
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 65

Session of
2011

INTRODUCED BY SCHRODER, TURZAI, SAYLOR, VEREB, M. O'BRIEN,
BAKER, BARRAR, CARROLL, D. COSTA, GROVE, KAUFFMAN, MURPHY,
RAPP, REESE, ROAE, SWANGER, VULAKOVICH, WATSON AND PICKETT,
JANUARY 24, 2011

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, JANUARY 24, 2011

AN ACT

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated
2 Statutes, providing for revocation and auction of slot
3 machine licenses; and further providing for Category 2 slot
4 machine license and for number of slot machine licenses.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 4 of the Pennsylvania Consolidated Statutes
8 is amended by adding a section to read:

9 § 1209.1. Revocation and auction of slot machine license.

10 (a) General rule.--

11 (1) Within 30 days after the revocation of a slot
12 machine license, the board shall initiate a public auction of
13 the slot machine license for a fee that achieves the highest
14 prospective total revenue to the Commonwealth, and otherwise
15 serves the interests of the citizens of Pennsylvania. The
16 awarding of the slot machine license shall be conditional on
17 the successful bidder's ability to satisfy the qualifications
18 as provided in this part and board regulations. The auction

1 shall be conducted in such a manner as to maximize the price
2 for each slot machine license. In no case may a Category 1
3 slot machine license be sold for a fee lower than
4 \$66,500,000. In no case may a Category 2 slot machine license
5 be sold for a fee lower than \$66,500,000. In no case may a
6 Category 3 slot machine license be sold for a fee lower than
7 \$12,500,000.

8 (2) The board shall adopt procedures and regulations to
9 facilitate the conduct of the public auction in such a manner
10 as to maximize the price for each slot machine license.

11 (b) Bidding procedures.--The open and competitive bidding
12 process shall adhere to the following procedures:

13 (1) The board shall make applications for the slot
14 machine license available to applicants pursuant to section
15 1309 (relating to slot machine license application) and allow
16 a reasonable time for applicants to submit applications to
17 the board.

18 (2) During the filing period of slot machine license
19 applications, the board shall retain the services of an
20 investment banking firm to assist the board in conducting the
21 open and competitive bidding process.

22 (3) A bidder must submit a definitive, noncontingent
23 offer to purchase the slot machine license. The binding
24 proposal shall provide the following:

25 (i) The consideration to be paid by the prospective
26 purchaser.

27 (ii) Identification of all sources of external
28 financing involved in the transaction and submission of
29 all relevant commitment letters and other evidence of
30 financing.

1 (iii) Identification of the proposed location of the
2 new licensed facility.

3 (iv) Details of agreements with the municipality
4 where the licensed facility is to be located, including:

5 (A) Evidence of municipal approval to the
6 applicant for the licensed facility.

7 (B) Background and status of any discussions and
8 agreements with municipalities regarding the
9 construction of a licensed facility.

10 (v) A list of any regulatory, corporate or other
11 approvals required to consummate a transaction.

12 (vi) Information responsive to any other request for
13 information made by the board or the investment banker.

14 (vii) A discussion of the proposed ownership
15 structure, including any other equity participants in the
16 binding proposal.

17 (viii) A business plan for the proposed licensed
18 facility, including:

19 (A) General statement of financial viability.

20 (B) Proposed corporate involvement in charitable
21 activity.

22 (C) Revenue sharing with other communities.

23 (x) Projected financial statements through 2011.

24 (xi) Date by which the prospective purchaser will
25 commit to commence gaming operations at the licensed
26 facility.

27 (xii) A date until which the prospective purchaser
28 agrees to keep such binding proposal open and
29 irrevocable.

30 (4) After receiving all of the bid proposals, the board

1 shall open all of the proposals in a public forum and
2 disclose the prospective owners' names, venture partners, if
3 any, and in the case of applicants for owners' licenses, the
4 locations of the proposed development sites.

5 (5) No later than six business days following the
6 opening of the binding proposals, the investment banker shall
7 deliver to the board a summary analysis of each binding
8 proposal as such has been refined and clarified by the
9 prospective owners.

10 (6) The board shall evaluate the proposals within a
11 reasonable time and select no more than three final
12 applicants to participate in an auction.

13 (7) By agreeing to participate in the auction or by
14 making a presentation to the board if so requested, each
15 competing bidder is agreeing that a binding proposal, as
16 refined and clarified, shall remain open and irrevocable
17 until the date indicated by such prospective purchaser in
18 such proposal. The date indicated shall in no event be less
19 than 30 days following the auction.

20 (8) After the auction and following the presentations,
21 the board shall identify a competing bidder as the leading
22 proposal for the auction.

23 (9) Upon selection of a winning bid, the board shall
24 evaluate the winning bid within a reasonable period of time
25 for license suitability in accordance with all applicable
26 statutory and regulatory criteria.

27 (10) If the winning bidder is unable or otherwise fails
28 to consummate the transaction, including if the board
29 determines that the winning bidder does not satisfy the
30 suitability requirements pursuant to this part, the board

1 may, on the same criteria, select from the remaining bidders.

2 (c) Collusion among bidders.--Collusion among bidders is
3 unlawful. Any contract or conspiracy which unreasonably results
4 in underbidding is unlawful. When any person has reason to
5 believe collusion or other anticompetitive practices have
6 occurred among any bidders, a notice of the relevant facts shall
7 be transmitted to the Attorney General, who shall investigate
8 the reports. A bidder who violates this section shall be
9 penalized pursuant to section 1518(b)(ii) (relating to
10 prohibited acts; penalties).

11 (d) Proceeds.--The proceeds of the sale or auction of the
12 slot machine license shall be deposited pursuant to section 1209
13 (relating to slot machine license fee).

14 (e) Definition.--As used in this section, "revocation" means
15 a decision by the board to revoke a slot machine license that is
16 final, binding, nonappealable and is not subject to a pending
17 legal challenge.

18 Section 2. Sections 1304(b) and 1307 of Title 4 are amended
19 to read:

20 § 1304. Category 2 slot machine license.

21 * * *

22 (b) Location.--

23 (1) [Two] (i) Subject to the provisions of paragraph
24 (1.1), two Category 2 licensed facilities and no more
25 [shall] may be located by the board within a city of the
26 first class, and one Category 2 licensed facility and no
27 more [shall] may be located by the board within a city of
28 the second class.

29 (ii) No Category 2 licensed facility located by the
30 board within a city of the first class shall be within

1 ten linear miles of a Category 1 licensed facility
2 regardless of the municipality where the Category 1
3 licensed facility is located. Except for any Category 2
4 licensed facility located by the board within a city of
5 the first class or a city of the second class, no
6 Category 2 licensed facility shall be located within 30
7 linear miles of any Category 1 licensed facility that has
8 conducted over 200 racing days per year for the two
9 calendar years immediately preceding the effective date
10 of this part and not within 20 linear miles of any other
11 Category 1 licensed facility. Except for any Category 2
12 licensed facility located by the board within a city of
13 the first class, no Category 2 licensed facility shall be
14 located within 20 linear miles of another Category 2
15 licensed facility.

16 (1.1) In the event that a license for a Category 2
17 licensed facility to be located within a city of the first
18 class, which license was issued prior to the effective date
19 of this paragraph, is revoked by the board prior to
20 commencement of operations of the Category 2 licensed
21 facility, then the board shall reissue the revoked Category 2
22 slot machine license, pursuant to section 1209.1 (relating to
23 revocation and action of slot machine license) to another
24 applicant located anywhere in this Commonwealth for a
25 Category 2 licensed facility, provided that:

26 (i) no more than two Category 2 licensed facilities
27 may be located within a city of the first class;

28 (ii) no more than one Category 2 licensed facility
29 may be located in a city of the second class; and

30 (iii) the provisions of paragraph (1)(ii) are

1 satisfied.

2 (2) Within five days of approving a license for an
3 applicant with a proposed licensed facility consisting of
4 land designated a subzone, an expansion subzone or an
5 improvement subzone under the Keystone Opportunity Zone,
6 Keystone Opportunity Expansion Zone and Keystone Opportunity
7 Improvement Zone Act for a slot machine license under this
8 section, the board shall notify the Department of Community
9 and Economic Development. The notice shall include a
10 description of the land of the proposed licensed facility
11 which is designated a subzone, an expansion subzone or an
12 improvement subzone. Within five days of receiving the notice
13 required by this paragraph, the Secretary of Community and
14 Economic Development shall decertify the land of the proposed
15 licensed facility as being a subzone, an expansion subzone or
16 an improvement subzone. Upon decertification in accordance
17 with this paragraph and notwithstanding Chapter 3 of the
18 Keystone Opportunity Zone, Keystone Opportunity Expansion
19 Zone and Keystone Opportunity Improvement Zone Act, a
20 political subdivision may amend the ordinance, resolution or
21 other required action which granted the exemptions,
22 deductions, abatements or credits required by the Keystone
23 Opportunity Zone, Keystone Opportunity Expansion Zone and
24 Keystone Opportunity Improvement Zone Act to repeal the
25 exemptions, deductions, abatements or credits for the land
26 decertified.

27 (3) Notwithstanding any other provision of law, the
28 governing body of a city of the first class shall not exempt
29 from real property taxation or provide any real property tax
30 abatement under the act of December 1, 1977 (P.L.237, No.76),

1 known as the Local Economic Revitalization Tax Assistance
2 Act, to a Category 2 licensed facility located within the
3 city, or any improvements to such facility, unless the owner
4 of the licensed facility enters into or has entered into a
5 tax settlement agreement or payment in lieu of taxes
6 agreement with the city, including any amendments,
7 supplements or modifications of such agreements.

8 § 1307. Number of slot machine licenses.

9 The board may license no more than seven Category 1 licensed
10 facilities and no more than five Category 2 licensed facilities,
11 as it may deem appropriate, as long as [two, and not more ,] not
12 more than two Category 2 licensed facilities are located by the
13 board within the city of the first class and that [one, and not
14 more,] not more than one Category 2 licensed facility is located
15 by the board within the city of the second class, except in the
16 case of license revocation the provisions of section 1304(b)
17 (1.1) (relating to Category 2 lot machine license) apply. The
18 board may at its discretion increase the total number of
19 Category 2 licensed facilities permitted to be licensed by the
20 board by an amount not to exceed the total number of Category 1
21 licenses not applied for within five years following the
22 effective date of this part. Except as permitted by section 1328
23 (relating to change in ownership or control of slot machine
24 licensee), any Category 1 license may be reissued by the board
25 at its discretion as a Category 2 license if an application for
26 issuance of such license has not been made to the board. The
27 board may license no more than three Category 3 Licensed
28 facilities.

29 Section 3. This act shall take effect immediately.