

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, MURPHY, RAPP, REESE, ROAE, SWANGER, VULAKOVICH, WATSON, PICKETT AND MURT, JANUARY 24, 2011

AS REPORTED FROM COMMITTEE ON GAMING OVERSIGHT, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 17, 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 AND TABLE GAME OPERATION CERTIFICATE FOR THE HIGHEST

15 RESPONSIBLE BID THAT WILL PROVIDE THE GREATEST AMOUNT OF

16 prospective total revenue to the Commonwealth, and otherwise

17 serves the interests of the citizens of Pennsylvania. The



1 awarding of the slot machine license AND TABLE GAME OPERATION ←
2 CERTIFICATE shall be conditional on the successful bidder's
3 ability to satisfy the qualifications as provided in this
4 part and board regulations. The auction shall be conducted in
5 such a manner as to maximize the price for each slot machine
6 license AND TABLE GAME OPERATION CERTIFICATE. In no case may ←
7 a Category 1 slot machine license AND TABLE GAME OPERATION ←
8 CERTIFICATE be sold for a fee lower than \$66,500,000. In no
9 case may a Category 2 slot machine license AND TABLE GAME ←
10 OPERATION CERTIFICATE be sold for a fee lower than
11 \$66,500,000. In no case may a Category 3 slot machine license
12 AND TABLE GAME OPERATION CERTIFICATE be sold for a fee lower ←
13 than \$12,500,000.

14 (1.1) FOR PURPOSES OF THIS SECTION ONLY, THE OWNERSHIP ←
15 OR FINANCIAL INTEREST RESTRICTIONS IN SECTION 1330 (RELATING
16 TO MULTIPLE SLOT MACHINE LICENSE PROHIBITION) SHALL NOT
17 APPLY.

18 (2) The board shall adopt procedures and regulations to
19 facilitate the conduct of the public auction in such a manner
20 as to maximize the price for each slot machine license AND ←
21 TABLE GAME OPERATION CERTIFICATE.

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

24 (1) The board shall make applications for the slot
25 machine license available to applicants pursuant to section
26 1309 (relating to slot machine license application) and allow
27 a reasonable time for applicants to submit applications AS ←
28 WELL AS PETITIONS FOR AUTHORIZATION TO CONDUCT TABLE GAMES
29 PURSUANT TO SECTION 13A12 (RELATING TO PETITION REQUIREMENTS)
30 to the board.

1 (2) During the filing period of slot machine license
2 applications AND PETITIONS TO CONDUCT TABLE GAMES, the board ←
3 shall retain the services of an investment banking A ←
4 FINANCIAL ADVISORY firm to assist the board in conducting the
5 open and competitive bidding process.

6 (3) A bidder must submit a definitive, noncontingent
7 offer to purchase the slot machine license AND TABLE GAME ←
8 OPERATION CERTIFICATE. The binding proposal shall provide the
9 following:

10 (i) The consideration to be paid by the prospective
11 purchaser.

12 (ii) Identification of all sources of external
13 financing involved in the transaction and submission of
14 all relevant commitment letters and other evidence of
15 financing.

16 (iii) Identification of the proposed location of the
17 new licensed facility.

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

20 (A) Evidence of municipal approval to the
21 applicant for the licensed facility.

22 (B) Background and status of any discussions and
23 agreements with municipalities regarding the
24 construction of a licensed facility.

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

27 (vi) Information responsive to any other request for
28 information made by the board or the investment banker ←
29 FINANCIAL ADVISORY FIRM. ←

30 (vii) A discussion of the proposed ownership

1 structure, including any other equity participants in the
2 binding proposal.

3 (viii) A business plan for the proposed licensed
4 facility, including:

5 (A) General statement of financial viability.

6 (B) Proposed corporate involvement in charitable
7 activity.

8 (C) Revenue sharing with other communities.

9 ~~(x) (IX) Projected financial statements through 2011~~ ←
10 ~~2012.~~ ←

11 ~~(xi) (X) Date by which the prospective purchaser~~ ←
12 ~~will commit to commence gaming operations at the licensed~~
13 ~~facility.~~

14 ~~(xii) (XI) A date until which the prospective~~ ←
15 ~~purchaser agrees to keep such binding proposal open and~~
16 ~~irrevocable.~~

17 (4) After receiving all of the bid proposals, the board
18 shall open all of the proposals in a public forum and
19 disclose the prospective owners' names, venture partners, if
20 any, and in the case of applicants for owners' licenses, the
21 locations of the proposed development sites.

22 (5) No later than six business days following the
23 opening of the binding proposals, the investment banker ←
24 FINANCIAL ADVISORY FIRM shall deliver to the board a summary ←
25 analysis of each binding proposal as such has been refined
26 and clarified by the prospective owners.

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

30 (7) By agreeing to participate in the auction or by

1 making a presentation to the board if so requested, each
2 competing bidder is agreeing that a binding proposal, as
3 refined and clarified, shall remain open and irrevocable
4 until the date indicated by such prospective purchaser in
5 such proposal. The date indicated shall in no event be less
6 than 30 days following the auction.

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

10 (9) Upon selection of a winning bid, the board shall
11 evaluate the winning bid within a reasonable period of time
12 for license suitability in accordance with all applicable
13 statutory and regulatory criteria, INCLUDING COMPLIANCE WITH ←
14 THE BOND REQUIREMENTS OF SECTIONS 1313 (RELATING TO SLOT
15 MACHINE LICENSE APPLICATION FINANCIAL FITNESS REQUIREMENTS)
16 AND 1316 (RELATING TO BOND FOR ISSUANCE OF SLOT MACHINE
17 LICENSE) AND PROOF OF FINANCIAL ABILITY AS REQUIRED BY
18 SECTION 13A12(B) (9).

19 (10) If the winning bidder is unable or otherwise fails
20 to consummate the transaction, including if the board
21 determines that the winning bidder does not satisfy the
22 suitability requirements pursuant to this part, the board
23 may, on the same criteria, select from the remaining bidders.

24 (c) Collusion among bidders.--Collusion among bidders is
25 unlawful. Any contract or conspiracy which unreasonably results
26 in underbidding is unlawful. When any person has reason to
27 believe collusion or other anticompetitive practices have
28 occurred among any bidders, a notice of the relevant facts shall
29 be transmitted to the Attorney General, who shall investigate
30 the reports. A bidder who violates this section shall be

1 penalized pursuant to section 1518(b)(ii) (relating to
2 prohibited acts; penalties).

3 (d) Proceeds.--The proceeds of the sale or auction of the
4 slot machine license AND TABLE GAME OPERATION CERTIFICATE shall ←
5 be deposited pursuant to ~~section~~ SECTIONS 1209 (relating to slot ←
6 machine license fee) AND 13A61 (RELATING TO TABLE GAME ←
7 AUTHORIZATION FEE).

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

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

14 § 1304. Category 2 slot machine license.

15 * * *

16 (b) Location.--

17 (1) [Two] (i) Subject to the provisions of paragraph
18 (1.1), NOT MORE THAN two Category 2 licensed facilities ←
19 [and no more †shall] may be located by the board within a ←
20 city of the first class, and NOT MORE THAN one Category 2 ←
21 licensed facility [and no more †shall] may be located by ←
22 the board within a city of the second class.

23 (ii) No Category 2 licensed facility located by the
24 board within a city of the first class shall be within
25 ten linear miles of a Category 1 licensed facility
26 regardless of the municipality where the Category 1
27 licensed facility is located. Except for any Category 2
28 licensed facility located by the board within a city of
29 the first class or a city of the second class, no
30 Category 2 licensed facility shall be located within 30

1 linear miles of any Category 1 licensed facility that has
2 conducted over 200 racing days per year for the two
3 calendar years immediately preceding the effective date
4 of this part and not within 20 linear miles of any other
5 Category 1 licensed facility. Except for any Category 2
6 licensed facility located by the board within a city of
7 the first class, no Category 2 licensed facility shall be
8 located within 20 linear miles of another Category 2
9 licensed facility.

10 (1.1) In the event that a license for a Category 2
11 licensed facility to be located within a city of the first
12 class, which license was issued prior to the effective date
13 of this paragraph, is revoked by the board prior to
14 commencement of operations of the Category 2 licensed
15 facility, then the board shall reissue the revoked Category 2
16 slot machine license, pursuant to section 1209.1 (relating to
17 revocation and action of slot machine license) to another
18 applicant located anywhere in this Commonwealth for a
19 Category 2 licensed facility, provided that:

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

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

24 (iii) the provisions of paragraph (1)(ii) are
25 satisfied.

26 (2) Within five days of approving a license for an
27 applicant with a proposed licensed facility consisting of
28 land designated a subzone, an expansion subzone or an
29 improvement subzone under the Keystone Opportunity Zone,
30 Keystone Opportunity Expansion Zone and Keystone Opportunity

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

21 (3) Notwithstanding any other provision of law, the
22 governing body of a city of the first class shall not exempt
23 from real property taxation or provide any real property tax
24 abatement under the act of December 1, 1977 (P.L.237, No.76),
25 known as the Local Economic Revitalization Tax Assistance
26 Act, to a Category 2 licensed facility located within the
27 city, or any improvements to such facility, unless the owner
28 of the licensed facility enters into or has entered into a
29 tax settlement agreement or payment in lieu of taxes
30 agreement with the city, including any amendments,

1 supplements or modifications of such agreements.

2 § 1307. Number of slot machine licenses.

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

23 Section 3. This act shall take effect immediately.