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HOUSE . . . . . No. 4068

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act establishing and regulating resort-style entertainment in the Commonwealth..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

The general court finds and declares that:

promoting the economic viability of the commonwealth is a fundamental purpose of state government;

growing the commonwealth's economy is the best way to make the investments in those areas that will strengthen the commonwealth;

the creation of resort-style entertainment complexes is an important part of an overall strategy to ensure the state's economic growth;

authorizing 3 resort-style entertainment complexes will result in thousands of construction jobs and billions of dollars of construction-related spending in the commonwealth;

once constructed, the 3 resort-style entertainment complexes will create thousands of new jobs for residents of the commonwealth and offer a wide array of employment opportunities for individuals with diverse educational backgrounds and skills, while enhancing the

commonwealth's workforce development system by creating career advancement opportunities for casino employees;

ensuring that the resort casinos are located in distinct markets of the state expands economic development and job creation broadly throughout the whole commonwealth and recognizes that the needs of regional economies must be addressed;

revenue generated from resort casinos can be used to fund critical needs in the commonwealth, and our cities and towns;

such investment in infrastructure is an economic necessity and will facilitate economic development and job creation;

offsetting property tax burden, hitting middle and lower income homeowners the hardest, and providing local services;

retooling and modernizing the racing industry and workforce in the commonwealth is critical to the success of the resort-style entertainment industry and to the state’s economic growth overall;

addressing the social costs of gaming is an important and necessary part of any comprehensive gaming plan and therefore this act provides for a high level of funding for these costs and an evaluation mechanism to ensure we understand fully the impacts of gaming in the commonwealth;

a rigorous gaming regulatory and enforcement scheme is needed to ensure fairness and integrity in the gaming industry, and therefore this act contains a detailed strategy to ensure proper oversight and evaluation of resort casinos in our commonwealth;

the success of gaming in this commonwealth requires public confidence and trust that licensed gaming will be conducted honestly and competitively, that the resort-style entertainment complexes licensed in the commonwealth will not unduly impact the quality of life enjoyed by residents of the surrounding communities, and that gaming will be free from criminal and corruptive elements;

public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of the resort casinos licensed in the commonwealth;

the resort-style entertainment complexes licensed in the commonwealth must therefore be controlled to protect the public health, safety, and well being of the inhabitants of the commonwealth, to foster the stability and success of gaming and to preserve the competitive economy of the commonwealth;

the Massachusetts gaming control authority is therefore created as the custodian of the public trust relative to the gaming industry and is explicitly granted broad powers within this act so it may have the full authority to oversee the gaming industry and ensure that resort casino operations are transparent; and

to delay or deny the commonwealth the opportunity to increase jobs, attain new revenue, and address critical needs would be contrary to the best interests of our residents.

Section 39 of chapter 3 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting in line 63 after the words "Loan Authority" the following words: Massachusetts Gaming Control Authority.

Section 7 of chapter 4 of the General Laws, as so appearing, is hereby amended by deleting lines 63 through 65 and inserting in place thereof the following paragraphs:

Tenth, "Gaming," any banking or percentage game played with cards, dice, tiles, dominoes, or any electronic, electrical, or mechanical device or machine for money, property, checks, credit or any representative of value, but excluding:

the game of bingo conducted pursuant to chapter 271;

any charitable gaming, so called, conducted pursuant to chapter 271;

pari-mutuel wagering on horse and dog races, whether live or simulcast, authorized under chapter 128A and chapter 128C; and

any lottery game conducted by the state lottery commission, in accordance with section 24 of chapter 10.

"Illegal gaming" or "unlawful gaming" shall include every act punishable under any law relative to lotteries and the buying and selling of pools or registering of bets, except those acts permitted under section 24 of chapter 10, chapter 12B, chapter 128A, chapter 128C, and chapter 271.

Section 22B1/2 of chapter 7, is hereby amended by inserting in line 23 after the words "Massachusetts Educational Loan Authority" the following words: Massachusetts Gaming Control Authority.

Section 22G of chapter 7, is hereby amended by inserting in line 54 after the words "Massachusetts Educational Loan Authority" the following words: Massachusetts Gaming Control Authority.

The General Laws are hereby amended by striking out chapter 12B and inserting in place thereof the following chapter:

CHAPTER 12B. THE MASSACHUSETTS GAMING CONTROL AUTHORITY

Definitions

As used in this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

"Affiliate", any person that a licensee or applicant directly or indirectly controls or in which an applicant or licensee possesses an interest. For the purposes of this definition, "controls" means either (i) directly or indirectly holding more than 10 percent of voting membership rights or voting stock or partnership interests, or (ii) that a majority of the directors, general partners, trustees, or members of an entity's governing body are representatives of, or are directly or indirectly controlled by, the licensee or applicant. For the purposes of this definition, "possesses an interest in" means either (i) directly or indirectly holding more than 5 percent of voting membership rights or voting stock, or (ii) that at least 25 percent of the directors, general partners, trustees, or members of an entity's governing body are representatives of, or are directly or indirectly controlled by, the licensee or applicant.

"Applicant", a person who has applied for a casino license, work permit, or approval of any act or transaction pursuant to this chapter.

"Authority", the Massachusetts gaming control authority, established pursuant to this chapter.

"Board", the board of the Massachusetts gaming control authority.

"Casino license", a license issued by the authority under this chapter that authorizes the person named therein to operate a resort casino in the commonwealth.

"Casino licensee", any licensee holding a valid casino license issued under this chapter.

"Casino work permit", any permit issued by the authority authorizing the holder to be employed as an employee in a licensed casino.

"Controlled game" or "controlled gaming", any gaming conducted in a gaming establishment and located in a licensed casino in the commonwealth pursuant to this chapter.

"Division", the division of gaming investigation and enforcement, within the department of the attorney general, as established pursuant to this chapter.

"Electronic gaming device", any game of chance, mechanical, electronic or otherwise featuring coin drop and payout as well as printed tabulations or credits to a paper or electronic account, whereby the software or hardware of the device predetermines the presence or lack of a winning combination and payout, including microprocessor-controlled electronic devices that allow a player to play games of chance, which may be affected by an element of skill, activated by the insertion of a coin or currency or by the use of a credit and awards game credits, cash, tokens, replays or a written statement of the player's accumulated credits, which written statements are redeemable for cash; and including slot machines, video lottery terminals and video facsimile machines of any type.

"Employee", any natural person employed to perform services for compensation as an employee by a casino, including but not limited to casino employees, casino key employees, casino security employees, casino service employees, or any other person who works for any

ancillary service operating on the site of a casino, including but not limited to hotels, restaurants, gaming establishments, and entertainment facilities.

"Executive Director", the executive director of the Massachusetts gaming control authority, as established pursuant to this chapter.

"Gaming", as defined in section 7 of chapter 4.

"Gaming establishment", any building, room, place or other indoor or outdoor premises where any gaming occurs, including all public and non-public areas of any such establishment.

"Gaming equipment", any equipment, device, object or contrivance, or machine, whether mechanical, electromechanical, or electronic, which is specifically designed or manufactured for use in the operation of gaming.

"Gaming services", goods or services provided to any gaming establishment directly in conjunction with the operation of gaming, including security services, junket services, gaming schools or training activities, promotional services, printing or manufacture of betting tickets, gaming technology services, and manufacture, distribution, maintenance, testing or repair of electronic gaming devices, or goods or services provided by any person pursuant to which the person receives payments based on earnings, profits or net receipts from gaming.

"Gross gaming revenue", the total, prior to the deduction of any operating, capital or other expenses whatsoever, less only the total of all sums paid out as winnings, of all gaming establishment revenue generated by the gaming establishment of any casino licensed under this chapter derived from the conduct of any game conducted at a licensed casino.

"Holding company", any corporation, firm, partnership, trust, or other entity that, directly or indirectly, owns, has the power or right to control, or holds the power to vote on, all or any part of the partnership interests or outstanding voting securities of a corporation or any other business entity that holds or applies for a gaming license. In addition, a holding company indirectly owns, has, or holds such power or right mentioned in the preceding sentence if it does so through any interest in a subsidiary or affiliate or successive subsidiaries or affiliates, however many of these subsidiaries or affiliates may intervene between the holding company and the corporate licensees or applicant.

"Intermediary company", any corporation, firm, partnership, trust, or other entity, other than a natural person, that is both of the following:

(a) a subsidiary of a holding company, and

(b) a holding company with respect to a corporation or limited partnership or other entity that holds or applies for a gaming license.

"License", a license issued to operate electronic gaming devices, to persons employed by gaming establishments, to gaming suppliers, to parties in interest, and to gaming schools.

"Licensed casino", any resort casino licensed to conduct controlled gaming pursuant to this chapter.

"Licensed casino operator", any operating entity that conducts controlled gaming within a gaming establishment pursuant to a license issued under this chapter.

"Licensee", any person or party holding a valid license under this chapter.

"Licensing fee", the fee required to be paid to the commonwealth by a licensed casino operator to operate a resort casino.

"Local host community", 1 or more towns or cities in which a resort casino is located.

"Market", any one of the following three market areas: Bristol County, Hampden County, Suffolk County.

"Operating licensing payment", the payment, based on a percentage of gross gaming revenue, that a licensed casino operator makes to the commonwealth.

"Party in interest", any corporation, firm, partnership, trust, or other entity or person with any direct or indirect pecuniary interest in a licensed gaming establishment, or a person who owns any interest in the premises of a licensed gaming establishment, or land upon which such premises is licensed, whether he leases the property directly or through an affiliate.

"Person" or "party", a natural person, corporation, partnership, limited partnership, trustee, holding company, joint venture, association, or any business entity.

"Resort casino", a casino which shall include a gaming establishment and other non-gaming amenities, including but not limited to: hotels, entertainment venues, retail stores, recreational facilities, and restaurants all located at 1 site.

"Substantial party in interest", any person holding a greater than 1 percent direct or indirect pecuniary interest, whether as owner, mortgagee or otherwise, in an operating entity, premises, or any other licensee or applicant; but, excluding any shareholder holding less than a 5 percent interest in a public company that is a substantial party in interest.

Establishment of the Massachusetts Gaming Control Authority

There is hereby created a body politic and corporate to be known as the Massachusetts gaming control authority. The authority is hereby constituted a public instrumentality and the exercise by the authority of the powers conferred by this chapter shall be deemed to be the performance of an essential governmental function. The purpose of the authority is to provide for the establishment of resort casinos, and to license, regulate, and oversee licensed casinos and controlled gaming at licensed casinos in the commonwealth.

The authority shall be governed and have its corporate powers exercised by a board of directors consisting of the auditor or his designee, and 6 members to be appointed by the governor, 1 of whom shall have experience in legal issues with respect to gaming establishments; 1 of whom shall have experience in finance and financial markets; 1 of whom shall have experience with the regulatory aspects needed for gaming establishments; 1 of whom shall have experience in accounting; and 1 of whom shall have experience in public health.

With the exception of the auditor, no board member shall hold or be a candidate for elected political office. Each board member shall be a citizen of the United States and a resident of the commonwealth. No person who has been convicted of a felony or of a misdemeanor shall be eligible to serve on the board.

Three of the members appointed by the governor shall serve a term coterminous with that of the governor. The other 3 members appointed by the governor shall serve a term of 5 years. Any person appointed to fill a vacancy in the office of a member of the board shall be appointed in a like manner and shall serve for only the unexpired term of such member. Any member shall be eligible for reappointment but no member shall serve more than 2 terms of 5 years each. Any member may be removed from his appointment by the governor for cause. The governor shall

from time to time designate a member or members of the board as its chairperson or co-chairperson as applicable. Five of the members shall constitute a quorum and the affirmative vote of a majority of members present at a duly called meeting where a quorum is present shall be necessary for any action to be taken by the board. Any action required or permitted to be taken at a meeting of the board may be taken without a meeting if all of the members consent in writing to such action and such written consents are filed with the records of the minutes of the meetings of the board. Such consents shall be treated for all purposes as a vote at a meeting.

The members of the board shall serve without compensation, but each member shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

The board annually may elect 1 of its members as vice-chairperson, shall elect a secretary and a treasurer, and may elect or appoint other officers as it may deem necessary, none of whom, other than the vice-chairperson, are required to be members of the board. The secretary shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed by the board and of its minute book and seal. The secretary shall cause copies to be made of all minutes and other records and documents of the authority and shall certify that such copies are true copies, and all persons dealing with the authority may rely upon such certification. The treasurer shall be the chief financial and accounting officer of the authority and shall be in charge of its funds, books of account and accounting records. The officers of the board shall be subject to the same requirements as the members of the board under this act. Meetings of the authority board shall be subject to sections 11A and 11A1/2 of chapter 30A, provided, however, that any discussion or consideration of law enforcement or investigatory information, trade secrets or commercial or financial information may be held by the board in

executive session closed to the public notwithstanding the provisions of section 11A1/2 of chapter 30A, but the purpose of any such executive session shall be set forth in the official minutes of the authority board and no business which is not directly related to such purpose shall be transacted nor shall any vote be taken during such executive session. A public record of every vote shall be maintained at the authority.

The board shall have the power to appoint and employ an executive director, and to fix the director's compensation and conditions of employment. The executive director shall be the chief executive, administrative and operational officer of the authority and shall direct and supervise administrative affairs and the general management of the authority. The executive director may, subject to the general supervision of the board, employ other employees, consultants, agents, including legal counsel, and advisors, and shall attend meetings of the board.

The authority shall be advised by an advisory committee consisting of 12 members, including: the secretary of health and human services, the secretary of administration and finance, the secretary of housing and economic development, the secretary of labor and workforce development, the secretary of public safety and security, or their designees; 3 members of the committee who shall be appointed by the governor, 1 of whom shall be a representative of organized labor, 1 of whom shall be an expert on gaming addiction, and 1 of whom shall be a police chief; 2 of the members of the committee who shall be appointed by the senate president; and 2 members who shall be appointed by the speaker of the house of representatives. Each member of the advisory committee shall serve for a term of 3 years; provided, however, that of the initial appointed members, 1 of the senate president's and speaker's appointments, and 3 of the governor's appointments shall serve a term of 2 years. Any person appointed to fill a vacancy in the office of a member of the advisory committee shall be

appointed in a like manner and shall serve for only the unexpired term of such member. Any member shall be eligible for reappointment but no member shall serve more than 2 three-year terms. The governor shall from time to time designate a member or members of the advisory committee as its chairperson or co-chairperson as applicable. The members of the advisory committee shall serve without compensation, but each member shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

Board members, officers and members of the advisory committee who are not compensated employees of the authority shall not be liable to the commonwealth, to the authority, or to any other person as a result of their activities, whether ministerial or discretionary, as such board members, officers, or advisory committee members except for willful dishonesty or intentional violations of law. Neither members of the authority nor any person executing bonds or policies of insurance shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The board of directors may purchase liability insurance for board members, officers and employees and may indemnify these persons against claims of others.

Any documentary materials or data whatsoever made or received by any member or employee of the authority and consisting of, or to the extent that such materials or data consist of, law enforcement or investigatory information, trade secrets or commercial or financial information regarding the operation of any business conducted by an applicant for any form of assistance which the authority is empowered to render or regarding the competitive position of such applicant in a particular field of endeavor, shall not be deemed public records of the authority and specifically shall not be subject to the provisions of section 10 of chapter 66.

The Massachusetts gaming control authority board shall be the successor to the Massachusetts gambling advisory board established by section 39 of chapter 60 of the acts of 1994.

Powers and Duties of the Authority

The authority shall have all powers necessary or convenient to carry out and effectuate its purposes, as defined in section 2(a), including, without limiting the generality of the foregoing, the powers to:

adopt an official seal;

sue and be sued, to initiate or defend civil actions relating to its properties and affairs, and to be liable in tort in the same manner as a private person; provided however, that the authority is not authorized to become a debtor under the United States Bankruptcy Code;

appoint officers and employees;

execute all instruments necessary or convenient thereto for accomplishing the purposes of this chapter;

enter into agreements or other transactions with any person, including without limitation any public entity or other governmental instrumentality or authority in connection with its powers and duties under this chapter;

appear in its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;

obtain insurance;

apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value, to be held, used and applied for its corporate purposes;

provide and pay for such advisory services and technical assistance, including but not limited to accountants, financial experts, architects, attorneys, engineers, planners, real estate experts and other consultants as may be necessary in its judgment to carry out the purposes of this chapter and fix their compensation;

prepare, publish and distribute, with or without charge, as the authority may determine, such studies, reports and bulletins and other material as the authority deems appropriate;

investigate and determine the percentage of population of minority groups in the commonwealth or in areas thereof from which the work force for the casino is or may be drawn;

establish and adopt such percentages as guidelines in determining the adequacy of affirmative-action programs submitted for approval pursuant to the provisions of this chapter;

determine the types of conduct performed by licensees or applicants for licenses. The authority may approve or disapprove transactions and events as provided in this chapter, approve or disapprove gaming contracts with casino licensees based on their commercial reasonableness or the demonstrated capacity and experience of gaming services providers to perform the requirements such contracts, take actions reasonably designed to ensure that no unsuitable persons are associated with controlled gaming, and take actions reasonably designed to ensure that gaming activities take place only in suitable premises within licensed casinos;

monitor the conduct of all licensees and other persons having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring that licenses are not issued to, or held by, and there is no direct or indirect material involvement with a licensee by unqualified, disqualified, or unsuitable persons, or persons whose operations are conducted in unsuitable manner or in unsuitable or prohibited places, as provided herein;

annually determine the maximum number of electronic gaming devices and wagering games and the types of wagering games permitted in the commonwealth and the number permitted at each gaming establishment; provided however, that a licensee shall be permitted to petition the authority for approval of additional wagering games and new types of wagering games; and provided further that the number of devices and games permitted for any licensee shall not be reduced during the term of any license issued under this chapter or any renewal thereof or be less than a number necessary to obtain commercially reasonably financing for the development of a resort casino;

develop criteria, other than those outlined herein, to assess which bids submitted by applicants for casino licenses under this chapter will provide the highest and best value to the commonwealth;

determine which applicants shall be awarded casino licenses and other licenses in accordance with the terms of this chapter;

require any person to apply for a license as provided in this chapter and approve or disapprove any such application or other transactions, events, and processes as provided in this chapter;

gather facts and information applicable to its obligation to issue licenses, to suspend or revoke licenses, work permits, or registrations granted to any person for: violation of any provision of this chapter or regulations adopted hereunder; willfully violating an order of the authority directed to such person; the conviction of any criminal offense under this chapter; or the commission of any violation of this chapter or other offense which would disqualify such person from holding a license or registration; provided, however, that if the basis for any suspension or revocation of a casino license is any action or omission of a party in interest to a licensee, then the authority shall prior to enacting such suspension or revocation grant the licensee a reasonably opportunity to remove such party in interest or take such other actions as the authority may deem reasonable or appropriate to address the cause of the suspension or revocation. The authority may also suspend the license or registration of any person pending hearing and determination, in any case in which license or registration revocation could result;;

with the assistance of the state police unit assigned to the division, conduct investigations into the qualifications of all applicants for employment by the authority and by any gaming establishment in a resort casino and all applicants for licensure;

request and receive from the state police, the criminal history systems board, or other criminal justice agencies, including but not limited to the federal bureau of investigation and the federal internal revenue service, such criminal offender record information, criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of evaluating employees of, and applicants for employment by, the authority and any gaming establishment in a resort casino, and evaluating licensees and applicants for licensure. Upon the written request of the executive director, the state authority may receive from the district and juvenile courts, the state police, or the criminal history systems board, such

information relating to juvenile proceedings as necessary for the purpose of evaluating employees of, and applicants for employment by, the authority and any gaming establishment in a resort casino, and evaluating licensees of, and applicants for, licensure;

conduct hearings in accordance with the provisions of chapter 30A;

levy and collect fees, taxes, and fines and impose penalties and sanctions for the violation of the provisions of the licensing provisions of this chapter and the regulations adopted hereunder. At any time within 5 years after any amount of fees, interest, penalties or tax required to be collected pursuant to the provisions of this chapter shall become due and payable, the commission may bring a civil action in the courts of this commonwealth or any other state or of the United States, in the name of the commonwealth of Massachusetts, to collect the amount delinquent, together with penalties and interest. An action may be brought whether or not the person owing the amount is at such time an applicant, licensee or registrant pursuant to the provisions of this act. If such action is brought in this commonwealth, a writ of attachment may be issued and no bond or affidavit prior to the issuance thereof shall be required. In all actions in this commonwealth, the records of the authority shall be prima facie evidence of the determination of the fee or tax or the amount of the delinquency. Each debt that is due and payable as a result of fees, interest, penalties, or taxes required to be collected pursuant to the provisions of this chapter or the regulations adopted thereunder, including any compensation authorized pursuant to this chapter, and each regulatory obligation imposed as a condition upon the issuance or renewal of a license which requires the licensee to maintain, as a fiduciary, a fund for a specific regulatory purpose, shall constitute a lien on the real property in this commonwealth owned or hereafter acquired by the applicant, licensee, or registrant owing such a debt or on whom such an obligation has been imposed. Except as otherwise provided in this

chapter, such a lien shall be a first lien paramount to all prior or subsequent liens, claims, or encumbrances on that property;

be present through its inspectors and agents at all times during the operation of any resort casino for the purpose of certifying the revenue thereof, receiving complaints from the public relating to the conduct of gaming and wagering operations, examining records of revenues and procedures, inspecting and auditing all books, documents, and records of any licensee, conducting periodic reviews of operations and facilities for the purpose of evaluating current or suggested provisions of this chapter and the regulations adopted thereunder, and otherwise exercising its oversight responsibilities with respect to resort casinos;

visit, have access to and inspect, examine, photocopy, and test, without prior notice or approval of any party, all equipment and supplies in any licensed gaming establishment or in any premises where gaming equipment is manufactured, sold or distributed;

have access to and inspect, examine, photocopy, and audit all relevant and material papers, books, and records of any affiliate of a licensed gaming establishment that the executive director knows or reasonably suspects is involved in the financing, operation, or management of any entity licensed pursuant to this chapter, either on the affiliate's premises or elsewhere, as practicable, in the presence of the affiliate or any agent thereof;

require that the books and financial or other records or statements of any licensee be kept in a manner that the authority or the bureau deems proper;

audit all relevant material papers, books, and records of an applicant for or person holding any license under this chapter, on such applicant or licensee's premises or elsewhere, as practicable, in the presence of the applicant or licensee or his agent;

provide access to records and cooperate with the division, including answering the division's requests for documents and refer to the division any evidence of a violation of this chapter or the regulations adopted thereunder;

establish licensure and work permits for employees working at the casino and minimum training requirements; provided further the authority may review the professional requirements of employees and update them as needed. The authority shall require that all casino employees be properly trained in their respective professions. The authority may recognize an employee's license from out of state gaming schools if they meet the minimum requirements for the authority and may establish a process for reciprocal licensing of out of state licensed casino employees;

refer to the Massachusetts commission against discrimination matters and information concerning possible violations of Massachusetts law;

require the designation by a licensee of an equal employment officer to enforce the provisions of this section and the regulations adopted hereunder;

ensure that there is no duplication of duties and responsibilities between it and the division, provided, however, that the authority may not place any restriction upon the division's ability to investigate or prosecute violations of this chapter or the regulations adopted hereunder;

enforce in a court of law the provisions of this section or to join in or assist any enforcement proceeding initiated by any aggrieved person;

refer any suspected criminal violation of this chapter to the division; provided, however, that nothing in this subsection shall be deemed to limit the investigatory and prosecutorial powers of other state and local officials and agencies;

provide technical assistance to towns, cities, and districts that are taking executive or legislative actions for the purposes of this chapter;

exercise any other powers of a corporation organized under chapter 156B;

make an annual report of its finance activities, including number of licenses, fines, penalties and violations and other relevant information and make recommendations for improved operations of the licensed casinos to the governor and the general court by March 31, for the prior calendar year; and,

adopt regulations, pursuant to sections 2 and 3 of chapter 30A, to carry out the powers and the provisions of this chapter; and specifically adopt regulations relating to the following matters:

the licensing of resort casinos, including regulations relating to the types of establishments, application process, background checks, license fees, bonding requirements, and revocation, suspension, and renewal of licenses;

the registration and licensing of gaming services suppliers and non-gaming suppliers, including regulations relating to the application process, background checks, license fees, bonding requirements, the commercial reasonableness of gaming contracts with casino licensees, the demonstrated capacity and experience of a supplier to perform the requirements a contract, and revocations and suspension of licenses;

the licensing of parties in interest, including regulations relating to the application process, background checks, license fees, bonding requirements, and revocation and suspension of licenses;

the issuance of 1 or more classes of work permits, criteria for different classes of work permits, including regulations relating to the application process, background checks, fees, and revocation and suspension of work permits;

the registration and licensing of labor organizations representing the employees of a resort casino;

the presentation and/or display of all licenses and work permits;

the licensing of gaming schools, if any such school is established in the commonwealth, including regulations relating to the application process, background checks, license fees, and revocation and suspension of licenses;

the monitoring of licensees to ensure compliance with this chapter and the regulations adopted thereunder, including but not limited to, requiring that licensees make readily available all documents, materials, equipment, personnel, and any other items that the division may wish to investigate;

the posting of applicable statutes at casinos regarding civil and criminal laws applicable to gaming;

minimum wage and benefits standards and other conditions of employment for resort casino employees, which standards or conditions may only be waived in a bona fide collective bargaining agreement;

the method for collecting any fines, fees, penalties and interest imposed by the authority;

the method and standards of operation of gaming establishments including, but not limited to, games, the type and manner of gaming, wagering limitations, odds, and hours of operation; provided, however, the authority shall not restrict the number of hours of operation of any gaming establishment to fewer hours than any competing gaming establishment in Massachusetts;

the manufacturing, distribution, sale, testing, servicing, regulation and inspection of gaming equipment for use in licensed casinos, including requirements for the identification and licensing of same;

any limitations on mortgage security interests and agreements relating to the property of licensed gaming establishments;

any limitations on transfers of interests in licenses;

advertising by licensed gaming establishments, including the monitoring of advertising, particularly to ensure that it is not directed at minors and other vulnerable populations; provided, however, licensees shall have the right to conduct reasonable advertising consistent with that of competing gaming facilities, and the state lottery;

the manner in which winnings, compensation from games, and gaming devices must be compiled and reported by the authority; provided further, that electronic gaming devices shall return as winnings at a minimum 85 percent of all sums wagered;

standards for protection of the health, safety, and security of the public at licensed gaming establishments;

the procedures for renewal of all licenses awarded under this chapter;

the minimum procedures to be adopted by each gaming establishment to exercise effective supervisory and management control over its fiscal affairs, including the requirement of an annual audit undertaken in accordance with generally accepted accounting principles, and the requirement that quarterly reports be provided by gaming establishments to the authority no more than 30 days after the close of each quarter;

the persons to be excluded or ejected from gaming establishments, including the type of conduct prohibited and whether and under what conditions persons under age 21 may be permitted to enter casinos; and

the licensing and regulation of the central computer system provider which services electronic gaming devices and on and off site auditing of electronic gaming devices; provided that, the authority shall ensure that the central computer system shall employ a widely accepted gaming industry protocol to facilitate slot machine manufacturers' ability to communicate with the statewide system; and provided further, that the central computer system provider selected by the authority shall be prohibited from providing electronic gaming devices, or any other form of player activated terminal, for use in connection with the central computer system.

The commissioner of revenue shall act as the fiscal agent for the authority for the purposes of collecting all fees and assessments and for this purpose shall have all the powers provided in chapter 62C.

In emergencies, the authority may, without complying with sections 2 or 3 of chapter 30A, summarily adopt, amend, or repeal any regulation, if, at the time, the authority makes a finding that such action is necessary for the preservation of the public peace, health, safety,

morals, good order, or general welfare, together with a statement of the facts constituting the emergency; provided, however, that no emergency action shall exceed 90 days.

Notwithstanding any other general or special law to the contrary, all files, records, reports, and other information in the possession of any state or local governmental agency including tax filings and related information that are relevant to an investigation by the authority conducted pursuant to this chapter shall be made available by such agency to the authority as requested, except that investigatory materials compiled by law enforcement out of the public view whose disclosure would materially prejudice the possibility of effective law enforcement shall not be subject to this requirement. Any tax or financial information received from a governmental agency shall be used solely for effectuating the purposes of this chapter. To the extent that these files, records, reports, or information are confidential or otherwise privileged from disclosure under any law, they shall not lose that confidential or privileged status for having been disclosed to the authority; provided further, that the authority shall consult with the division of public records regarding the handling of this information.

The authority shall make a continuous study and investigation of gaming throughout the commonwealth in order to ascertain the adequacy and effectiveness of state gaming law or regulations and may formulate recommendations for changes in such laws and regulations; provided further, that the study shall include economic, public health, security, taxation, traffic, regional housing, regional education, regional infrastructure and environmental impacts. The authority shall also make a continuous study and investigation of the operation and administration of similar laws in other states or countries, of any literature or reports on the subject, and of any federal laws which may affect the operation of gaming in the commonwealth,

all with a view to recommending or effecting changes that will tend to better serve and implement the purposes of this chapter.

Restrictions on prior employment and post employment by authority employees, members of the board, and executive branch employees; conflicts of interest and scope of employment.

Prior Employment. No person shall be appointed to or employed by the authority if, during the period commencing 3 years prior to appointment or employment, that person held any direct or indirect interest in, or any employment by, any person which is licensed as a casino licensee, a casino service industry licensee, or a dog or horse racing licensee in the commonwealth or in another state or has an application for a gaming establishment license pending before the authority.

Conflicts of Interest. Chapter 268A shall apply to all board members of the authority, all advisory committee members, and to all employees of the authority, except as specifically provided herein.

The authority shall adopt a code of ethics that governs relationships and dealings between authority employees and licensees or applicants for licensure under this chapter.

The codes of ethics adopted by the authority shall not be in conflict with the laws of the commonwealth, provided, however, that those codes of ethics may be more restrictive than any law of this commonwealth, including chapter 268A.

The codes of ethics adopted by the authority shall be subject to the approval of the state ethics commission.

All board members of the authority, all advisory committee members, all employees of the authority, and the spouse of each such individual, shall file a statement of financial interests for the preceding calendar year with the state ethics commission. The statement of financial interests filed pursuant to this section shall be on a form prescribed by the state ethics commission pursuant to chapter 268B and shall be signed under penalty of perjury by the reporting person. The statement of financial interests shall be filed with the state ethics commission within 30 days after the individual assumed his or her responsibilities with the authority, on or before May first of each year thereafter that such individual is associated with the authority as a board member, advisory committee member or employee, and on or before May first of the year after such individual ceases to be associated with the authority; provided, however, that no statement of financial interest shall be required to be filed for the year in which the individual ceased to be associated with the authority if he or she served less than thirty days in such year.

Restrictions on Post Employment.

No board member, including those board members who hold elected office, and no advisory committee member of the authority shall hold any direct or indirect interest in, or be employed by, any applicant or by any person licensed by or registered with the authority for a. period of 3 years commencing on the date the membership on the authority terminates.

No employee of the authority may acquire any direct or indirect interest in, or accept employment with, any applicant or any person licensed by or registered with the authority, for a period of 3 years commencing at the termination of employment with the authority.

No authority employee shall represent any person or party other than the commonwealth before or against the authority for a period of 3 years from the termination of the employee's employment with the authority.

No partnership, firm or corporation in which a former authority board member or employee or former division employee or agent has an interest, nor any partner, officer or employee of any such partnership, firm or corporation shall make any appearance or representation which is prohibited to that former member, employee, or agent; provided, however, that nothing herein shall prohibit such partnership, firm or corporation from making such appearance or representation on behalf of a casino service industry licensed under this chapter.

No person who was an employee of the commonwealth's executive branch between January 4, 2007 and the date of enactment of this act, shall be employed by the authority, for a period of 3 years commencing at the termination of employment with the executive branch.

No person who was an employee of the commonwealth's executive branch between January 4, 2007 and the date of enactment of this act, shall be employed by any person which is licensed as a casino licensee, a casino service industry licensee, or a dog or horse racing licensee in the commonwealth or has an application for a gaming establishment license pending before the authority, for a period of 3 years commencing at the termination of employment with the executive branch.

Prior to appointment or employment, each board member of the authority, each advisory committee member, and each employee of the authority, shall swear or affirm that he possesses no interest in any business or organization licensed by, or registered with, the authority.

Scope of Employment. In addition to the requirements stated herein, all authority employees, authority board members, and advisory committee members shall be subject to chapter 268B. The stricter provisions of this section shall prevail over the provisions of chapter 268A.

Neither the authority nor any of its officers, agents, employees, consultants or advisors shall be subject to the provisions of sections 9A, 45, 46 and 52 of chapter 30, or to chapter 31, or to chapter 200 of the acts of 1976.

All officers and employees of the authority having access to its cash or negotiable securities shall give bond to the authority at its expense in such amounts and with such surety as the board may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

No employee, or member of the authority, or their family members shall be permitted to place a wager in any gaming establishment licensed by the authority except in the course of his duties.

Provisions for Applications of Casino Licenses

Forms of Application. Any person desiring to establish a resort casino in the commonwealth shall bid for one by making an application to the authority for a casino license.

Such application shall include, but shall not be limited to the following:

the name of the applicant;

the post office address of the applicant, and if a corporation, the name of the state under the laws of which it is incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders;

an independent audit report of all the applicant’s financial activities, including but not limited to the disclosure of all contributions, donations, loans or any other financial transactions to or from any gaming entity or operator in the past 5 years;

an independent audit report of all of the applicants' financial interests;

the location of the proposed resort casino, which shall include address(es), maps, and book and page numbers from the appropriate registry of deeds, assessed value of land to be purchased or currently in ownership, market value of the land at the time of application, the zoning of the site (including whether gaming facilities are allowed either as a matter of right or by special permit on any portion of the property), ownership status over the past 5 years, (including all interests, options, agreements in property), demographic, geographic, and environmental information, and any other information requested by the authority;

the proposed architects and designers for the resort casino, which shall include the name and addresses of the architects, engineers, and designers, and timeline of construction and phases of construction;

the types of games and gaming to be conducted at the resort casino, number of tables and electronic gaming devices that are proposed to be employed at the casino, and the specific location of the gaming at the casino site;

a description of the ancillary entertainment services and amenities to be provided at the proposed resort casino;

the number of hotels, rooms per hotel and other amenities located at the proposed resort casino;

the number of employees to be employed at the resort casino, including detailed information on the pay rate and benefits for employees, including any contractors;

the total amount of investment by the applicant in the resort casino, including all facilities located at the casino site and all infrastructure improvements related to the project;

completed studies and reports as required by the authority, which shall include, but are not limited to, an economic benefit study, both for the commonwealth and region; a study of the potential impact on the host community and other impacted communities; an environmental, traffic and local infrastructure impact study, a study on the impact of the proposed resort casino to the local and regional economy, the cost to the municipality and the state for the casino to be at its proposed location, and the total amounts of municipal and state tax revenue to be generated by the applicant;

whether the applicant's casino is part of a regional or local economic plan;

whether the applicant is partnering with a federally recognized native American tribe located in the commonwealth;

whether the applicant has a contract with organized labor and has the support of organized labor for its application;

whether the applicant will be using publicly owned land for the resort casino;

a statement that the applicant will comply, in case such a license is issued, with all applicable laws and with all applicable rules and regulations prescribed by the authority or any other relevant entity;

a statement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a destination resort casino. As part of this submission, the applicant must agree to:

maintain as smoke free all indoor facilities operated by the licensee or anyone working for or under contract with the licensee;

provide complimentary on-site space for an independent substance abuse and mental health counseling service to be selected by the commonwealth;

prominently display information on the signs of problem gambling and how to access assistance;

describe 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;

provide to the commonwealth aggregate demographic information with respect to its customers in a manner and pursuant to a schedule to be defined by the commonwealth;

institute other public health strategies as determined by the authority;

a detailed plan showing the levels of security and safety for its employees, guests, equipment and money; and

answers to such other questions as the authority may prescribe.

The authority may prescribe forms and additional information to be used in making such applications.

An applicant's request to receive a license under this chapter shall constitute a request for a determination of the applicant's general character, integrity, and ability to participate or engage in, or be associated with, gaming.

Such applications shall be signed and sworn to, if made by an individual, by such individual; if made by 2 or more individuals or a partnership, by 1 of such individuals or by a member of such partnership; if made by a trust, by a trustee of such trust; and if made by an association or corporation, by the chief executive and chief financial officers thereof.

The authority shall investigate the qualifications of each applicant under this chapter before any license is issued.

With each application, there shall be delivered to the authority a certified check or bank draft, payable to the authority, of a non-refundable deposit in the amount of $350,000 for the processing, analysis and review of the application.

Eligibility. No person shall be eligible to bid on a resort casino license unless the person meets the following initial criteria and clearly states as part of an application that the person:

agrees to be a state lottery reseller for the purpose of lottery and keno games, and to demonstrate that state lottery and keno games are readily accessible to its guests;

shall invest no less than $1 billion into the resort casino project, with at least $300,000,000 in investment in the project and related improvements committed in an initial

phase and the balance being committed over the following five years, neither of which amounts shall include the purchase or lease price of the land where the casino will be located;

meets the licensee bonding requirement as set by the authority;

has a debt to equity ratio of not more than 4:1 when the application is submitted;

has ownership of land located in a market where the resort casino will be constructed and that all or some portion of the land is zoned to allow gaming as-of right or by special permit;

shall demonstrate that it is able to pay and shall commit to paying (y) the licensing fee of $225,000,000, as established in section 6, and (z) the operating licensing payments of 27 percent of all gross gaming revenues;

has submitted certified copies of resolutions adopted after the effective date of this act by the legislative bodies of two-thirds of the municipalities in the applicable county, following recommendations from the respective chief executive municipal officials, which resolutions affirm that such legislative bodies approve the establishment of a resort casino within such county;

shall provide for a community impact fee for the local host community;

shall pay for infrastructure costs of the host and surrounding communities incurred in direct relation to the construction and operation of a resort casino;

shall provide to the authority a signed agreement between the host community and the applicant to have a resort casino located within the host community; provided that the agreement shall include the community impact fee for the local host community and all stipulations of responsibilities between the local host community and the applicant;

shall be able to comply with state and local building codes; and

shall formulate for authority approval and abide by an affirmative-action program of equal opportunity whereby the applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including a person with a disability, in accordance with Massachusetts law.

Bid Procedure for Each Market

The authority shall request bids for the purpose of awarding casino licenses in each market.

The authority shall accept bids only from applicants who have met the initial eligibility requirements pursuant to subsection (b) of this section.

Before applications are received, the authority shall adopt regulations setting forth criteria by which each bid shall be evaluated in each region.

The bids shall be evaluated to determine which proposal provides the highest and best value to the market and to the commonwealth. The criteria for determining the highest and best value to each market and the commonwealth shall include, but shall not be limited to, the following:

the overall economic benefit to the commonwealth;

the amount of the operating licensing payment projected by the application based on payment of 27 percent of gross gaming revenue;

the proposed infrastructure improvements and economic development opportunities to the commonwealth, the local host community and the region where the resort casino is located and the timeline for commencement and completion of such improvements and opportunities;

the extent to which the applicant shall contract with Massachusetts business owners for the provision of services and goods at the casino;

whether, in the Bristol County market, the applicant is, or partners with, a federally recognized Native American tribe situated and with governmental offices in Massachusetts with land held in trust by the United States of America for the use and benefit of said tribe and which land is otherwise gaming eligible under the Indian Gaming Regulatory Act, that seeks and agrees to accept a commercial license consistent with the terms and conditions of this chapter and any regulations promulgate hereunder and waives its sovereign immunity and rights under the Indian Gaming Regulatory Act, in which case such applicant shall be given preference for a license in the Bristol market;

the extent to which the proposed project is consistent with the commonwealth's sustainable development principles. For purposes of this section, consistency with these principles means at a minimum the following:

the resort casino has been certified or is capable of being certified as gold or higher pursuant to the U.S. Green Building Council Neighborhood Development Rating System. The authority may prescribe an alternative, independent, third-party rating after consultation with the secretary of the executive office and energy and environmental affairs, if, for example, that rating system is not in effect at the time of the license application;

the resort casino's proposed buildings have been certified or are capable of being certified as gold or higher pursuant to the green building rating system established by Leadership in Environmental and Energy Design (LEED). The authority may prescribe an alternative independent, third-party rating after consultation with the secretary of the executive office of energy and environmental affairs, if, for example, that rating system is not in effect at the time of the license application;

the electrical equipment and appliances used by the casino meet United States Environmental Protection Agency efficiency standards;

the casino shall procure 10 percent of its annual electricity consumption from renewable sources identified by the division of energy resources pursuant to section 11F of chapter 25A. This requirement may be achieved through procurement of renewable energy supply, through the production of on-site renewable power, and/or the purchase of renewable energy certificates;

should the casino develop open space land, the applicant shall purchase, or impose a conservation restriction upon, open space land of equal or greater size to the open space land developed by the casino. Any such conservation restriction shall comply with section 32 of chapter 184; and

there are alternative transportation options for patrons to access the casino so that carbon emissions are minimized.

the number of permanent jobs created by the casino licensee; provided, that the licensee shall create at least 5,000 new permanent jobs at the casino, or through casino service providers, over a 5-year period;

whether the applicant agrees to work collaboratively with the Massachusetts workforce development system, including the appropriate local workforce entities, to create a workforce development plan to recruit and train residents of the commonwealth for the casinos, including those who face barriers in finding employment, such as people with low incomes or receiving public assistance, the long-term unemployed, veterans, individuals with disabilities, and participants in federal and state workforce programs;

whether the applicant shall establish, fund, and maintain internal human resource hiring and training practices that promote the development of a skilled and diverse workforce with access to promotion opportunities by a workforce-training program designed to foster a skilled and diverse workforce by:

establishing transparent career paths with measurable criteria within the casinos that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion;

establishing 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 ladders based on increased responsibility and pay grades;

establishing an on-site child day care program;

establishing a program to train the casino workforce in the identification of and intervention with customers exhibiting problem gaming behavior;

where appropriate, applying for and using workforce training funds grants established under section 2RR of chapter 29 to enhance employee skills; and

establishing access to "career coaches" to assist employees with understanding career advancement opportunities within the resort casino, as well as where appropriate, establishing an employee mentoring program to train and retain entry level employees.

the architectural plans or site plans of all structures and facilities to be used as part of the resort casino;

whether the applicant is including in its application contracts with labor organizations and a provision assuring labor harmony during all phases of such construction, renovation, or reconstruction of the resort casino;

whether all contracts and subcontracts to be awarded in connection therewith shall contain appropriate provisions by which contractors and subcontractors or their assignees agree to afford an equal employment opportunity to all prospective employees and to all actual employees to be employed by the contractor or subcontractor in accordance with an affirmative action program approved by the authority and consonant with the provisions of Massachusetts and federal law; and

the extent to which the applicant shall mitigate public safety effects;

the extent to which the applicant shall provide funding for the marketing of Massachusetts as a tourist destination.

In assessing the highest and best value to the commonwealth, the authority shall take into account the commonwealth's policy determination that the commonwealth shall have no more than 3 gaming establishments.

It shall be the burden of the applicant to provide convincing evidence in its application, to the satisfaction of the authority, that a resort casino shall provide the highest and best value to the market in which it is located and to the commonwealth.

As part of its determination for licensure, the authority shall investigate and consider the positive and negative effects a casino facility will have to the host community and communities impacted by the project, provided further, that factors to consider include, but are not limited to, the regional and local economy, the number and location of resort casinos, job creation or loss, road and traffic, public access (including public transportation), water, drainage, sewer, fire department coverage, police department coverage and other public safety coverage, emergency access, housing, public education influx, state and municipal creation or reduction and other infrastructure related issues.

Awarding of and Conditions of Licenses

The authority may award casino licenses based on the applications and bids submitted to the authority.

Number of Casino Licenses. Notwithstanding any general or special laws to the contrary, the authority shall award no more than 3 casino licenses in the commonwealth, with no more than 1 license awarded per market; subject to the limitations set forth in Section 6(j)(2).

Nothing in this chapter shall require the awarding of a license to a market. If the authority is not convinced that an applicant has both met the eligibility criteria and provided convincing evidence that the applicant shall provide the highest and best value to the market in which the resort casino is located and to the commonwealth, no casino license may be awarded in that market.

For the purposes of determining which applicant may be awarded a license, each applicant's bid shall be evaluated to determine which will provide the highest and best value to the market and to the commonwealth based on the criteria set out in section 5, and any other terms the authority determines by regulation.

If there is more than 1 applicant in a market who is determined by the authority to be eligible for a casino license pursuant to section 5, the authority shall determine which application presents the highest and best value to the market and the commonwealth according to the criteria set forth in section 5.

If an applicant is awarded a casino license, the casino licensee shall pay the commonwealth the following fees:

a licensing fee in the amount of $225,000,000;

an annual operating licensing payment in the amount equal to 27 percent of all gross gaming revenues. Following the initial issuance of a casino license, so long as the casino license remains in good standing, and to enable the applicant to secure commercially reasonable financing of the project, no casino licensee shall be required to make annual operating license payments at a rate in excess of the amount set forth in the preceding sentence.

Provided that a casino licensee has first entered a memorandum of understanding with the Secretaries of Transportation and Environmental Affairs regarding the gaming establishment, related public infrastructure improvements and environmental impacts, and except for any permit or approval required by local zoning and a building permit and certificate of occupancy with respect to matters directly regulated by the state building code, notwithstanding any general or special laws to the contrary an applicant receiving a casino license shall not be required to apply

for, file for, obtain or maintain any permit, license or approval from, and shall not be required to apply for, file for or undergo any impact or other review process with or by the commonwealth or any political subdivision thereof or any agency, department, commission or authority of any of the foregoing, for or directly or indirectly in connection with the permitting, financing, construction, renovation, maintenance, use and occupation of a resort casino and related site improvements and amenities on the approved site of the gaming establishment and related public infrastructure improvements.

No person or affiliate may be awarded more than 1 license and no person directly, or indirectly through an affiliate, may have an interest in more than 1 license.

Each license is renewable every 10 years, from the date of first issuance. The first 10-year renewal shall be automatic and shall not require any gaming license fee or renewal fee. The authority shall adopt regulations to establish standards and the process concerning the renewability of licenses subsequent to the second 10-year term.

Conditions of Casino Licensure.

Every casino licensee shall have an affirmative obligation to abide by every statement made in its application to the authority and every statement made in its bid submission to the authority pursuant to subsection (c) of section 5.

No license for the Bristol County market shall be issued if a federally recognized Native American tribe situated and with governmental offices in commonwealth with land held in trust by the United States of America for the use and benefit of said tribe and which land is otherwise gaming eligible under the Indian Gaming Regulatory Act, enters a compact recommended by the Governor and approved by a two-thirds majority of both chambers of the Legislature; said

compact shall replace the award of a license for the Bristol Market; provided further, any compact with a federally recognized Native American tribe situated and with governmental offices in the commonwealth with land held in trust by the United States of America for the use and benefit of said tribe and which land is otherwise gaming eligible under the Indian Gaming Regulatory Act, shall be recommended by the Governor and approved by a two-thirds majority of both chambers of the Legislature.

The authority shall make an assessment in each fiscal year against each licensee operating a casino in the commonwealth. This assessment is in addition to the licensing fee and the operating licensing payment paid by each licensee. This assessment shall be reasonable and made at a rate as shall be reasonably determined and certified annually by the authority as sufficient to produce revenue to reimburse the commonwealth for funds appropriated for the operation of the authority and the division, including the dedicated state police units attached to the division, and public safety costs, including amounts sufficient to cover the cost of fringe benefits as established by the secretary of administration and finance under section 6B of chapter 29. This assessment shall be made proportionately against each licensee based on the proportionate number of gaming devices and tables operated by that licensee. Each licensee against whom an assessment is made shall pay over daily to the authority a pro rata share of the assessment as determined by the authority. If the authority fails to expend in any fiscal year the total amount assessed under this section, any amount unexpended shall be credited against the assessment to be made in the following year and the assessment in such following year shall be reduced by that unexpended amount.

Each licensee shall pay the total amount of the licensing fee set forth in subsection 6(f)(1) in three equal annual installments, the first such installment to be paid within 60 days of the grant

of the resort casino license and receipt of all other licenses and permits reasonably necessary (as determined by the authority) for the applicant to secure commercially reasonable financing of the project, the second installment to be paid on or before the first anniversary of the first payment, and the third installment to be paid on or before the second anniversary of the first payment.

Each licensee shall pay daily to the commissioner of the department of revenue as the agent of the authority, the operating licensing payment, as provided in section 5.

No licensee shall operate, invest or own, in whole or in part, another licensee's license or casino. If a licensee is found in violation of this section, they will be fined up to $5,000 per day for violations.

No licensee shall be permitted to transfer its casino license or any interest such licensee may have in the gaming establishment or the real property upon which it is located, and no substantial party in interest shall be permitted to transfer its interest in the licensee, whether through a sale, option contract, or other agreement or contract providing for such transfer in the present or future, without the notification of and approval by the authority. The authority shall adopt rules and regulations for determination of the approval of any such transfer. In the event that within the first five years following the issuance of a casino license to a licensee there is either (i) a transfer by a licensee of its casino license or any interest such licensee may have in the gaming establishment or the real property upon which it is located, or (ii) a transfer by a substantial party in interest of a controlling interest in the licensee, the authority may require either the transferor or transferee or both, as determined by the authority, to pay to the commonwealth an amount representing the increased value attributable specifically to the casino license; provided, that the authority shall consider as a factor in determining the amount of the

payment the difference in value of the licensee's property and the improvements thereon (which shall be excluded from the value of the license) between the time when the licensee received the license and the time of or anticipated time of the transfer through the average of 3 separate assessments made by the licensee, the authority and an independent assessor chosen by the authority, and the cost of that assessment shall be part of the payment of the transfer; provided further, that the authority shall consider as a factor in determining the amount of the payment the increased value of the property, land, establishment, management agent, entity or business value as a result of possessing a gaming operator's license; provided further, that the authority shall consider as a factor in determining the amount of the payment the prior capital investments made by the licensee, the marketing and other business development expenses incurred by the licensee, the financing costs incurred by the licensee prior to such transfer, and any additional economic value created by the licensee. In no event shall a transfer of any rights to a bona fide commercial financial institution pursuant to any commercially reasonable financing be deemed to be a transfer; provided further, that the authority may reject such transfer if it deems the transferee to be unsuitable. The authority shall adopt rules and regulations for the reasonable determination of the payment which serves the best interest of the commonwealth as a result of the transfer; provided that the authority may consider the actual increase or decrease in the pecuniary value of the license, the real property, and the shares of interest among the time it was initially purchased, the time of receiving a license and the time of the transfer; provided further, that any payments collected by the authority on behalf of the Commonwealth are deposited in the same manner as license fees are deposited with the commonwealth.

The authority may place any condition or restriction on the transfer of a license or interest held by a substantial party in interest, and in all instances it shall consider whether additional compensation is owed to the Commonwealth pursuant to the foregoing paragraph.

No casino licensee shall be permitted to change its form of business governing structure on file with the secretary of state as of the date of its license application without the notification and approval of the authority.

The authority shall monitor the conduct of all licensees and other persons having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring that licenses are not issued to, or held by, and there is no direct or indirect material involvement with a licensee by unqualified, disqualified, or unsuitable persons.

Each licensee shall be required to have an office available to the authority. The authority shall establish the minimum requirements for the office.

Each licensee shall be required to have an office available for the division's state police personnel. The authority shall establish the minimum requirements for square footage for the state police office, office furnishings, and parking space.

All licensees shall make readily available all documents, materials, equipment, personnel and any other items that the attorney general may desire to conduct an investigation. A licensee may withhold material that may be considered a trade secret or detrimental to the licensee if it were made public and have it adjudicated before the authority as to its protected status, and require non-disclosure agreements between the attorney general and the authority for such material.

The licensee shall cooperate with the division with respect to the investigation of any criminal matter that is discovered on its property. The licensee shall, upon receipt of criminal or civil process compelling testimony or production of documents in connection with any civil or criminal investigation, immediately disclose such information to the authority. This section does not prohibit private persons or public entities from seeking any remedy or damages against a licensee.

All licensees shall have a duty to inform the authority of any action which they reasonably believe would constitute a violation of this chapter, and shall assist the authority and any federal or state law enforcement agency in the investigation and prosecution of such violation. No person who so informs the authority shall be discriminated against by an applicant or licensee because of the supplying of such information.

All licensees shall collect and annually report to the authority a statistical report on the number of candidates hired and retained in employment in connection with the workforce development plan and the affirmative action program respectively required by sections 5(b). Failure to comply with this section shall cause a licensee to forfeit any state workforce training funds or economic incentives.

All licensees shall agree to make a good faith effort to identify and recruit candidates from the local labor market area and other nearby labor market areas to ensure a diverse workforce. Failure to comply with this section shall cause a licensee to forfeit any state workforce training funds or economic incentives.

Every casino licensee shall keep conspicuously posted on his premises a notice containing the name and numbers of the council on compulsive gambling and a statement of its

availability to offer assistance. The authority may require the licensee to provide this information in 1 or more languages.

Storage of Documents and Non-Disclosure of Sensitive Documents and Materials

The authority shall maintain a file of applications for licenses under this chapter, together with a record of all action taken by the authority on those applications. Such applications shall be open to public inspection; provided however, that the executive director shall prohibit access to information that contains law enforcement or investigatory information, is a trade secret, or puts the applicant for a license at an unfair disadvantage with other applicants; provided further, that the executive director shall consult with the division on public records on the appropriate manner of distributing or withholding of such information. The authority may maintain any other files and records as it deems appropriate.

Authority Operating Account

There shall be established upon the books of the commonwealth a separate fund to be known as the Massachusetts gaming control authority trust fund to be expended, without prior appropriation, by the Massachusetts gaming control authority. The fund shall consist of the application fees collected pursuant to section 5(a)(6), and all assessment payments collected from section 6. The executive director of the authority shall make necessary expenditures from this account for the shared administrative costs of the operations and programs of the authority. The executive director shall further direct that funds from the account shall be expended to provide services in an amount reasonably related to the functions of the authority and the comptroller may certify for payment amounts in anticipation of expected receipts; but no expenditure shall be made from the fund which shall cause the fund to be in deficit at the close of

each fiscal year. The authority shall pay the attorney general the amount it requested under section 14(b) by July first of each year.

Gaming License Fee Trust Fund

There shall be established and set up on the books of the commonwealth a separate fund, to be known as the gaming license fee trust fund, in this section called the license fee trust fund. The license fee trust fund shall consist of all license fees received in consideration of the award of licenses under section 6, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The secretary of administration and finance shall be the trustee of the license fee trust fund, and shall transfer monies in the fund, without further appropriation, as of June 30 of each fiscal year, only as follows and in the following order:

only if and to the extent determined by the secretary of administration and finance, initial payments to the authority and to the division for start-up expenses;

the remaining one-half of the balance in the fund, to the general fund; and

the other remaining one-half of the balance in the fund, to the local taxpayer relief aid trust fund established by section 14.

Gaming Operating Licensing Payment Trust Fund

There shall be established and set up on the books of the commonwealth a separate fund, to be known as the gaming operating license payment trust fund, in this section called the operating licensing payment fund. The operating licensing payment fund shall consist of all operating licensing payments received in consideration of the award of licenses under section 6,

and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The secretary of administration and finance shall be the trustee of the license proceeds fund, and shall transfer monies in the fund, without further appropriation, as of June 30 of each fiscal year, only as follows and in the following order:

to the host community mitigation trust fund established by section 11, an amount that is 2 percent of all operating licensing payments made to the operating licensing payment fund under this section;

to the regional community mitigation trust fund established by section 12, an amount that is 1 percent of all operating licensing payments made to the operating licensing payment fund under this section;

to the public health trust fund established by section 13, an amount that is 2.5 percent of all operating licensing payments made to the operating licensing payment fund under this section, but in no event more than $45,000,000 in any fiscal year;

to the public safety trust fund established by section 14, an amount that is 0.5 percent of all operating licensing payments made to the operating licensing payment fund under this section;

to the tourism promotion trust fund established by section 15, an amount that is 0.5 percent of all operating licensing payments made to the operating licensing payment fund under this section;

to the live racing industry preservation trust fund established by section 16, an amount that is 1 percent of all operating licensing payments made to the operating licensing payment fund under this section, but in no event more than $20,000,000 in any fiscal year;

to fund any reduction in local aid payments made by the state lottery, an amount that is the difference between the average of the total amounts funded to local cities and towns in the three fiscal years prior to enactment of this Act, adjusted in each fiscal year after fiscal year 2009 by the average increase for the above period, and the total amount local aid payments made by the state lottery in the current fiscal year if less than that adjusted average amount;

half of the remaining balance in the fund, to the general fund;

the remaining balance in the fund, to the local taxpayer relief aid trust fund established by section 17.

Host Community Mitigation Trust Fund

There shall be established and set up on the books of the commonwealth a separate fund, to be known as the host community mitigation trust fund, in this section called the mitigation fund. The mitigation fund shall consist of the monies transferred under sections 10, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The secretary of administration and finance shall be the trustee of the mitigation fund and shall expend monies in the fund, without further appropriation, to assist the local host communities in which any resort casino facilities are located, to address any increases in police, fire, transportation, water, sewer, enforcement and prosecution costs, or other services directly

related to the construction and operation of the facilities. The secretary of administration and finance may adopt regulations, after a public hearing, governing these expenditures.

Regional Community Mitigation Trust Fund

There shall be established and set up on the books of the commonwealth a separate fund, to be known as the regional community mitigation trust fund, in this section called the mitigation fund. The mitigation fund shall consist of the monies transferred under section 10, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The secretary of administration and finance shall be the trustee of the mitigation fund and shall expend monies in the fund, without further appropriation, to assist the local host community, cities, towns (other than the specific municipalities in which any resort casino facilities are located, which shall be eligible for funds from the host community mitigation fund under section 11) and district attorneys in the vicinity of resort casino facilities, to address any increases in police, fire, transportation, water, sewer, enforcement and prosecution costs, or other services directly related to the construction and operation of the facilities; provided, however, that the authority shall determine which towns and cities will be affected by construction and operation of the facilities. The secretary of administration and finance may adopt regulations, after a public hearing, governing these expenditures.

Public Health Trust Fund

There shall be established and set up on the books of the commonwealth a separate fund, to be known as the public health trust fund, in this section called the public health fund. The public health fund shall consist of the monies transferred under section 10, and all other monies credited or transferred to the public health fund from any other fund or source pursuant to law.

The secretary of health and human services shall be the trustee of the public health fund and shall expend monies in the fund, without further appropriation but subject to approval of an annual spending plan by the secretary of administration and finance, to meet increased demand for social service and public health programs resulting from gaming, including but not limited to gambling prevention and new substance abuse and addiction services, services to address other problems such as domestic violence and child welfare services, an educational campaign to mitigate the potential addictive nature of gambling, and on an annual basis, a comprehensive study and evaluation system to ensure proper and most effective mitigation of any negative public health costs. The secretary of health and human services may adopt regulations, after a public hearing, governing these expenditures.

Public Safety Trust Fund

There shall be established and set up on the books of the commonwealth a separate fund, to be known as the public safety trust fund, in this section called the public safety fund. The public safety fund shall consist of the monies transferred under section 10, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The commissioner of public safety shall be the trustee of the public safety fund and shall expend monies in the fund, without further appropriation, to address any increases in police, fire, enforcement and prosecution costs, or other services directly related to the operation of the facilities. The commissioner of public safety may adopt regulations, after a public hearing, governing these expenditures.

Tourism Promotion Trust Fund

There shall be established and set up on the books of the commonwealth a separate fund, to be known as the tourism promotion trust fund, in this section called the tourism fund. The tourism fund shall consist of the monies transferred under section 10, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The secretary of housing and economic development shall be the trustee of the tourism fund and shall expend monies in the fund, without further appropriation, to assist with the promotion of tourism in the commonwealth. The secretary of housing and economic development may adopt regulations, after a public hearing, governing these expenditures.

Live Racing Industry Preservation Trust Fund

There shall be established and set up on the books of the commonwealth a separate fund, to be known as the live racing industry preservation trust fund, in this section called the live racing fund. The live racing fund shall consist of the monies transferred under section 10, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The secretary of housing and economic development shall be the trustee of the live racing fund and shall expend monies in the fund, without further appropriation, to assist with the promotion and preservation of the live racing industry in the commonwealth, including by making payments to the purse accounts of racing facilities licensed pursuant to Chapter 128A and to Massachusetts based breeders associations. The secretary of housing and economic development may adopt regulations, after a public hearing, governing these expenditures.

Local Taxpayer Relief Aid Trust Fund

There shall be established and set up on the books of the commonwealth a separate fund, to be known as the local taxpayer relief aid trust fund, in this section called the local taxpayer relief aid fund. The local taxpayer relief aid fund shall consist of the monies transferred under sections 9 and sections 10 of this act, and all other monies credited or transferred to the local taxpayer relief aid fund from any other fund or source pursuant to law.

The secretary of administration and finance shall be the trustee of the local taxpayer relief aid fund and shall allocate monies in the fund to municipalities, without further appropriation, to supplement local aid payments otherwise made by the commonwealth pursuant to section 18C of chapter 58.

Division of Gaming Investigation and Enforcement

There is hereby established in the department of the attorney general a division of gaming investigation and enforcement. The attorney general shall designate an assistant attorney general as director of the division. The director of the division may appoint and remove, subject to the approval of the attorney general, such expert, clerical or other assistants as the work of the division may require. The attorney general may purchase any necessary equipment for the purpose of conducting an investigation. Subject to the approval of the secretary of public safety and security, the colonel of the state police shall assign such supervisory and investigative personnel and other resources to the division as may be necessary to fulfill its obligations under this chapter. The powers and duties of the division shall be as follows:

investigate allegations of crimes committed on the premises, crimes involving or impacting the operation of the casino or games, and violations of this chapter;

be on the premises at any time that it deems appropriate and inspect and examine all operations, books, records, and any other documents;

inspect all gaming devices and equipment used or to be used in a resort casino at any time it deems appropriate;

have access to all records of the authority;

investigate all applications, certificates and permits issued pursuant to the provisions of this chapter;

conduct all background checks on applicants for employment by the authority and any gaming establishment in a resort casino and applicants for licensure, including obtaining criminal record information, and share such information as necessary with the authority; provided that such background checks shall be conducted by the state police unit assigned to the division;

conduct audits of casino operations at such times, under such circumstances, and to such extent as the director shall determine, including reviews of accounting, administrative and financial records, and management control systems, procedures and records utilized by a casino licensee;

receive and take appropriate action on any referral from the authority relating to any evidence of a violation of this chapter or the regulations adopted thereunder;

initiate, prosecute, intervene and defend proceedings before the authority, or appeals therefrom, as the division may deem appropriate;

investigate and enforce the provisions of this chapter and any regulations adopted hereunder or any gaming related statutes, rules or regulations adopted by any agency,

department, board, commission, division or authority of the commonwealth or any political subdivision thereof that is involved in controlled gaming pursuant to this chapter, and prosecute all proceedings for violations of this chapter or any regulations adopted hereunder;

be entitled to request and receive information, materials and any other data from any licensee or registrant, or applicant for a license or registration under this chapter;

ensure that there is no duplication of duties and responsibilities between it and the authority; and

report to the attorney general recommendations that promote more efficient operations of the division.

The division shall be compensated for its duties through the assessment pursuant to section 6. The attorney general shall submit a budget to the authority by January first for an annual appropriation, and the authority shall make such appropriation to the division by July first of each year.

Penalties for Licensing and Gaming Violations

Willful evasion of license fees; other acts and omissions.

any person who willfully fails to report, pay, or truthfully account for and pay over any license fee or tax imposed by the provisions of this chapter or by the regulations adopted by the authority, or willfully attempts in any manner to evade or defeat any such license fee, tax, or payment thereof shall be punished by imprisonment in state prison for not more than 5 years or in a house of correction for not more than 2 and one-half years, or a fine of not more than

$100,000, or both, and in the case of a person other than a natural person, the amount of a fine may be up to $5,000,000.

any person who willfully resists, prevents, impedes, interferes with, or makes any false, fictitious, or fraudulent statement or representation to the authority or to the division or to their agents or employees in the performance of duties pursuant to this chapter shall be punished by imprisonment in state prison for not more than 5 years or in a house of correction for not more than 2 years and one-half years, or a fine of not more than $25,000, or both.

Unlicensed gaming unlawful.

any person who conducts or operates, or permits to be conducted or operated, any game, electronic gaming device, or gaming equipment in violation of the licensing provisions of this chapter or the regulations adopted by the authority shall be punished by imprisonment in state prison for not more than 5 years or imprisonment in a house of correction for not more than 2 and one-half years, or a fine of not more than $25,000, or both such fine and imprisonment, and in the case of a person other than a natural person, the amount of a fine may be up to $100,000.

any licensee who, without the permission of the authority, (1) places controlled games, electronic gaming devices, or gaming equipment into play or displays such controlled games, electronic gaming devices, or gaming equipment in a casino or gaming establishment or (2) receives, directly or indirectly, any compensation or reward or any percentage or share of the revenue, for keeping, running, or carrying on any controlled game, or owning the real property or location in which any controlled game occurs, shall be punished by imprisonment in a house of correction for not more than 2 and one-half years, or a fine of not more than $25,000, or both,

and in the case of a person other than a natural person, the amount of a fine may be up to $100,000.

any person who conducts or operates any controlled game, electronic gaming device, or gaming equipment after his license has expired and prior to the actual renewal thereof shall be punished by imprisonment in a house of correction for not more than 1 and one-half years, or a fine of not more than $25,000, or both, and in the case of a person other than a natural person, the amount of a fine may be up to $100,000.

Swindling and cheating.

In addition to the provisions of section 75 of chapter 266, a person is guilty of swindling and cheating if the person purposely or knowingly by any trick or sleight of hand performance or by a fraud or fraudulent scheme, cards, dice, or other gaming equipment, for himself or for another, wins or attempts to win money or property, or a representative of either, or reduces a losing wager or attempts to reduce a losing wager in connection to controlled gaming.

The penalties for swindling and cheating offenses shall be as follows:

any person who swindles or cheats where the amount involved is $75,000 or more shall be punished by imprisonment in state prison for not more than 10 years, or a fine of not more than $1,000,000, or both.

any person who swindles or cheats where the amount involved is $10,000 or more and less than $75,000 shall be punished by imprisonment in state prison for not more than 5 years, or a fine of not more than $500,000, or both.

any person who swindles or cheats where the amount involved is $1,000 or more and less than $10,000 shall be punished by imprisonment in state prison for not more than 3 years or imprisonment in a house of correction for not more than 2 and one-half years, or a fine of not more than $100,000, or both such fine and imprisonment.

any person who swindles or cheats where the amount involved is less than $1,000 shall be punished by imprisonment in a house of correction for not more than 2 and one-half years, or by a fine of not more than $10,000, or both.

Each episode or transaction of swindling or cheating may be the subject of a separate prosecution and conviction. In the discretion of the prosecutor, multiple episodes or transactions of swindling and cheating committed as part of a single scheme or course of conduct may be treated as a single offense, and the amounts involved in acts of swindling and cheating committed pursuant to a scheme or course of conduct, whether by the same person or several persons, may be aggregated in determining the amount involved in the offense.

Unlawful use or possession of devices to obtain an advantage.

Any person who in playing, conducting or operating a game in a licensed casino or gaming establishment, uses or assists another in the use of (1) a computerized, electronic, electrical, or mechanical device, which is designed, constructed, or programmed specifically for use in obtaining an advantage in any game in a licensed casino or gaming establishment or (2) any other cheating or thieving device, including, but not limited to, bogus or counterfeit chips, coins or dice; coins or tokens attached to strings or wires; marked cards; electronic or magnetic devices; or tools, drills, wires, keys, or devices designed for the purpose of and suitable for opening, entering, or affecting the operation of any gaming equipment, or for removing money

or other contents therefrom, shall be punished by imprisonment in state prison for not more than 5 years or imprisonment in a house of correction for not more than 2 and one-half years, or a fine of not more than $25,000, or both such fine and imprisonment.

Any person who possesses any computerized, electronic, electrical, or mechanical device or other cheating or thieving device described in subsection (1) with the intent to defraud, cheat, or swindle shall be punished by imprisonment in a house of correction for not more than 2 and one-half years, or a fine of not more than $10,000, or both. Possession of any computerized, electronic, electrical, or mechanical device or other cheating or thieving device described in subsection (1) within a casino or gaming establishment shall constitute prima facie evidence of an intent to defraud, cheat or swindle, except that possession by any licensee, or employee of a licensee, acting in furtherance of his employment within a licensed casino or gaming establishment shall not constitute such prima facie evidence.

Any cheating or thieving device used or possessed in violation of this section shall be subject to seizure and forfeiture by the division.

Unlawful operation of cheating games and devices by a licensee or employee; penalties.

It shall be unlawful for any licensee or employee to:

knowingly conduct or operate, or allow to be conducted or operated, any cheating or thieving game or device; or

knowingly conduct or operate or expose for play any game or games played with cards, dice, or any electronic or mechanical device, or any combination of games or devices, which have in any manner been marked or tampered with, or placed in a condition, or operated in a

manner, the result of which tends to deceive the public or tends to alter the normal random selection of characteristics or the normal chance of the game or to alter the result of the game.

Any person who violates this section shall be punished by imprisonment in state prison for not more than 5 years or imprisonment in a house of correction for not more than 2 and one-half years, or a fine of not more than $25,000, or both such fine and imprisonment, and in the case of a person other than a natural person, the amount of a fine may be up to $100,000.

Any cheating or thieving game or device used in violation of this section shall be subject to seizure and forfeiture by the division.

Unlawful manufacture, distribution, sale, or service of gaming equipment; penalties.

Any person who manufactures, distributes, sells, or services any gaming equipment in violation of the provisions of this chapter or the regulations adopted by the authority for the purposes of defrauding, cheating, or swindling any person playing, operating, or conducting a controlled game at a casino or gaming establishment shall be punished by imprisonment in state prison for not more than 5 years or imprisonment in a house of correction for not more than 2 and one-half years, or a fine of not more than $25,000, or both such fine and imprisonment.

Any such unlawfully manufactured, distributed, sold, or serviced gaming equipment shall be subject to seizure and forfeiture by the division.

Employment without license or registration; penalties.

Any person who, without obtaining the requisite license or registration as provided in this chapter, works or is employed in a position whose duties would require licensing or registration

under the provisions of this chapter shall be punished by imprisonment in a house of correction for not more than 6 months, or a fine of not more than $10,000, or both.

Any person who employs or continues to employ an individual not duly licensed or registered under the provisions of this chapter in a position whose duties require a license or registration under the provisions of this chapter shall be punished by imprisonment in a house of correction for not more than 6 months, or a fine of not more than $10,000, or both, and in the case of a person other than a natural person, the amount of a fine may be up to $100,000.

Gaming by certain persons prohibited; penalties.

Any person under the age of 21 who plays, places wagers at, or collects winnings from, whether personally or through an agent, any co0ntrolled game shall be punished by imprisonment in a house of correction for not more than 6 months, or a fine of not more than $1,000, or both.

Any licensee or employee who knowingly allows a person under the age of 21 to play, place wagers at, or collect winnings, whether personally or through an agent, shall be punished by imprisonment in a house of correction for not more than 1 year, or a fine of not more than $10,000, or both, and in the case of a person other than a natural person, the amount of a fine may be up to $500,000. A subsequent violation of this section shall subject the licensee or employee to imprisonment in a house of correction for not more than 2 years, or a fine of not more than $50,000, or both, and in the case of a person other than a natural person, the amount of a fine may be up to $1,000,000.

Placing, sending, transmitting, relaying wagers to another person prohibited under certain circumstances; penalties.

Any person who, except in accordance with section 5C of chapter 128A, knowingly transmits or receives a wager of any type by any telecommunication device, including telephone, cellular phone, Internet, local area network, including wireless local networks, or any other similar device or equipment or other medium of communication, or knowingly installs or maintains said device or equipment for the transmission or receipt of wagering information shall be punished by imprisonment in a house of correction for not more than 2 years, or a fine of not more than $25,000, or both.

This section shall apply to any person who, from within this commonwealth, transmits a wager to, or receives a wager from, another person or gaming establishment within or outside of this commonwealth and any person who, from outside this commonwealth, transmits a wager to, or receives a wager from, another person or gaming establishment within this commonwealth.

This section shall not apply to the use of a local area network as a means to place authorized wagers in a licensed gaming establishment, or use of said devices or equipment by the authority in it duties in regulating, enforcing, or auditing a licensed gaming operator.

Post employment restrictions; penalties.

Any person who knowingly violates any of the provisions contained in subsection (a) or subsection (c) of section 4 shall be punished by imprisonment in state prison for not more than 5 years or in a house of correction for not more than 2 and one-half years, or a fine of not more than $100,000, or both.

Withholdings from Winnings for Child Support and Tax Payments

Prior to disbursement of gambling winnings in excess of $600, all licensed casinos shall review information furnished by the IV-D agency, as set forth in chapter 119A, and the department of revenue to ascertain whether the individual collecting such winnings owes past-due child support to the commonwealth or to an individual to whom the IV-D agency is providing services, and to ascertain whether the individual owes any past-due tax liability to the commonwealth. If the individual owes past-due child support or a past-due tax liability, after withholding state and federal taxes pursuant to this section, the casino shall first disburse to the IV-D agency the full amount of the winnings or such portion of the winnings that satisfies the individual's past-due child support obligation and, if funds remain available after that disbursement, the casino shall disburse to the department of revenue the full amount of the winnings or such portion of the winnings that satisfies the individual's past-due tax liability, and the casino shall notify the IV-D agency or the department of revenue, respectively, of the individual's name, address, and social security number. The casino shall disburse to the individual only that portion of the winnings, if any, remaining after the individual's past-due child support obligation and the individual's past-due tax liability have been satisfied.

Other Tax Benefits Unavailable to Resort Casinos

A casino or business located on casino property cannot be a certified project within the meaning of section 3F of chapter 23 A. Resort casinos may not be designated an economic opportunity area within the meaning of section 3E of chapter 23 A. Resort casinos are not eligible for tax increment financing as set forth in section 59 of chapter 40 or special tax assessments set forth in section 3E of chapter 23 A. Resort casinos may not be classified and taxed as recreational land under the provisions of chapter 61B. Resort casinos may not be designated as a development district within the meaning of chapter 40Q. Unless otherwise

provided, a resort casino or any business located or to be located within a resort casino is not eligible for the following credits or deductions listed in chapter 62 or chapter 63: the investment tax credit under section 31A of chapter 63, the employment credit under section 31C of chapter 63, the van pool credit under section 31E of chapter 63, the deduction for expenditures for industrial waste treatment or air pollution control under section 38D of chapter 63, the deduction for compensation paid to an eligible business facility's employees domiciled in a section of substantial poverty under section 38F of chapter 63, the alternative energy sources deduction under section 38H of chapter 63, the research expense credit under section 38M of chapter 63, the economic opportunity area credit under section 6(g) of chapter 62, and section 38N of chapter 63, the abandoned building deduction under section 3B(a)(10) of chapter 62, and section 380 of chapter 63, the harbor maintenance tax credit under section 38P of chapter 63, the brownfields credit under section 6(j) of chapter 62, and section 38Q of chapter 63, the historic rehabilitation tax credit under section 6J of chapter 62 and section 38R of chapter 63, the automatic sprinkler system depreciation deduction under section 38S of chapter 63, and the credit for a solar water heating system under section 38T of chapter 63.

Economic Assistance to Racing Licensees Not Obtaining Licenses

Notwithstanding any general or special law to the contrary, any race track licensed in accordance with section 3 of chapter 128A that is not selected for a casino license under this Act and that is no longer conducting racing meetings in accordance with chapter 128A or accepting paramutuel wagers in accordance with chapter 128C, shall automatically be:

(a) designated as an economic opportunity area within the meaning of section 3E of chapter 23A,

(b) eligible for infrastructure financing for the purpose of stimulating economic development pursuant to:

(i) the Public Works Economic Development (PWED) Program, as regulated by 7.01 CMR 5.00 et seq.;

(ii) the Infrastructure Investment Incentive (I-Cubed) program, as established by St. 2006, c. 293 §§ 5 - 12, as amended by St. 2008, c. 129; and

(c) granted a property tax exemption of up to 100% of the tax increment, as authorized by section 59 of chapter 40, for any added value of new construction, rehabilitation or new equipment or machinery.

Employees displaced by the termination of racing meetings at any such race track will receive reasonable priority job placement opportunities at any resort casino licensed under this Act during the two years immediately following said termination, and shall automatically be eligible for all state job training and education programs.

The host municipality of said site, and if two or more municipalities host said site, then all such host municipalities, shall automatically:

(a) qualify for a grant of not less than $1,000,000, pursuant to the Community Development Action Grant (CDAG) program, to support activities including but not limited to workforce housing development, streetscape upgrades, publicly-owned infrastructure rehabilitation and construction, and local utility improvements; and

(b) receive certification from the State Economic Assistance Coordinating Council to utilize tax increment District Improvement Financing (DIF), as authorized by chapter 40Q, for

activities including but not limited to acquiring land, reconstructing improvements, and incurring indebtedness to finance development projects.

Subsection (d)(1) of section 2 of chapter 62, as appearing in the 2006 Official Edition, is hereby amended by inserting after paragraph (P) the following paragraph:-

(Q) Any deduction for losses from wagering transactions allowed by section 165 of the Code.

Subsection (k) of section 6 of chapter 62, as appearing in the 2006 Official Edition, is hereby amended by inserting after subsection (9) the following subsection :-

(10) A person who is otherwise eligible to claim the credit under subsection (m) of this section may elect the credit available under this subsection or under subsection (m), but not both.