled where available; (vi) procuring or generating on-site 10 per cent of its annual electricity consumption from renewable sources qualified by the department of energy resources under section 11F of chapter 25A; and (vii)

- developing an ongoing plan to submeter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;
9. Establishing, funding and maintaining human resource hiring and training practices that promote the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that: (i) establishes transparent career paths with measurable criteria within the gaming establishment that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion; (ii) provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire the education or job training needed to advance career paths based on increased responsibility and pay grades; and (iii) establishes an on-site child day-care program;
  10. Contracting with local business owners for the provision of goods and services to the gaming establishment, including developing plans designed to assist businesses in the commonwealth in identifying the needs for goods and services to the establishment;
  11. Maximizing revenues received by the commonwealth;
  12. Providing a high number of quality jobs in the gaming establishment;
  13. Offering the highest and best value to create a secure and robust gaming market in the region and the commonwealth;
  14. Mitigating potential impacts on host and surrounding communities which might result from the development or operation of the gaming establishment;
  15. Purchasing, whenever possible, domestically manufactured slot machines for installation in the gaming establishment;
  16. Implementing a marketing program that identifies specific goals, expressed as an overall program goal applicable to the total dollar amount of contracts, for the utilization of: (i) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the design of the gaming establishment; (ii) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the construction of the gaming establishment; and (iii) minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the gaming establishment and any businesses operated as part of the gaming establishment;
  17. Implementing a workforce development plan that: (i) incorporates an affirmative action program of equal opportunity by which the Applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with disabilities; (ii) utilizes the existing labor force in the



commonwealth; (iii) estimates the number of construction jobs a gaming establishment will generate and provides for equal employment opportunities and which includes specific goals for the utilization of minorities, women and veterans on those construction jobs; (iv) identifies workforce training programs offered by the gaming establishment; and (v) identifies the methods for accessing employment at the gaming establishment;

18. Whether the Applicant has a contract with organized labor, including hospitality services, and has the support of organized labor for its application, which specifies: (i) the number of employees to be employed at the gaming establishment, including detailed information on the pay rate and benefits for employees and contractors; (ii) the total amount of investment by the Applicant in the gaming establishment and all infrastructure improvements related to the project; (iii) completed studies and reports as required by the commission, which shall include, but need not be limited to, an economic benefit study, both for the commonwealth and the region; and (iv) whether the Applicant has included detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the gaming establishment; and
19. Gaining public support in the host and surrounding communities which may be demonstrated through public comment received by the commission or gaming applicant.

Based on the above factors, the Commission generally adopts the following findings of fact:

### 1. Overview

1. (overview of project)

### 2. Finance

2. prerequisites per the applications
3. financial & capital structure
4. maximize revenues to the Commonwealth
5. Realize maximum capital investment exclusive of land and infrastructure
6. offer highest and best value to create a secure and robust gaming market

### 3. Economic development

7. prerequisites per the application,
8. general (studies showing:)
9. economic benefits to the region and the commonwealth

10. impact on the local and regional economy, including the impact on cultural institutions and on small businesses in the host community and surrounding communities.

11. job creation

12. supporting external business and job growth

13. regional tourism and attractions

#### 4. Building & Site Design

14. Prerequisites per the application,

15. Demonstrate creativity in design and overall concept excellence

16. Gaming establishment of high caliber with quality amenities in partnership with local facilities

17. Compatibility with surroundings

18. Utilize sustainable development principles in the construction and during the life cycle of the facility

19. Security

20. Permitting

21. Other

#### 5. Mitigation

22. Prerequisites

23. Host community agreement

24. Surrounding community agreements

25. Impacted live entertainment venue agreements

26. Protect and enhance lottery

27. Implement measures to address problem gambling

28. Traffic

29. Other

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**AWARD AND SCOPE OF LICENSE**

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This License grants Licensee the authority to operate a Category 2 Gaming Establishment, as described in G.L. c. 23K, on the premises of the Gaming Establishment defined herein. This license incorporates by reference the Licensee's RFA-1 and RFA-2 submissions and any amendments or additions to those submissions.

The premises of the Gaming Establishment includes the slots facility and [REDACTED].

The Gaming Area is the portion of the Gaming Establishment that the applicant has specified, in its RFA-2 application, will contain gaming equipment for public use.

This License authorizes the Licensee to maintain up to 1,250 slot machines and no table games for simultaneously operation in the Gaming Area.

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**CONDITIONS**

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The Licensee, by accepting this License, agrees to abide by the following conditions:

Ownership and Control

1. Pursuant to G.L. c. 23K, § 19(c), this License shall not be transferred, assigned, or encumbered without first notifying and receiving the express written approval of the Commission in accordance with 205 CMR [REDACTED]. Any attempt to transfer, assign, or encumber this License without the appropriate approval is void.
2. The Licensee shall not operate with a debt-to-equity ratio, as defined in 205 CMR [REDACTED], greater than 3 to 1.
3. The Licensee shall not, pursuant to G.L. c. 23K, § 21(a)(5), change its business governing structure without the notification and approval of the Commission.
4. The Licensee shall not, pursuant to G.L. c. 23K, § 21(a)(6), operate, invest in or own, in whole or in part, another gaming licensee's license or gaming establishment.
5. The Licensee shall, pursuant to G.L. c. 23K, § 15(3), own or acquire, within 60 days after the award of this License, the land where the Gaming Establishment is proposed to be constructed; provided, however, that ownership of the land shall include a tenancy for a term of years under a lease that extends not less than 60 years beyond the term of this License.

Fees and Taxes

6. No later than 30 days after the award of this License, the Licensee shall, pursuant to G.L. c. 23K, § 11(b), pay to the Commission a \$25,000,000 non-refundable licensing fee.
7. The Licensee shall, pursuant to G.L. c. 23K, § 55(b), pay daily to the Commission 40 percent of gross gaming revenue.
8. The Licensee shall, pursuant to G.L. c. 23K, § 55(c), pay daily to the Race Horse Development Fund 9 percent of gross gaming revenue.
9. The Licensee shall, pursuant to G.L. c. 23K, § 56(a), pay to the Commission an annual fee of \$600 for each slot machine approved by the Commission for use at the Gaming Establishment. The fee shall be imposed as of July 1 of each year starting in 2014 for all approved slot machines on that date and shall be assessed on a pro rata basis for any slot machine approved for use thereafter. [customize to the Licensee's schedule?]

### Construction

10. The Licensee shall, pursuant to G.L. c. 23K, § 11(a), make a capital investment of not less than \$125,000,000, as defined by 205 CMR 122.00, in the Gaming Establishment.
11. The Licensee shall allow and facilitate Commission inspections of the Gaming Establishment during construction and provide any necessary documentation for the Commission to determine whether the construction meets all of the requirements of the Licensee's RFA-2 Application.
12. The Licensee shall, on a biweekly basis, provide to the Commission with an update on the current progress of construction and how the Licensee is meeting the goals set in its construction timeline.

### Opening Requirements

13. The Licensee shall open the Gaming Establishment for public admittance no later than [redacted]. In no event shall the Licensee open its Gaming Establishment later than two years after the award of this License.
14. The Licensee shall, pursuant to G.L. c. 23K, § 25(a), not conduct gaming without an Operations Certificate issued by the Commission. The Commission shall only issue an Operations Certificate upon compliance with the requirements of G.L. c. 23K and 205 CMR including, but not limited to: (i) implementation of all management controls required by the Commission including, without limitation, controls on accounting, wagering and auditing; (ii) implementation of all security precautions required by the Commission; (iii) an up-to-date listing of all gaming employees; (iv) licensing or registering of all gaming employees; (v) the provision of office space at the Gaming Establishment for use by the Commission employees; (vi) the hours of operation of the Gaming Establishment; and (vii) that its personnel and procedures are efficient and prepared to entertain the public.

### Operation

15. The Licensee shall, pursuant to G.L. c. 23K, § 25(a), conspicuously post the Operations Certificate.
16. The Licensee shall, pursuant to 205 CMR 128.02, post a copy of this License in a location continuously conspicuous to the public within the gaming facility at all times.
17. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(4), make, or cause to be made, capital expenditures to its Gaming Establishment in a minimum aggregate amount equal to 3.5 percent per year of the net gaming revenues derived from the Gaming Establishment; provided, however, that the Licensee may make capital expenditures in an amount less than 3.5 percent per year as part of a multi-year capital expenditure plan approved by the Commission.
18. The Licensee shall, pursuant to G.L. c. 23K, § 15(1), be a licensed state lottery sales agent under G.L. c. 10 to sell or operate the lottery, multi-jurisdictional and keno games; shall ensure that the lottery and keno games be readily accessible to the guests of the Gaming Establishment; shall not create, promote, operate or sell games that are similar to or in direct competition, as determined by the Commission, with games offered by the State Lottery Commission, including the lottery instant games or its lotto style games such as keno or its multi-jurisdictional games.
19. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(13), employ only those persons licensed or registered by the Commission.
20. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(14), do business only with those vendors licensed or registered by the Commission.
21. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(25), require its security personnel to conduct regular checks of parking areas for minors left in motor vehicles and immediately report any such finding to the local and state police in the municipality wherein the Gaming Establishment is located.

### Records and Reporting

22. The Licensee shall, pursuant to G.L. c. 23K, § 4(24), keep books and financial or other records or statements in the manner the Commission prescribes in 205 CMR       .
23. The Licensee shall, pursuant to G.L. c. 23K, § 5(a)(8), collect and annually report to the Commission a detailed statistical report on the number, job titles, benefits and salaries of employees hired and retained in employment at the Gaming Establishment;
24. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(24), collect and annually provide to the Commission a detailed statistical report on the total dollar amounts contracted with

and actually paid to minority business enterprises, women business enterprises and veteran business enterprises in: (i) design contracts; (ii) construction contracts; and (iii) contracts for every good and service procured by the gaming establishment; provided, however, that such statistical report shall also identify the amounts so contracted as a percentage of the total dollar amounts contracted with and actually paid to all firms.

25. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(23), provide to the Commission, on a quarterly basis, a detailed statistical report on the number, gender and race of individuals hired to perform labor as part of the construction of the Gaming Establishment.
26. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(15), provide to the Commission aggregate demographic information with respect to the Licensee's customers in a manner and under a schedule defined by the Commission in 205 CMR [REDACTED].

### Enforcement

27. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(7), cooperate with the Commission and the Attorney General in all gaming-related investigations. The Licensee shall make readily available all documents, materials, equipment, personnel and any other items requested during an investigation; provided, however, that material that the Licensee considers a trade secret or detrimental to the Licensee if it were made public may, with the Commission's approval, be protected from public disclosure and the Licensee may require nondisclosure agreements with the Commission before disclosing such material;
28. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(8), cooperate with the Commission and the Attorney General with respect to the investigation of any criminal matter; provided, however, that the Licensee shall, upon receipt of a criminal or civil process compelling testimony or production of documents in connection with a civil or criminal investigation, immediately disclose such information to the Commission; and provided further, that this clause shall not prohibit private persons or public entities from seeking any remedy or damages against the Licensee.
29. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(9), allow the Commission or the Division of Gaming Enforcement in the office of the Attorney General and State Police officers assigned to the Commission or the Division of Gaming Enforcement to conduct warrantless searches of the Licensee's Gaming Area.
30. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(10), inform the Commission of any action which the Licensee reasonably believes would constitute a violation of Chapter 23K, and shall assist the Commission and any federal or state law enforcement agency in the investigation and prosecution of such violation; provided, however, that no person who informs the Commission of such an action shall be discriminated against by an applicant or gaming licensee as a consequence for having supplied such information.

31. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(11), provide an office for the Commission at the Gaming Establishment and the designated State Police unit at the Gaming Establishment with the minimum requirements for square footage for the State Police office, office furnishings and parking spaces as described in 205 CMR [REDACTED].

### Racing

32. The Licensee shall, as a G.L. c.128A licensee and in accordance with G.L. c.23K, §20(c), maintain and conduct the annual live racing seasons. Failure to conduct live racing will result in suspension of the Category 2 license.
33. The Licensee shall, as a G.L. c.128A licensee and in accordance with G.L. c.23K, §24(a)(c), maintain the existing racing facility and increase the number of live racing days to a minimum of 125 days according to the following schedule:
- a. In the first calendar year of operation, the Licensee shall hold 105 racing days;
  - b. In the second calendar year of operation, the Licensee shall hold 115 racing days; and
  - c. In the third and subsequent calendar years of operation, the Licensee shall hold 125 racing days.
- Failure to maintain the minimum number of racing days shall result in suspension of this License.
34. The Licensee shall, pursuant to G.L. 23K, §24(d), have an annual purse agreement in effect by December 31 of each year for the following year's racing. If the purse agreement cannot be negotiated in good faith, the agreement shall be arbitrated by the Commission.
35. The Licensee shall, as a G.L. c.128A licensee that conducts simulcast wagering under G.L.128C and in accordance with G.L. c.23K, §20(c), conduct simulcasting pursuant to chapter 128C for the duration of this License. Failure to conduct simulcast wagering will result in the suspension of this License.

### Diversity

36. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(21), formulate for Commission approval and abide by an affirmative marketing program by which the Licensee identifies specific goals, expressed as an overall program goal applicable to the total dollar amount or value of contracts entered into, for the utilization of: (i) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the design of the Gaming Establishment; (ii) minority business enterprises, women business enterprises and veteran business enterprises to participate as contractors in the construction of the Gaming Establishment; and (iii) minority business enterprises, women business enterprises and veteran business enterprises to participate as vendors in the provision of goods and services procured by the Gaming Establishment and any businesses operated as part of the Gaming Establishment; provided, however, that the specific goals for the utilization of such minority business enterprises, women business

enterprises and veteran business enterprises shall be based on the availability of such minority business enterprises, women business enterprises and veteran business enterprises engaged in the type of work to be contracted by the Licensee.

37. The Licensee shall, pursuant to G.L. c. 23K, § 15(16), formulate for commission approval and abide by an affirmative action program of equal opportunity whereby the Licensee establishes specific goals for the utilization of minorities, women and veterans on construction jobs; provided, however, that such goals shall be equal to or greater than the goals contained in executive office of administration and finance administration Bulletin Number 14; provided further, that in furtherance of the specific goals for the utilization of minorities, women and veterans on construction jobs, the Licensee shall send to each labor union or representative of workers with which the Licensee or its agent has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the Licensee's commitments.
38. The Licensee shall formulate for commission approval and abide by an affirmative action program of equal opportunity whereby the Licensee establishes specific goals for employment of minorities, women and veterans in the Gaming Establishment and use of minorities, women and veterans as vendors to the Gaming Establishment.
39. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(20), abide by an affirmative action program of equal opportunity by which the Licensee guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with a disabilities, under the laws of the Commonwealth.

#### Responsible Gaming

40. The Licensee shall, in accordance with G.L. c.23K, §9(a)(8) maintain a smoke-free environment within the gaming establishment under G.L. c.270, §22.
41. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(16), provide complimentary on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and intervention with customers exhibiting problem gaming behavior.
42. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(17), keep conspicuously posted in the Gaming Area a notice containing the name and a telephone number for problem gambling assistance; provided, however, that the Commission may require the Licensee to provide this information in more than one language.
43. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(18), provide a process for individuals to exclude their names and contact information from the Licensee's database or any other list held by the Licensee for use in marketing or promotional communications.



44. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(19), institute additional public health strategies as required by the Commission.

#### Licensee Specific Conditions

45. The Licensee shall ...

#### Other

46. The Licensee shall commit to supporting its community mitigation plan under 205 CMR 119.01(6) and (11).
47. The Licensee shall, pursuant to 205 CMR 120.02(1)(a), obtain from the Secretary of the Executive Office of Environmental Affairs an Environmental Impact Report or a determination that no Environmental Impact Report is required.
48. The commission shall, pursuant to 205 CMR 120.02(1)(b), issue findings in accordance with M.G.L. c. 30, § 61 and 301 CMR 11.12: Agency Responsibilities and Section 61 Findings. Notwithstanding any provision in 205 CMR 120.00 to the contrary, the commission may impose any condition necessary to comply with M.G.L. c. 30, §§ 61 through 62H in its findings pursuant to M.G.L. c. 30, § 61 and 301 CMR 11.12(5).
49. The Licensee shall, pursuant to 205 CMR 120.02(1)(c), submit to the commission documentation demonstrating that it has obtained all federal, state, and local permits or approvals necessary for the construction and operation of the proposed Gaming Establishment, other than those required from the Commission, and that either: (a) the conditions imposed by those permits or approvals will not cause significant and material adverse impacts on a host or surrounding community, or impacted live entertainment venue, that have not been addressed in a host or surrounding community agreement or impacted live entertainment venue agreement; or (b) any conditions of federal, state, or local permits or approvals expected to cause significant and material adverse impacts on a host or surrounding community or impacted live entertainment venue that have not been addressed in a host or surrounding community agreement or impacted live entertainment venue agreement have been adequately addressed pursuant to 205 CMR 127.00: Reopening Mitigation Agreements.
50. The Licensee shall conform the construction and operation of its proposed Gaming Establishment, in all material respects, to its RFA-2 Application and shall, pursuant to G.L. c. 23K, § 21(a)(1), otherwise abide by every statement made in its RFA-1 or RFA-2 Application to the Commission, including all evaluation criteria and eligibility requirements.
51. The Licensee shall, pursuant to G.L. c. 23K, § 21(a)(2), comply with all laws of the Commonwealth, the laws of the United States, and all rules and regulations of 205 CMR.

The Commission hereby grants this Category 2 Gaming License to **Insert Applicant Name, LLC**, subject to all the terms and conditions noted above.

\_\_\_\_\_  
Chairman Stephen P. Crosby

\_\_\_\_\_  
February 28, 2014  
Date

\_\_\_\_\_  
Commissioner Gayle Cameron

\_\_\_\_\_  
Commissioner James F. McHugh

\_\_\_\_\_  
Commissioner Bruce Stebbins

\_\_\_\_\_  
Commissioner Enrique Zuniga

DRAFT



## RECOMMENDATIONS TO THE COMMISSION



- MGC GAMING LABORATORY OPERATIONS
- FRAMEWORK FOR REGULATIONS AND TECHNICAL STANDARDS

1/9/2013

# ENABLING LEGISLATION

## Chapter 23K of the Massachusetts Generals Laws

### **Section 66: Utilization of qualified independent testing laboratory for testing of slot machines and other gaming equipment**

*[ Text of section added by 2011, 194, Sec. 16 effective November 22, 2011.]*

Section 66. Unless the commission otherwise determines it to be in the best fiscal interests of the commonwealth, the commission shall utilize the services of an independent testing laboratory that has been qualified and approved by the commission pursuant to this chapter to perform the testing of slot machines and other gaming equipment and may also utilize applicable data from the independent testing laboratory, or from a governmental agency of a state other than the commonwealth, authorized to regulate slot machines and other gaming equipment.



# DUE DILIGENCE AND COLLABORATIVE DISCUSSION

- Review of gaming laboratory operating models in other jurisdictions
- Conversations with manufacturers
- Conversations with Independent Test Laboratories (ITLs)
- Conversation with Gaming Standards Association (GSA)



# GAMING LABORATORY OPERATING MODELS

Full Service Gaming Laboratory

Outsource Laboratory Services to ITLs

Hybrid Model



# MGC GAMING LABORATORY OPERATING MODEL

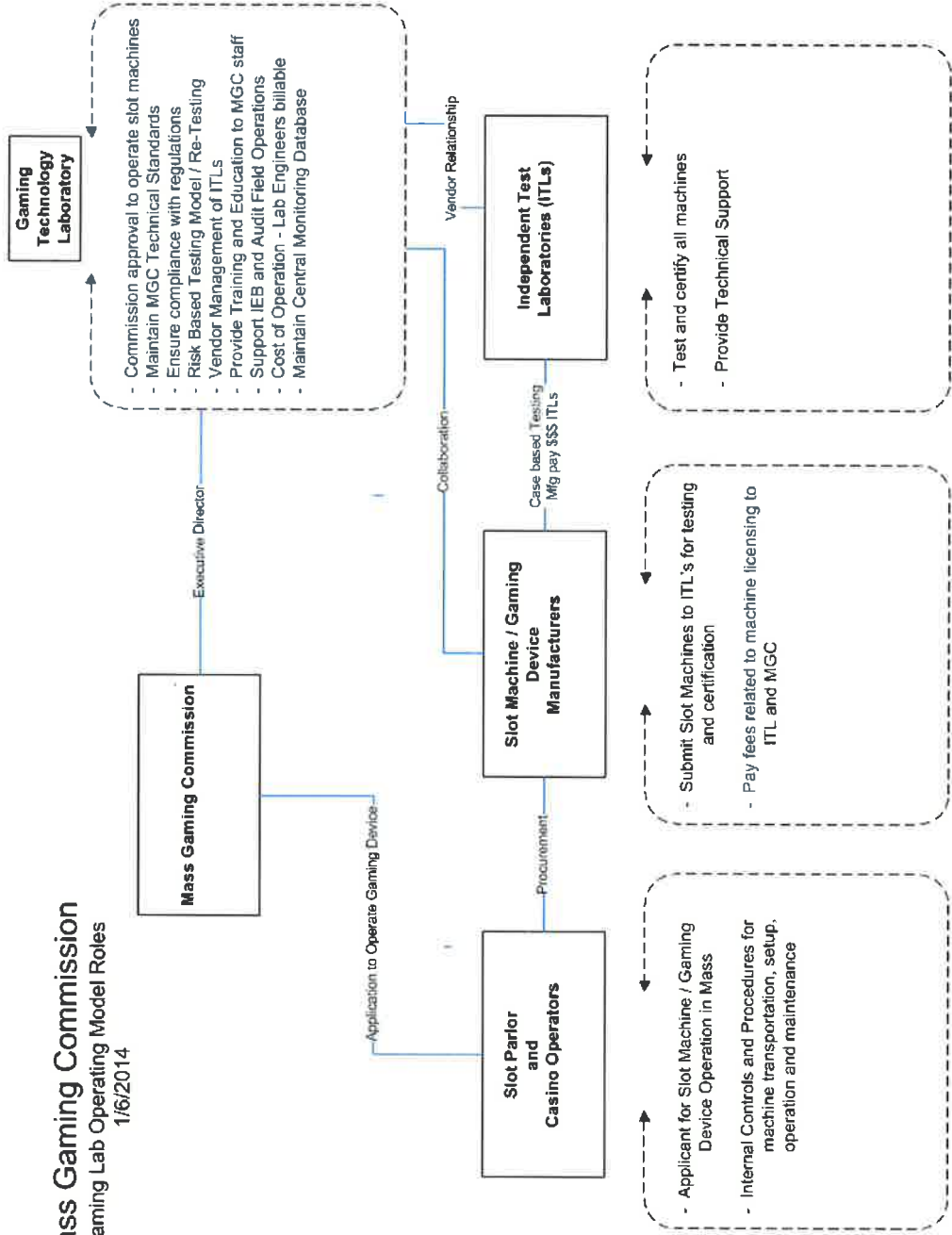
## MGC Hybrid Model

- Commission approval for slot machines / games to operate
- Employs a risk assessment model for compliance review
- Development, maintenance, and enforcement of technical standards by in-house gaming lab staff
- Training and support of other MGC staff responsible for law enforcement, audit, and casino operations oversight
- Smaller staff and office space required resulting in lower cost of operation that a fully staffed in-house laboratory
- Manufacturers may still be required to provide the lab with a working version of any game they are trying to license to operate in Massachusetts
- Use of ITLs for the majority of testing enables in-house gaming lab staff to focus on new technology
- Gaming lab staff responsible for vendor management of ITLs including: RFP process; contracting; certification, auditing; and compliance



# MGC GAMING LABORATORY OPERATING MODEL

Mass Gaming Commission  
Gaming Lab Operating Model Roles  
1/6/2014





# GAMING LABORATORY OPERATING MODELS

## Additional Considerations

- Interim Solutions for Slot Parlor Gaming Devices
- Budget and Cost of Operation



# PROPOSED TECHNICAL STANDARDS

GLI 11 - Gaming Devices in Casinos v2.1	GLI 21 – Client-Server Systems v2.2
GLI 12 - Progressive Gaming Devices in Casinos v2.1	GLI 23 - Video Lottery Terminals v1.0
GLI 13 - On-Line Monitoring and Control Systems v2.1	GLI 24 - Electronic Table Game Systems v1.3
GLI 14 - Finite Scratch Ticket and Pull-Tab Systems v2.1	GLI 25 - Dealer Controlled Electronic Table Games v1.2
GLI 15 - Electronic Bingo and Keno Systems v1.1	GLI 26 - Wireless Gaming Systems v1.1
GLI 16 - Cashless Systems in Casinos v2.1	GLI 27 - Network Security Best Practices v1.1
GLI 17 - Bonus Systems in Casinos v1.3	GLI 28 - Player User Interface Systems
GLI 18 - Promotional Systems in Casinos v2.1	GLI 29 - Card Shufflers and Dealer Shoes
GLI 19 - Interactive Gaming Systems v2.0	GLI 31 - Electronic Raffle Systems
GLI 20 - Redemption Kiosks v1.5	



# PROPOSED REGULATORY FRAMEWORK

- **Gaming Device Requirements**
- **Gaming Device Component Requirements**
- **Slot Machine Requirements**
- **Gaming Equipment Licensing**
- **Testing by Independent Testing Laboratories**
- **Internal Controls**



**Massachusetts Gaming Commission  
Operational Models for Testing, Certification, Approval, and Inventory Management of Electronic Gaming Devices  
January 4, 2014**

Policy Area / Consideration	Government Testing Lab	Independent Test (ITL)	Hybrid Model
Adherence to Chapter 23K / Section 66 "Unless the commission otherwise determines it to be in the best interests of the commonwealth, the commission shall utilize the services of an independent testing laboratory that has been qualified and approved by the commission pursuant to this chapter to perform the testing."	Costs of Commission testing would be billed to manufacturers with minimal fiscal impact to the Commonwealth. Leveraging services available from private labs should create efficiencies and strengthen regulation.	Fully outsourcing all functions to an independent Test Laboratory would limit the ability to regulate the gaming that will likely equate to 80-90% of the revenue and develop the expertise to oversee the certification, installation and operation of electronic gaming equipment in the Commonwealth.	A hybrid model that leverages the expertise and capability of private labs through use of certification process while maintaining a functional Commission gaming lab provides the optimal operating model for a gaming laboratory.
MGC Information Technology / Gaming laboratory staff support of other MGC Divisions in the monitoring and enforcement of gaming laws and regulations.	Full time staff positions would be required to provide field assistance and training to other MGC Divisions like Investigations and Enforcement Bureau and Internal Audit and Compliance.	ITL's provide remote technical support and advice, but outsourcing all technical oversight leaves a clear knowledge gap with the Commission.	A staff of subject matter experts provides support to other MGC Divisions and the knowledge to effectively collaborate with ITL technical and compliance support staff when necessary.
Cost of Operation / Efficiency / MGC staff resources can focus on oversight, audit, enforcement	A full lab generally requires a prototype of each gaming platform or system to be shipped to and set up in the state's testing lab at the manufacturer's expense.	Allows manufacturers to choose one of multiple laboratory locations to ship and set up prototypes. Offices connected via high speed communications lines allow for interoperability testing with equipment located in multiple locations. Cost of providing equipment can be spread over hundreds of jurisdictions for which equipment can be certified.	MGC utilize appropriate ITL services and will require equipment necessary to conduct risk based testing, train, monitor private contracts, provide policy advice, compliance and oversight.
Costs of doing business in Massachusetts / Efficiencies of Operation	Cost of testing is paid by manufacturers and results in a certification for the lab's jurisdiction. Manufacturers may need to pay a second time for testing that has already been conducted by a qualified, ISO-accredited testing laboratory.	Private labs can produce a single test script that can allow for testing of hundreds of jurisdictions in a single pass. The only additional expense for the manufacturer is the administrative cost of producing multiple reports.	The Commission can readily take advantage of certifications in other jurisdictions to limit any duplication as independent testing laboratory while having the expertise to monitor, provide policy advice, compliance, and oversight role
Uniform technical standards / Regulation and Compliance	Testing results are generally not transferable to other jurisdictions.	In conjunction with, or after initial testing, manufacturers can choose to add jurisdictions and will be charged a minimal administrative fee or, if more testing is required, will only be charged for the incremental testing required for additional certifications. As long as the lab is able to confirm that nothing has materially changed in the component under review.	MGC staff would work with the Commission, ITL's, Manufacturers and Gaming Standards Association to establishing uniform technical standards for the electronic gaming industry Commission lab resources would be focused on any standards unique to Massachusetts and areas of higher risk.
Time to Market / Efficiencies of Operations	Resources are generally limited and therefore submissions are handled on a first-in-first-out basis. Manufacturers have to line up in a queue.	Resources are more elastic. Manufacturers are assigned teams of engineers to reduce having their projects slowed or influenced by work being submitted by another manufacturer.	Commission would utilize Independent Testing Laboratory results and focus on any standards unique to Massachusetts and areas of higher risk.
Support for Investigation and Enforcement Bureau	Technical support and training is available locally from staff working in the same agency.	Large international testing labs have multiple offices and thus can provide remote 24-7 technical support and have the availability to conduct testing internationally around the clock.	MGC staff would be able to leverage ITL assistance if appropriate and would be better prepared to respond locally, maintain required confidentiality and independence in the event the issue relates to an ITL.
Subject Matter Expertise / Complex Technology	Ability to add specialized personnel to handle new technology (e.g. server-based gaming, internet gaming, wireless technology, math specialists, network security experts, etc.) could be more limited because of the budget process.	Increased flexibility to add resources and training to respond to market demands. Has the ability to take risks to maintain extra bandwidth to allow for training on new technology.	Commission would leverage Independent Testing Laboratory resources based on benefit/cost comparison weighted to ensure the Commission's ability to regulate gaming activity in Massachusetts.
Mathematics Department / Research and Analysis / Cost of Operation / Analytics	Most government labs do not have a separate math department.	Provides a specialized math department. A large international lab will have as many as 21 math specialists with at least three PhD level math experts. The growing complexity of gaming math requires this level of expertise.	Commission would leverage Independent Testing Laboratory resources based on benefit/cost comparison weighted to ensure the Commission's ability to regulate gaming activity in Massachusetts.

**NOTE:** Some components of this table were extracted from a 7/17/2013 memo from GDC's Kevin Mulvaney to MGC Executive Director Rick Day entitled "Policies Relating to Independent Testing Laboratories"



## Massachusetts Gaming Commission Slot Machine Regulation - Draft Framework

### **140.00 Gaming Device Requirements**

- 140.01: Possession and Maintenance of Gaming Equipment
- 140.02: Gaming Chips
- 140.03: Dice
- 140.04: Cards
- 140.05: Pai Gow Tiles
- 140.06: Card Reader Devices
- 140.07: Dealer Shoes
- 140.08: Automated Card Shuffling Machines
- 140.09: Dice Shakers
- 140.10: Roulette Wheels, Tables, and Balls
- 140.11: Big Six Wheels
- 140.12: Blackjack Tables
- 140.13: Poker Tables
- 140.14: Craps Tables
- 140.15: Baccarat Tables
- 140.16: Pai Gow Tables
- 140.17: Kiosks
- 140.18: Bill Acceptors and Stackers
- 140.19: Coin/token Acceptors and Hoppers
- 140.20: Printers

### **141.00 Gaming Device Component Requirements**

- 141.01: General Requirements for Electronic Gaming Devices
- 141.02: Rules of the Game and Operating Instructions
- 141.03: Gaming Device Cabinet
- 141.04: Gaming Device Logs
- 141.05: Gaming Device Seals
- 141.06: Minimum Return to Player
- 141.07: Wide Area Networks and Remote Connections
- 141.08: Server Supported Systems
- 141.09: Persistent State Systems
- 141.10: Bonusing Systems
- 141.11: Progressive Gaming Devices
- 141.12: Multi-player Systems
- 141.13: Tournament Software
- 141.14: Random Number Generators
- 141.15: Touch Screens

## **Massachusetts Gaming Commission – Slot Machine Regulations Framework**

### **142.00 Slot Machine Requirements**

- 142.01: Slot Machine Control Programs
- 142.02: Slot Machine Games
- 142.03: Slot Machine Meters
- 142.04: Slot Machine and Bill Acceptor Identification
- 142.05: Record Keeping

### **143.00 Gaming Equipment Licensing**

- 143.01: Technical Standards
- 143.02: Required Licenses
- 143.03: Gaming Device License Application
- 143.04: Gaming Device Registration
- 143.05: Duration of Gaming Device License
- 143.06: Possession of Slot Machines
- 143.07: Transportation of Slot Machines

### **144.00 Testing by Independent Testing Laboratories**

- 144.01: Testing by Independent Testing Laboratories
- 144.02: Fees for Testing, Licensing, and Registration of Gaming Devices
- 144.03: ITL Certification Review / Commission License Approval
- 144.04: Testing by MGC Gaming Laboratory
- 144.05: Certification & Auditing of Independent Testing Laboratories

### **145.00 Internal Controls**

- 145.01: Count Room Equipment
- 145.02: Issuance of Slot Tokens
- 145.03: Redemption of Slot Tokens
- 145.04: Slot Tokens Inventory
- 145.05: Electronic Account Based Wagering
- 145.06: Gaming Voucher Systems



## MEMORANDUM

**DATE:** December 29, 2013

**TO:** Rick Day **CC:** Artem Shtatnov

**FROM:** John R. Glennon

**SUBJECT:** Dec 5 Trip Report Addendum – Conversations with Manufacturers, Independent Test Laboratories (ITL) and the Gaming Standards Organization –

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To complete the due diligence required to make recommendations to the Commission on a Gaming Laboratory operating model, it was necessary to understand the perspective of gaming machine manufacturers and independent test laboratories. Over the past few weeks we have had conversations or scheduled them with two manufacturers, two independent test laboratories, and an industry standards organization. It has been helpful to understand the positions of each of these organizations and take them into consideration as we propose a best practices operating model for a MGC Gaming Laboratory.

### **Independent Test Laboratories (ITLs)**

**Gaming Laboratories International, LLC (GLI)** <http://www.gaminglabs.com/>

**12/19/13-** I spoke with Kevin P. Mullally, Vice President of Government Relations and General Counsel, and Patrick Moore, Director of Technical Compliance.

**BMM Test Laboratories (BMM)** <http://www.bmm.com/>

**12/23/13** –I spoke with Travis Foley and Alisha Ray from the BMM operation. ns.

### **Manufacturers of Electronic Gaming Devices**

**Bally Technology - Compliance Division (Bally)** <http://ballytech.com/>

**12/19/13** - I spoke with Tina Kilmer, Vice President of Product Compliance and Paul Warkenton, Senior Compliance Manager.

**International Game Technology (IGT)** <http://www.igt.com>



Massachusetts Gaming Commission

**Gaming Laboratory Operations Review – Additional Due Diligence**

**Call scheduled for week of January 6 with Robert Wood, Regional Manager | Product Compliance | International Game Technology**

**Industry Standards Organization –  
Gaming Standards Association <http://www.gamingstandards.com/>**

**1/2/13** I spoke with Ethan Tower, Protocol Director



Massachusetts Gaming Commission

84 State Street, 10th Floor, Boston, Massachusetts 02109 | TEL 617.979.8400 | FAX 617.725.0258 | [www.massgaming.com](http://www.massgaming.com)





## MEMORANDUM

**DATE:** December 5, 2013

**TO:** Rick Day

**CC:** Derek Lennon

**FROM:** John R. Glennon

**SUBJECT:** Gaming Laboratory Operations Review – Trip Report and Recommendations

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### Executive Summary

**Trip Objective** – The objective of the trip was to meet with counterparts in other jurisdictions to better understand best practices for gaming industry oversight. The review included organizational and operational models, and use of information technology to manage the oversight and regulation of gaming equipment in Massachusetts. The Massachusetts Gaming Commission intends to optimize the use of technology, applications, and business models that have proved successful in other jurisdictions. The primary focus of the due diligence was related to gaming laboratory operations, including but not limited to - staffing, processes and procedures, regulations and standards, software applications, and use of external vendors for slot machine testing.

**Washington State** - Maintains a gaming lab of 7 FTE's who work cooperatively with Certified Independent Testing Laboratories to test all gaming equipment, and to validate equipment installed in the casinos. Software signatures for tested machines are maintained and checked against machines in operation. A risk assessment process is used to determine which devices are tested in the lab, and which devices are approved by a business process.

**Nevada** - Nevada's gaming laboratory operation has downsized from an FTE count of 40 to a staff of 25 in the past two years. The majority of game testing is conducted by Certified Independent Testing Laboratories, and validated by the gaming lab using a risk assessment system to determine which machines are tested in the lab. Validation of software signatures for approved version of software is a manual process of connecting a computer to individual slot machines and comparing software versions.

**Pennsylvania** - Pennsylvania's gaming laboratory has a staff of 10, with a manager overseeing testing and validation in the lab, and a manager overseeing a field audit staff of 4. Pennsylvania's model differs because they test and approve every slot machine version that is in operation. They do not rely on the Certified Independent Testing Laboratories for their approval process. Pennsylvania collects slot machine transactions through an interface with each installed machine. Information provided by the interface allow for a daily accounting of receipts and



Massachusetts Gaming Commission

## Gaming Laboratory Operations Review – Trip Report and Recommendations

payouts, as well as the central validation of installed software versions using software signature comparison. Revenue collection is daily based on actual transactions from slot machines. Table game revenue is reported and paid using conventional methods.

### **Recommendations for Massachusetts Gaming Commission Gaming Laboratory Structure and Operations**

**Gaming Laboratory** – MGC should create a Gaming Laboratory Operation, with the physical floor space and appropriate infrastructure to handle the footprint / installation of 20-30 slot machines, and at least two racks of serve/storage infrastructure. The current fit plans for the new MGC offices include 2000 sq ft for a Gaming Laboratory. Depending on the configuration of the floor space, this should be adequate to house a small lab and technical training area.

**Operating and Capital Startup Costs** - I have asked Pennsylvania and Nevada to provide some key metrics on operating costs for their gaming laboratory operations. The cost of running gaming laboratories in many jurisdictions is offset by fees for testing and services paid by game manufacturers.

**Staffing** – I recommend that the MGC hire a Gaming Laboratory Manager as soon as possible. The Gaming Laboratory Manager should have a degree in computer science or electrical engineering, and if possible industry experience. Initial Gaming Laboratory staffing necessary to support the Category 2 slot parlor license is one or two gaming lab engineers. The staff's functions would include: certification and oversight of independent testing laboratories; risk assessment and validation testing of new and updated configurations of slot machines; field investigative and audit support and training of investigation staff; development and maintenance of gaming equipment standards and policies; maintenance of an installed machine inventory and approved software versions; and to provide technical advice and subject matter expertise to MGC staff – especially the Investigation and Enforcement Bureau. The cost of operation of the lab would be offset by a percentage of gaming laboratory staff time billed back to manufacturers and casino operators for a variety of services including testing, validation, and field services.

**Regulations** – I am working with MGC legal team on a framework for regulations and standards for presentation at the January 9<sup>th</sup> meeting of the Commission. One of the more important components of the regulations and standards will be requiring slot machines and electronic gaming equipment to be configured to transmit SMS transactions to a central repository that permits remote auditing and enables daily revenue collection. I am just starting to take a deep dive yet into the technical standards and regulations in other jurisdictions. My feeling at this point is that the regulations centered on technology and equipment should be high level and broad enough in scope to allow fully articulated standards to drive regulation and compliance.



Massachusetts Gaming Commission

## Gaming Laboratory Operations Review – Trip Report and Recommendations

**Standards** - Standards for machines need to be developed to facilitate compliance testing, provide guidelines for approval to operate equipment, and allow for the oversight of installed slot machines. Development of a draft set of standards should be done using existing standards in other states as a guideline. MCG should consult the set of standards developed by GLI, one of the leading certified independent testing laboratories in the world. At the appropriate point in the drafting and vetting process I also recommend consulting with Certified Testing Laboratory Operators such as GLI, BMM and Eclipse, as well as with several large manufacturers (IGT and Bally),

**Use of Certified Independent Testing Laboratories** - Massachusetts should contract for Certified Independent Testing Laboratories to provide testing services and results. Massachusetts also needs to create a process to certify these independent laboratories to perform testing and provide results and information related to testing. We need to leverage their expertise and ability to scale testing services based on demand. I strongly recommend a hybrid approach using a mix of risk assessment and in-house testing and results from Certified Independent Testing Laboratories. The closest hybrid model was in Nevada and Washington where the lab staff work collaboratively with the testing laboratories and manufacturers to test new and higher risk configurations.



Massachusetts Gaming Commission

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**SECTION 10 – NO DOCUMENTS FOR  
REVIEW**

**SECTION 10.a – NO DOCUMENTS FOR  
REVIEW**

**SECTION 10.b – NO DOCUMENTS FOR  
REVIEW**

**SECTION 11 – NO DOCUMENTS FOR  
REVIEW**