

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1282 Session of 2017

INTRODUCED BY M. QUINN, DUNBAR AND MILLARD, APRIL 25, 2017

REFERRED TO COMMITTEE ON GAMING OVERSIGHT, APRIL 25, 2017

AN ACT

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

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

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

10 § 1209.1. Auction of slot machine license.

11 (a) General rule.--After December 31, 2017, a slot machine  
 12 license shall become available to be auctioned by the board if:

13 (1) the license has not been approved by the board or  
 14 the approved applicant has not fulfilled all required  
 15 conditions for issuance of the license within the time  
 16 prescribed by this part; or

17 (2) the license has been revoked under this part.

18 (b) Time period.--A slot machine license becomes available  
 19 for auction by the board 30 days after the approved applicant  
 20 fails to meet the required conditions for issuance within:

1       (1) the time prescribed by this part has passed; or  
2       (2) thirty days after the revocation of a slot machine  
3       license, whichever occurs later.

4       (c) Prices.--

5       (1) The board shall initiate a public auction of the  
6       slot machine license and table game operation certificate for  
7       the highest responsible proposal that will provide the  
8       greatest amount of projected total revenue to the  
9       Commonwealth and otherwise serves the interests of the  
10       residents of Pennsylvania. The awarding of the slot machine  
11       license and table game operation certificate shall be  
12       conditional on the successful prospective licensee's ability  
13       to satisfy the qualifications as provided in this part and  
14       board regulations.

15       (2) The auction shall be conducted in such a manner as  
16       to maximize the price for each slot machine license and table  
17       game operation certificate, subject to the following:

18               (i) In no case may a Category 1 slot machine license  
19               and table game operation certificate be awarded for a fee  
20               lower than \$66,500,000.

21               (ii) In no case may a Category 2 slot machine  
22               license and table game operation certificate be awarded  
23               for a fee lower than \$66,500,000.

24               (iii) In no case may a Category 3 slot machine  
25               license and table game operation certificate be awarded  
26               for a fee lower than \$12,500,000.

27       (3) For purposes of this section only, the ownership or  
28       financial interest restrictions in section 1330 (relating to  
29       multiple slot machine license prohibition) shall not apply.

30       (4) The board shall adopt procedures and regulations to

1 facilitate the conduct of the public auction in such a manner  
2 as to maximize the price for each slot machine license and  
3 table game operation certificate.

4 (d) Auction procedures.--The open and competitive auction  
5 process shall adhere to the following procedures:

6 (1) The board shall make applications for the slot  
7 machine license available to applicants under section 1309  
8 (relating to slot machine license application) and allow a  
9 reasonable time for applicants to submit applications as well  
10 as petitions for authorization to conduct table games under  
11 section 13A12 (relating to petition requirements) to the  
12 board.

13 (2) During the filing period of slot machine license  
14 applications and petitions to conduct table games, the board  
15 shall retain the services of a financial advisory firm to  
16 assist the board in conducting the open and competitive  
17 auction process.

18 (3) A prospective licensee must submit a definitive,  
19 noncontingent binding proposal to accept the award of the  
20 slot machine license and table game operation certificate.  
21 The binding proposal must include the following:

22 (i) The consideration to be paid by the prospective  
23 licensee.

24 (ii) Identification of all sources of external  
25 financing involved in the transaction and submission of  
26 all relevant commitment letters and other evidence of  
27 financing.

28 (iii) Identification of the proposed location of the  
29 new licensed facility.

30 (iv) Details of agreements with the municipality

1 where the licensed facility is to be located, including:

2 (A) Evidence of municipal approval to the  
3 applicant for the licensed facility.

4 (B) Background and status of any discussions and  
5 agreements with municipalities regarding the  
6 construction of the licensed facility.

7 (v) A list of regulatory, corporate or other  
8 approvals required to consummate a transaction.

9 (vi) Information responsive to any other request for  
10 information made by the board or the financial advisory  
11 firm.

12 (vii) A description of the proposed ownership  
13 structure, including any other equity participants in the  
14 proposal.

15 (viii) A business plan for the proposed licensed  
16 facility, including:

17 (A) General statement of financial viability.

18 (B) Proposed corporate involvement in charitable  
19 activity.

20 (ix) Projected financial statements for five years  
21 following the projected date to commence gaming  
22 operations at the licensed facility.

23 (x) Date by which the prospective licensee will  
24 commit to commence gaming operations at the licensed  
25 facility.

26 (xi) A projected date until which the prospective  
27 licensee agrees to keep the proposal open and  
28 irrevocable.

29 (4) Within five days of its receipt of all of the  
30 proposals, the board shall disclose the content of all of the

1 proposals in a public forum, including:

2 (i) owners' names;

3 (ii) venture partners, if any; and

4 (iii) in the case of applicants for owners'

5 licenses, the locations of the proposed development  
6 sites.

7 (5) No later than 30 business days following the opening  
8 of the proposals, the financial advisory firm shall deliver  
9 to the board a summary analysis of each proposal, including  
10 refinements and clarifications by the prospective owners.

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

14 (7) Following the selection of the three final  
15 applicants, the board shall:

16 (i) Hold public hearings under section 1205  
17 (relating to license or permit application hearing  
18 process; public input hearings).

19 (ii) Evaluate the proposals of the three final  
20 applicants within a reasonable period of time for license  
21 suitability in accordance with all applicable statutory  
22 and regulatory criteria, including compliance with  
23 sections 1310 (relating to slot machine license  
24 application character requirements), 1313 (relating to  
25 slot machine license application financial fitness  
26 requirements), 1316 (relating to bond for issuance of  
27 slot machine license) and proof of financial ability as  
28 required by section 13A12(b)(9).

29 (8) By agreeing to participate in the auction or by  
30 making a presentation to the board if so requested, a

1 prospective licensee agrees that a proposal, as refined and  
2 clarified, shall remain open and irrevocable until the date  
3 indicated by the prospective licensee in the proposal. The  
4 date indicated shall in no event be less than 30 days  
5 following the auction.

6 (9) After the auction and following the presentations,  
7 the board shall identify a prospective licensee as the  
8 winning prospective licensee of the auction.

9 (10) If the winning prospective licensee is unable or  
10 otherwise fails to consummate the transaction, including if  
11 the board determines that the prospective licensee does not  
12 satisfy the suitability requirements under this part, the  
13 board may, on the same criteria, select from the remaining  
14 prospective licensees.

15 (e) Collusion among prospective licensees.--

16 (1) Collusion among prospective licensees is unlawful. A  
17 contract or conspiracy that unreasonably results in  
18 underbidding is unlawful.

19 (2) When a person has reason to believe collusion or  
20 other anticompetitive practices have occurred among  
21 prospective licensees, a notice of the relevant facts may be  
22 transmitted to the Attorney General, who shall investigate  
23 the matter.

24 (3) A prospective licensee who violates this section  
25 shall be penalized under section 1518(b)(1)(ii) (relating to  
26 prohibited acts; penalties).

27 (f) Proceeds.--The proceeds of the sale or auction of the  
28 slot machine license and table game operation certificate shall  
29 be deposited into the General Fund.

30 (g) Temporary regulations.--

1       (1) In order to facilitate the prompt implementation of  
2 this section, regulations promulgated by the board shall be  
3 deemed temporary regulations that shall expire not later than  
4 two years following the publication of the temporary  
5 regulations. The board may promulgate temporary regulations  
6 not subject to:

7           (i) Sections 201, 202, 203, 204 and 205 of the act  
8 of July 31, 1968 (P.L.769, No.240), referred to as the  
9 Commonwealth Documents Law.

10          (ii) Section 204(b) of the act of October 15, 1980  
11 (P.L.950, No.164), known as the Commonwealth Attorneys  
12 Act.

13          (iii) The act of June 25, 1982 (P.L.633, No.181),  
14 known as the Regulatory Review Act.

15       (2) The board's authority to promulgate temporary  
16 regulations under paragraph (1) shall expire one year after  
17 the effective date of this section. Regulations adopted after  
18 this period shall be promulgated as provided by law.

19       (h) Definition.--As used in this section, the term  
20 "revocation" means a decision by the board to revoke a slot  
21 machine license that is final, binding, nonappealable and is not  
22 subject to a pending legal challenge.

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

25       § 1304. Category 2 slot machine license.

26       \* \* \*

27       (b) Location.--

28           (1) [Two] (i) Subject to the provisions of paragraph  
29 (1.1), not more than two Category 2 licensed facilities

30           [and no more shall] may be located by the board within a

1 city of the first class, and not more than one Category 2  
2 licensed facility [and no more shall] may be located by  
3 the board within a city of the second class.

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

21 (1.1) In the event that a license for a Category 2  
22 licensed facility to be located within a city of the first  
23 class is revoked by the board prior to commencement of  
24 operations of the Category 2 licensed facility, then the  
25 board shall reissue the revoked Category 2 slot machine  
26 license, under section 1209.1 (relating to auction of slot  
27 machine license) to another applicant located anywhere in  
28 this Commonwealth for a Category 2 licensed facility,  
29 provided that:

30 (i) no more than two Category 2 licensed facilities



1           may be located within a city of the first class;

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

4           (iii) the provisions of paragraph (1)(ii) are  
5           satisfied.

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

1           (3) Notwithstanding any other provision of law, the  
2 governing body of a city of the first class shall not exempt  
3 from real property taxation or provide any real property tax  
4 abatement under the act of December 1, 1977 (P.L.237, No.76),  
5 known as the Local Economic Revitalization Tax Assistance  
6 Act, to a Category 2 licensed facility located within the  
7 city, or any improvements to such facility, unless the owner  
8 of the licensed facility enters into or has entered into a  
9 tax settlement agreement or payment in lieu of taxes  
10 agreement with the city, including any amendments,  
11 supplements or modifications of such agreements.

12 § 1307. Number of slot machine licenses.

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

1 to the board.] The board may license no more than three Category  
2 3 Licensed facilities.

3 (b) Conversion of certain licenses.--A Category 1 license  
4 not issued on or before the effective date of this subsection  
5 shall be converted to a Category 2 license if:

6 (i) the commission fails to receive an application  
7 for an unissued standardbred horse race meeting license  
8 on or before June 14, 2017;

9 (ii) the commission receives an application for an  
10 unissued standardbred horse race meeting license on or  
11 before June 14, 2017, and does not approve the  
12 application; or

13 (iii) the commission revokes the approval of an  
14 unissued standardbred horse race meeting license.

15 (c) Definition.--As used in this section, the term "unissued  
16 standardbred horse race meeting license" means a license for a  
17 standardbred horse race meeting under 3 Pa.C.S. §§ 9315(a)  
18 (relating to number of licensed racing entities) and 9318  
19 (relating to licenses for horse race meetings).

20 Section 3. This act shall take effect immediately.