

## NEW JERSEY

### TITLE 2A. ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE

#### SUBTITLE 4. CIVIL ACTIONS

#### CHAPTER 18. SUPERIOR COURT, LAW DIVISION, SPECIAL CIVIL PART

#### **2A:18-61.13. Legislative findings**

The Legislature finds, as a result of the "Casino Control Act" (P.L.1977, c. 110, C. 5:12-1 et seq.) and the introduction of legalized casino gaming in Atlantic City, that:

- a. Additional investment capital has been attracted to Atlantic City and hotels, tourist and entertainment facilities and other properties are being refurbished and expanded;
- b. There has been a substantial increase in the value of land and buildings in Atlantic City;
- c. Many landlords in Atlantic City are converting or demolishing residential apartments so that they can make more profitable use of their property as a hotel, motel, vacation licensing facility, guest house or other use directly or indirectly related to casino gaming and tourism;
- d. Such conversion is forcing the displacement of a large number of residential tenants, many of whom are either senior citizens or persons of low and moderate income;
- e. There is an acute housing shortage in Atlantic City and in nearby municipalities, and the massive displacement of tenants through conversions or demolitions will make it impossible for displaced tenants to find decent housing at a price they can afford;
- f. Although new housing in Atlantic City is being planned to relieve the housing crisis, it will be at least several years before this housing can be produced;
- g. The displacement of such tenants without any relocation assistance will force many of them into substandard housing, which does not meet the minimum standards of safety and sanitation, will encourage overcrowding and the blighting of residential neighborhoods in Atlantic City and constitutes a serious threat to the public health, welfare and safety;
- h. Landlords seeking to take advantage of the windfall increase in the value of their property caused by the enactment of the "Casino Control Act," and to convert their property to a more profitable use than rental housing have a duty to provide relocation assistance or compensation to the tenants they are displacing;
- i. In order to protect the public health, safety and welfare, no such tenant after the date this act takes effect shall be evicted unless he has been provided adequate relocation assistance and compensation or either thereof.

L.1978, c. 139, s. 1.

#### **2A:18-61.14. Atlantic City; removal of residential tenants; time of required notice; second notice for relocation alternatives**

Notwithstanding the provisions of section 3 of P.L.1974, c. 49 (C. 2A:18-61.2) to the contrary, in any municipality in which casino gaming is authorized, 1 year's notice shall be required prior to the institution of an action alleging permanent retirement under subsection h. of section 2 of P.L.1974, c. 49 (C. 2A:18-61.1) with respect to a tenant who is a permanent domiciliary in such municipality; provided, that where there is a written lease in effect no action shall be instituted until the lease expires. The notice shall provide

the tenant with the information required by section 6 of this act. In the event that a landlord chooses one of the relocation alternatives authorized by section 4 of this act, he shall send a second notice in accordance with the requirements of section 4 of this act at least 6 months prior to the institution of an action for possession.

L.1978, c. 139, s. 2.

### **2A:18-61.17. Action for possession; conditions precedent to entry of judgment**

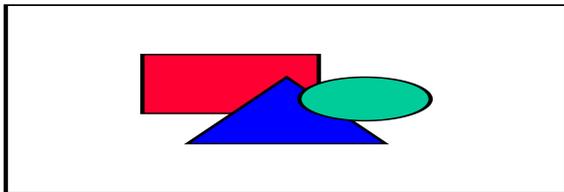
In an action brought under subsection h. of section 2 of P.L.1974, c. 49 (C. 2A:18-61.1) with respect to any premises located in a municipality in which casino gaming is authorized, no judgment for possession shall be entered unless the owner proves that the tenant was given such notice as is required by section 2 hereof and that:

- a. The tenant was given such second notice as is provided by section 4 hereof and was offered the opportunity to rent comparable housing;
- b. The tenant was paid an amount equal to 5 months' rent in accordance with the provisions of subsection a. of section 4 of this act;
- c. The tenant was allowed to remain an additional 5 months beyond the notice period during which the rent was waived in accordance with the provisions of subsection b. of section 4 of this act; or
- d. Thirty-six months have elapsed since the notice for delivery of possession of the premises was served and the landlord has been unable to offer the tenant the opportunity to rent comparable housing.

L.1978, c. 139, s. 5.

## **SUBTITLE 6. CIVIL ACTIONS**

### **CHAPTER 40. ACTIONS RELATING TO GAMING TRANSACTIONS**



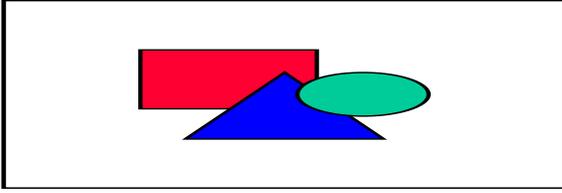
### **2A:40-1. Gaming transactions unlawful**

## **SUBTITLE 11. CRIMINAL PROCEDURE**

### **CHAPTER 156A. NEW JERSEY WIRETAPPING AND ELECTRONIC SURVEILLANCE CONTROL ACT**

### **2A:156A-8 Authorization for application for order to intercept communications.**

8. The Attorney General, county prosecutor or a person designated to act for such an official and to perform his duties in and during his actual absence or disability, may authorize, in writing, an ex parte application to a judge designated to receive the same for an order authorizing the interception of a wire, or electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an



investigation when such interception may provide evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, a violation of paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of N.J.S.2C:21-19 punishable by imprisonment for more than one year, a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), terroristic threats, violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5, violations of sections 112 through 116, inclusive, of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116), arson, burglary, theft and related offenses punishable by imprisonment for more than one year, endangering the welfare of a child pursuant to N.J.S.2C:24-4, escape, forgery, alteration of motor vehicle identification numbers, unlawful manufacture, purchase, use, or transfer of firearms, unlawful possession or use of destructive devices or explosives, racketeering or a violation of subsection g. of N.J.S.2C:5-2, leader of organized crime, organized criminal activity directed toward the unlawful transportation, storage, disposal, discharge, release, abandonment or disposition of any harmful, hazardous, toxic, destructive, or polluting substance, or any conspiracy to commit any of the foregoing offenses or which may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the foregoing offenses.

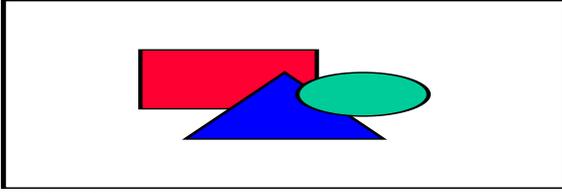
L.1968,c.409,s.8; amended 1975, c.131, s.4; 1978, c.51, s.3; 1989, c.85, s.3; 1993, c.29, s.7; 1995, c.119; 1999, c.25, s.1.

**TITLE 2C. THE NEW JERSEY CODE OF CRIMINAL JUSTICE**  
**SUBTITLE 2. SPECIFIC OFFENSES**  
**PART 5. OFFENSES AGAINST THE PUBLIC; PUBLIC ORDER, HEALTH AND DECENCY**  
**CHAPTER 37. GAMBLING OFFENSES**

**2A:156A-8 Authorization for application for order to intercept communications.**

8.The Attorney General, county prosecutor or a person designated to act for such an official and to perform his duties in and during his actual absence or disability, may authorize, in writing, an ex parte application to a judge designated to receive the same for an order authorizing the interception of a wire, or electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation when such interception may provide evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, a violation of paragraph (1) or (2) of subsection b. of N.J.S.2C:12-1, a violation of N.J.S.2C:21-19 punishable by imprisonment for more than one year, a violation of P.L.1994, c.121 (C.2C:21-23 et seq.), terroristic threats, violations of N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5, violations of sections 112 through 116, inclusive, of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116), arson, burglary, theft and related offenses punishable by imprisonment for more than one year, endangering the welfare of a child pursuant to N.J.S.2C:24-4, escape, forgery, alteration of motor vehicle identification numbers, unlawful manufacture, purchase, use, or transfer of firearms, unlawful possession or use of destructive devices or explosives, racketeering or a violation of subsection g. of N.J.S.2C:5-2, leader of organized crime, organized criminal activity directed toward the unlawful transportation, storage, disposal, discharge, release, abandonment or disposition of any harmful, hazardous, toxic, destructive, or polluting substance, or any conspiracy to commit any of the foregoing offenses or which may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the foregoing offenses.

L.1968,c.409,s.8; amended 1975, c.131, s.4; 1978, c.51, s.3; 1989, c.85, s.3; 1993, c.29, s.7; 1995, c.119;



1999, c.25, s.1.

## **2C:37-7. Possession of a gambling device**

A person except a player is guilty of possession of a gambling device when, with knowledge of the character thereof, he manufactures, sells, transports, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of:

- a. A slot machine; or
- b. Any other gambling device, believing that the same is to be used in the advancement of unlawful gambling activity.

Possession of a gambling device other than under such circumstances as would constitute a violation of section 116 of the "Casino Control Act" (P.L.1977, c. 110; C. 5:12-1 et seq.) is a disorderly persons offense; provided, however, that possession of not more than one gambling device other than a slot machine for social use within the home shall not be an offense under this section; and provided further, however that possession of one or more antique slot machines shall not be an offense under this section or under section 116 of the "Casino Control Act" (P.L.1977, c. 110; C. 5:12-1 et seq.). As used in this section, "antique slot machine" means a slot machine which was manufactured prior to 1941. Nothing herein contained shall be construed to authorize the use of an antique slot machine for any unlawful purpose or for gaming.

L.1978, c. 95, s. 2C:37-7, eff. Sept. 1, 1979. Amended by L.1979, c. 176, s. 2, eff. Sept. 1, 1979.

## **PART 6. ORGANIZED CRIME AND RELATED OFFENSES**

### **CHAPTER 41. RACKETEERING**

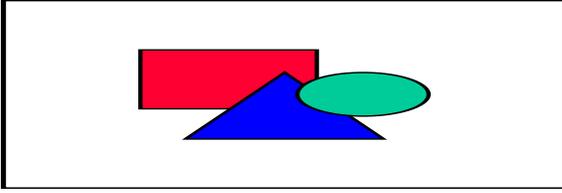
#### **2C:41-1 Definitions.**

2C:41-1. Definitions.

For purposes of this section and N.J.S.2C:41-2 through N.J.S.2C:41-6:

a. "Racketeering activity" means (1) any of the following crimes which are crimes under the laws of New Jersey or are equivalent crimes under the laws of any other jurisdiction:

- (a) murder
- (b) kidnapping
- (c) gambling
- (d) promoting prostitution
- (e) obscenity



(f)robbery

(g)bribery

(h)extortion

(i)criminal usury

(j)violations of Title 33 of the Revised Statutes

(k)violations of Title 54A of the New Jersey Statutes and Title 54 of the Revised Statutes

(l)arson

(m) burglary

(n)theft and all crimes defined in chapter 20 of Title 2C of the New Jersey Statutes

(o)forgery and fraudulent practices and all crimes defined in chapter 21 of Title 2C of the New Jersey Statutes

(p)fraud in the offering, sale or purchase of securities

(q)alteration of motor vehicle identification numbers

(r)unlawful manufacture, purchase, use or transfer of firearms

(s)unlawful possession or use of destructive devices or explosives

(t)violation of sections 112 through 116 inclusive of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)

(u)violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6 and all crimes involving illegal distribution of a controlled dangerous substance or controlled substance analog, except possession of less than one ounce of marijuana

(v)violation of subsection b. of N.J.S.2C:24-4 except for subparagraph (b) of paragraph (5) of subsection b.

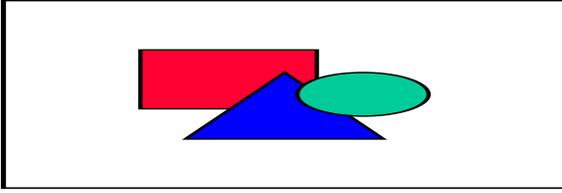
(2)any conduct defined as "racketeering activity" under Title 18, U.S.C.s.1961(1)(A), (B) and (D).

b."Person" includes any individual or entity or enterprise as defined herein holding or capable of holding a legal or beneficial interest in property.

c."Enterprise" includes any individual, sole proprietorship, partnership, corporation, business or charitable trust, association, or other legal entity, any union or group of individuals associated in fact although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.

d."Pattern of racketeering activity" requires

(1)Engaging in at least two incidents of racketeering conduct one of which shall have occurred after the



effective date of this act and the last of which shall have occurred within 10 years (excluding any period of imprisonment) after a prior incident of racketeering activity; and

(2) A showing that the incidents of racketeering activity embrace criminal conduct that has either the same or similar purposes, results, participants or victims or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated incidents.

e. "Unlawful debt" means a debt

(1) Which was incurred or contracted in gambling activity which was in violation of the law of the United States, a state or political subdivision thereof; or

(2) Which is unenforceable under state or federal law in whole or in part as to principal or interest because of the laws relating to usury.

f. "Documentary material" includes any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic or recording or video tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into useable form or other tangible item.

g. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.

h. "Trade or commerce" shall include all economic activity involving or relating to any commodity or service.

Amended 1987, c.106, s.7; 1995, c.110; 1999, c.25, s.5.

### **SUBTITLE 3. SENTENCING**

### **CHAPTER 64. FORFEITURE AND SEIZURE OF PROPERTY**

#### **2C:64-1. Property subject to forfeiture**

2C:64-1. Property Subject to Forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances, firearms which are unlawfully possessed, carried, acquired or used, illegally possessed gambling devices, untaxed cigarettes and untaxed special fuel. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to section 2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or,

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

Amended 1979,c.344,s.1; 1981,c.290,s.46; 1992,c.23,s.70.

## **TITLE 4. AGRICULTURE AND DOMESTIC ANIMALS**

### **CHAPTER 15. AGRICULTURE FAIRS AND EXHIBITIONS**

#### **ARTICLE 1. CORPORATIONS FOR HOLDING FAIRS AND EXHIBITIONS**

##### **4:15-3. Police jurisdiction of directors**

For the purpose of maintaining order and preserving the peace and decorum upon grounds on which a fair and exhibition is held by an association the directors shall:

- a. Have police jurisdiction upon the grounds and for a distance of one-quarter of a mile from the boundaries of the grounds;
- b. Suppress the sale of intoxicating liquors by persons not regularly licensed by the public authorities; and
- c. Prohibit every species of gambling and breach of the peace or laws of this state.

#### **ARTICLE 2. STUD FARM FAIRS AND EXPOSITIONS**

##### **4:15-7. Police jurisdiction of owner; liquor; gambling**

For the purpose of preserving good order, peace and decorum upon and about farms or exhibition grounds and among the visitors and spectators to the same, the owner shall have police jurisdiction within the boundaries of any of such grounds. The owner shall not sell or permit the sale upon his grounds of any vinous, spirituous or malt liquors, or gamble or permit gambling in any form whatever upon the grounds.

**TITLE 5. AMUSEMENTS, PUBLIC EXHIBITIONS AND MEETINGS**  
**CHAPTER 5. NEW JERSEY RACING COMMISSION**

**5:5-22. New Jersey Racing Commission created and established; powers and duties; definitions**

There is hereby created and established a New Jersey Racing Commission, hereinafter referred to as the commission, which commission shall be vested with and possessed of the powers and duties in this act specified, and also the powers necessary or proper to enable it to carry out fully and effectually all the provisions and purposes of this act. The jurisdiction, powers and duties of the commission herein created and established shall extend under this act to any and all persons, partnerships, associations or corporations which shall hereafter hold or conduct any meeting within the State of New Jersey whereat horse racing shall be permitted for any stake, purse or reward.

As used in this act

- (a) Horse racing, horse race meeting or race meeting shall be construed to mean and include running and harness racing of horses.
- (b) Running racing or running races shall be construed to mean and include only any racing of horses in which the horses competing or participating are mounted by a jockey.
- (c) Harness racing or harness races shall be construed to mean and include only any racing of horses in which the horses competing or participating are harnessed to a sulky, carriage or similar vehicle and are not mounted by a jockey.

L.1940, c. 17, p. 68, s. 1. Amended by L.1941, c. 137, p. 459, s. 2.

**5:5-23. Membership**

The commission shall consist of nine members, all of whom shall be appointed by the Governor, by and with the advice and consent of the Senate, and not more than five of whom shall be of the same political party, and one of whom of the first to be appointed hereunder shall be designated by the Governor to be the chairman of the commission; said chairman thereafter shall be annually elected by the members of said commission. Each commissioner, at the time of his appointment and qualification, shall be a resident of the State of New Jersey, and shall have resided in said State for a period of at least seven years next preceding his appointment and qualification and he shall also be a qualified voter therein and not less than 30 years of age. At least three of the members shall be residents of South Jersey, which, for the purposes of this section, shall consist of the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem. The term of office of each member of the first commission shall commence on confirmation after appointment. One of said commissioners shall hold office for two years from the beginning of his term of office and until his successor shall qualify; one of said commissioners shall hold office for four years from the beginning of his term of office and until his successor shall qualify; and two of said commissioners shall hold office for six years from the beginning of their terms of office and until their successors shall qualify; provided, however, that the two members whose terms shall expire in six years shall not be of the same political party. The Governor, at the time of making and announcing the appointment of said four commissioners, shall designate which of said commissioners shall serve for the term of two years, which of said commissioners shall serve for the term of four years, and which of said commissioners shall serve for the term of six years, as aforesaid, and also who shall be the chairman of said commission. Upon the expiration of the terms of such respective commissioners, the Governor, by and with the advice and consent of the Senate, shall appoint their successors, each to hold office for a term of six years and until his successor has been appointed and qualified. Any vacancy in the commission shall be

filled for the unexpired term. Each commissioner shall be eligible for reappointment in the discretion of the Governor.

Of the three additional members appointed pursuant to this 1984 amendatory and supplementary act, one shall be appointed for a term of two years, one for a term of four years, and one for a term of six years, and all shall serve until their successors have been appointed and qualified. Each of the successors of these additional members shall be appointed for a term of six years, and shall serve until his successor is appointed and qualified.

Of the two additional members appointed pursuant to this 1987 amendatory act, one shall be appointed for a term of four years and one for a term of six years, and both shall serve until their successors have been appointed and qualified. Each of the successors of these additional members shall be appointed for a term of six years and shall serve until his successor is appointed and qualified.

L. 1940, c. 17, s. 2; amended 1984, c.247, s.1; 1987,c.413,s.1.

### **5:5-24. Oath and bond of commissioners; renewal of bond**

Before entering upon the discharge of the duties of his office, each member of the commission shall take oath that he will well and faithfully execute the duties of his office according to the laws of the State, and shall give bond to the State of New Jersey, with sufficient surety to be approved by the Governor, in the sum of twenty-five thousand dollars (\$25,000.00) conditioned that he will well and faithfully execute and perform the duties of his office according to the Constitution and laws of this State. Every such bond, when duly executed and approved, shall be filed in the office of the Secretary of State. It shall be the duty of the Governor at all times, when in his opinion the bond of any member of the commission has become or is likely to become invalid or insufficient, to require such member of the commission forthwith to renew his said bond to be approved by the Governor in the sum prescribed in this section. The cost of any such bond given by any member of the commission under this section shall be taken to be a part of the necessary expenses of the commission.

L.1940, c. 17, p. 70, s. 3.

### **5:5-25. Salaries and expenses of commissioners; executive directors; employees of commission; extension of civil service laws to.**

4.The commissioners shall receive no salaries but shall be allowed reasonable expenses incurred in the performance of their official duties in an amount not exceeding \$5,000.00 per annum in the case of the chairman, and \$3,500.00 per annum in the case of each of the other commissioners. The commission shall appoint an executive director of racing who shall be charged with the responsibility of administering all commission activities. The executive director of racing shall be appointed by the commission to serve at its pleasure and shall receive such compensation as the commission shall determine. The commission may also employ a chief inspector and such other assistant secretaries, and inspectors, clerks, stenographers, and other employees as may be necessary to carry out the provisions of this act, all of whom shall have been actual residents of the State of New Jersey for at least 5 years and shall serve during the pleasure of the commission and receive such compensation and perform such duties as the commission may determine; provided, however, that no person shall be employed by the commission or hold any office or position under the commission who holds an official relation to any association or corporation engaged in or conducting horse racing or who holds stock or bonds therein, or who has any pecuniary interest therein. The provisions of Title 11, Revised Statutes, and acts amendatory thereof and supplemental thereto, shall be construed to extend to all of the offices, positions and employments mentioned in this section with the exception of the following: commissioners, executive director, assistant secretaries, chief inspector, assistant inspectors, and all special and part-time employees.

L.1940,c.17,s.4; amended 1951,c.311; 1969,c.76; 1974,c.181,s.4.

### **5:5-26. Bond of executive secretary and other employees**

The executive director shall give bond to the State of New Jersey, with sufficient surety to be approved by the commission, in the sum of \$50,000.00 conditioned that he will well and faithfully execute and perform the duties of his office according to the Constitution and the laws of this State, and such chief inspector, assistant secretaries, inspectors, clerks, stenographers and employees may, if the commission determine that it be necessary, give bond in such amount, as said commission may determine upon. Every such bond when duly executed and approved shall be filed in the office of the Secretary of State. The cost of any such bond so given as aforesaid shall be taken to be part of the necessary expenses of the commission.

L.1940, c. 17, p. 71, s. 5. Amended by L.1941, c. 137, p. 460, s. 3; L.1974, c. 181, s. 5, eff. Dec. 16, 1974.

### **5:5-27. Payments from appropriations; record of proceedings; preservation of maps, books, etc.; annual report**

All such payments shall be made by the State Treasurer on warrant of the Comptroller of the Treasury after countersignature by the chairman of the commission. The secretary shall keep a record of all proceedings of the commission and shall preserve all maps, books, documents and papers belonging to the commission or entrusted to its care, and perform such other duties as the commission may prescribe. The commission shall make an annual report in writing to the Governor on or before the first day of January of each year and such additional reports as the Governor may from time to time request. The annual report shall include a statement of the receipts and disbursements of the commission and a summary of its activities, and any additional information and recommendations which the commission may deem of value or which the Governor may request.

L.1940, c. 17, p. 71, s. 7.

### **5:5-28. Books for record of proceedings; public inspection; reports; record of yeas and nays**

Said commissioners shall provide books to be kept apart and distinct from the records of any other State commission or department, and in said books keep a true, faithful and correct record of all proceedings, which shall be open to the public, and shall make complete reports of all of its proceedings to the Governor annually or more frequently if requested so to do by the Governor; provided, however, that financial and character reports of applicants for permits or licenses and statements of applicants for permits or licenses and similar information of a private nature may be kept in the confidential files of the commission.

The yeas and nays shall be taken and entered on the record of all proceedings of said commissioners upon any and all questions.

L.1940, c. 17, p. 72, s. 8.

### **5:5-29. Meeting of commission; quorum**

The commission shall meet at such time and places within the State of New Jersey as the commission shall

determine. A majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission.

L.1940, c. 17, p. 72, s. 9.

### **5:5-30. Rules and regulations for conduct of horse races; rules and regulations of Jockey Club, National Steeplechase and Hunt Association and United States Trotting Association**

The commission shall have full power to prescribe rules, regulations and conditions under which all horse races shall be conducted in the State of New Jersey under the provisions of this act, and may alter, amend, repeal and publish the same from time to time.

Every permit issued under this act shall contain a condition that all running races or race meetings conducted thereunder shall be subject to the reasonable rules and regulations from time to time prescribed by the Jockey Club, a corporation organized under the laws of the State of New York; that all steeplechase races, or steeplechases shall be subject to the reasonable rules and regulations from time to time prescribed by the National Steeplechase and Hunt Association, a corporation organized under the laws of the State of New York; that all harness races shall be subject to the reasonable rules and regulations from time to time prescribed by the United States Trotting Association organized under the laws of the State of Ohio. Any rule or regulation of such Jockey Club, National Steeplechase and Hunt Association or United States Trotting Association may be modified or abrogated by the said racing commission, upon giving such Jockey Club, National Steeplechase and Hunt Association or United States Trotting Association an opportunity to be heard.

L.1940, c. 17, p. 72, s. 10. Amended by L.1941, c. 137, p. 460, s. 4.

### **5:5-31. Removal of commissioner; hearing; subpoena; fees, review**

11. The Governor may remove any commissioner for inefficiency, neglect of duty or misconduct in office, giving to him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel in his own defense, upon not less than fourteen days' notice either by personal service or registered mail.

The Governor shall have power to administer oaths and examine witnesses, and shall have the power to issue subpoenas to compel the attendance of witnesses and the production of all necessary reports, books, papers, documents, correspondence and other evidence at any designated place of hearing. The subpoenas shall be authenticated by the seal of the Governor, and any party to a proceeding before the Governor may secure from him subpoenas without charge. Misconduct on the part of a person attending a hearing or the failure of a witness when duly subpoenaed to attend, give testimony or produce any records, shall be punishable by the Superior Court in the county wherein the offense is committed in the same manner as such failure is punishable by that court in a case therein pending. The Governor shall certify such misconduct, failure to attend or produce records to the court.

The fees for the attendance of witnesses shall be the same as for the attendance of witnesses in other civil cases.

A person who, having been sworn or affirmed as a witness in any such proceeding, shall willfully give false testimony, shall be guilty of perjury.

The Governor, or any applicant, may in connection with any hearing before the Governor cause the

deposition of witnesses within or without the State to be taken in the same manner as in civil actions in the Superior Court.

At the conclusion of such hearing, the Governor shall, within thirty days, make his findings.

If such commissioner shall be removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such commissioner and his findings thereof, together with a complete record of the proceedings, and shall give notice of his findings to such commissioner forthwith.

The action of the Governor and the propriety thereof shall be subject to review by a proceeding in lieu of prerogative writ in the Superior Court.

L.1940,c.17,s.11; amended 1953,c.6,s.7; 1991,c.91,s.183.

### **5:5-32. Minimum purse, stake or reward**

No running race shall be authorized or permitted for a purse, stake, or reward of less than one thousand dollars (\$1,000.00) (plate value, if any, shall be considered as a part of the purse, stake or reward). The commission may determine the minimum amount of the purses, stakes or rewards for harness racing.

L.1940, c. 17, p. 74, s. 12. Amended by L.1941, c. 137, p. 461, s. 5.

### **5:5-33. Licensure of horse race personnel**

All parimutuel employees and all horse owners, riders, agents, trainers, starters, timers, judges, grooms, drivers, and others, acting in any capacity in connection with the training of the horses or the actual running of the races in any such race meeting may be licensed by the commission, pursuant to such rules and regulations as the commission may adopt. The commission shall have full power to prescribe rules, regulations and conditions under which all such licenses are issued in the State of New Jersey and to revoke or refuse to issue a license if in the opinion of the commission the revocation or refusal to issue such license is in the public interest; provided, however, that such rules, regulations and conditions shall be uniform in their application; and further provided that no fee shall be in excess of \$50.00 for each license so granted.

L. 1940, c. 17, p. 74, s. 13. Amended by L. 1941, c. 137, p. 461, s. 6; L. 1974, c. 181, s. 8, eff. Dec. 16, 1974; L. 1985, c. 128, s. 1, eff. April 12, 1985.

### **5:5-34. Disqualification as employee of person convicted of crime involving moral turpitude**

No person shall be employed in any capacity whatsoever at any place, track or enclosure where a horse race meeting is permitted who has been convicted of a crime involving moral turpitude.

L.1940, c. 17, p. 75, s. 14.

### **5:5-34.1. Ownership of stock or interest in racing corporation; approval of commission; revocation of permit**

Whenever any association or corporation has been or shall be granted a permit to hold or conduct a horse race meeting, no person shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership comprising a five percent or greater interest in such association or corporation without first having obtained the approval of the commission therefor; and the commission may, after hearing, revoke such permit granted to any corporation or association which shall register on its books in the name of any person its shares of stock or certificates or other evidence of ownership of any such interest in such association or corporation without the approval of the commission having first been obtained, or which shall knowingly permit a person to be directly or indirectly interested in these shares of stock or certificates or other evidence of ownership of any interest in such association or corporation without reporting the same to the commission. Whenever the commission shall give to any person its approval to own or hold these shares of stock or certificates or other evidence of ownership of any such interest in any such association or corporation, it shall by registered mail notify the secretary of such association or corporation of such approval; provided, however, that under no circumstances shall the commission give such approval to any person who has been convicted of a crime involving moral turpitude, or has violated any of the provisions of the racing laws of the State of New Jersey or any rule or regulation of the commission, or has at any time been denied a license or permit of any kind by the commission.

L.1946, c. 167, p. 736, s. 1. Amended by L.1954, c. 238, p. 882, s. 1; L.1983, c. 254, s. 1, eff. July 7, 1983.

### **5:5-35. Officers, directors or employees of permit holder; powers of commission**

The commission shall have no right or power to determine who shall be officers, directors or employees of any holder of a permit to conduct a horse race meeting, or the salaries thereof; provided, however, that the commission may compel the discharge of any official or employee of the holder of any such permit or any concessionaire who (1) shall fail or refuse for any reason to comply with the rules or regulations of the commission, (2) who in the opinion of the commission is guilty of fraud, dishonesty or incompetency, (3) has been convicted of a crime involving moral turpitude, or (4) shall fail or refuse for any reason to comply with any of the provisions of this act.

L.1940, c. 17, p. 75, s. 15.

### **5:5-36. Resident employees**

At least eighty-five per centum (85%) of the persons employed by any holder of a permit to conduct a horse race meeting or by any concessionaire at any place, track or enclosure where such a horse race meeting is permitted shall be residents of the State of New Jersey who have actually resided in this State for at least two years; provided, however, that jockeys, drivers or apprentices, exercise boys, owners, trainers, clockers and governing and managing officials and heads of departments of the track may be nonresidents of the State of New Jersey, and shall be excluded when computing the percentage of resident employees.

L.1940, c. 17, p. 75, s. 16. Amended by L.1941, c. 137, p. 462, s. 7.

### **5:5-37. Appointment of officials, persons to supervise operation of mutuels**

17. a. The commission shall appoint a State steward and two or more associate State stewards in the case of a running race meeting and a State steward, presiding judge, and two or more associate judges in the case

of a harness race meeting, which stewards and judges shall meet qualifications and standards established by the commission in rules and regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and a State veterinarian and such associate State veterinarians as the commission deems necessary, who shall be licensed or approved to practice in this State by the State Board of Veterinary Medical Examiners, to serve at each horse race meeting held under a permit issued under this act. These officials shall devote full-time to their duties during each meeting at which they serve; shall be in the unclassified service under Title 11A (Civil Service) of the New Jersey Statutes and serve at the pleasure of the commission; and shall, where practicable, be rotated among the running race and harness tracks as appropriate. The compensation of these officials shall be fixed by the commission and shall be paid weekly by the holder of a permit at whose horse race track the officials shall serve. These officials shall have full and free access to any portion of the space or enclosure where such horse race meeting is held and shall have such powers and duties as the commission may from time to time delegate to them under the provisions of this act.

b. The commission shall employ persons to supervise the operation of mutuels at each horse race meeting held under a permit issued pursuant to P.L.1940, c.17 (C.5:5-22 et seq.). These employees shall be in the unclassified service under Title 11A (Civil Service) of the New Jersey Statutes. The compensation of these employees shall be paid by the commission, which shall be reimbursed by the permitholders at whose racetracks these persons serve. Such compensation shall be computed based on the number of days that each person has worked at each track and shall be remitted to the commission on a monthly basis. The persons employed by the commission to supervise the operation of mutuels shall have full and free access to any portion of the space or enclosure where such horse race meeting is held and shall have such powers and duties as the commission may from time to time delegate to them under the provisions of P.L.1940, c.17 (C.5:5-22 et seq.).

L.1940,c.17,s.17; amended 1985,c.128,s.2; 1992,c.120.

### **5:5-38. Application for permit for horse race meeting; execution and verification; contents**

Each person, partnership, association or corporation desiring to hold or conduct a horse race meeting within the State of New Jersey, during any calendar year, shall file with the commission an application for a permit to hold or conduct such horse race meeting. A separate application shall be filed for each horse race meeting which such applicant proposes to hold or conduct. Any such application, if made by an individual, shall be signed and verified under oath by such individual, and if made by two or more individuals or a partnership, shall be signed and verified under oath by at least two of such individuals, or members of such partnership, as the case may be. If made by an association or corporation, it shall be signed by the president or vice-president thereof, and attested by the secretary or assistant secretary under the seal of such association or corporation, if it has a seal, and shall also be verified under oath by one of the officers signing the same. Such application shall specify the name of the person, association or corporation making such application, and the post-office address of the applicant; and if applicant is a corporation or an association, the names and addresses of the directors thereof, and the name and address of each owner or holder, directly or indirectly, of any share of stock or certificate or other evidence of ownership of any interest in such corporation or association and if a partnership, the names and addresses of all partners, general or limited. If the applicant is a corporation, the name of the State of its incorporation shall be specified. Such application shall further specify the dates on which it is intended to conduct or hold such horse race meeting, the hours of each racing day between which it is intended to hold or conduct horse racing at such meeting, which shall be between the hours of 12 o'clock noon and 6 o'clock P.M., Eastern Standard Time (exclusive of Sundays, on which day no race meeting may be conducted), and the location of the place, track or enclosure where it is proposed to hold or conduct such horse race meeting. Such application shall be in such form and supply such data including a blueprint of track and specifications of surface of same and blueprint and specifications of buildings and grandstand applicant, as the commission shall prescribe, which said blueprints and specifications shall be subject to the approval of the commission. The commission shall furnish forms to be used in making such applications, and all applications shall be

made on such forms.

All applications filed with the commission for permits to hold or conduct horse race meetings shall be available for public inspection at the commission's office during ordinary business hours.

L.1940, c. 17, p. 76, s. 18. Amended by L.1946, c. 170, p. 746, s. 1; L.1954, c. 239, p. 884, s. 1.

### **5:5-39. Deposit required with application; return to applicant**

With such application there shall be delivered to the secretary of the commission a certified check or bank draft payable to the order of the commission in the sum of ten thousand dollars (\$10,000.00), which sum shall be returned to the applicant if the permit is refused, or when and if, after obtaining a permit, such applicant shall have made all of the payments due and payable hereunder and shall have conducted the meetings on the dates allotted by the commission.

L.1940, c. 17, p. 77, s. 19.

#### **5:5-39.1. Filing of application; hearing; advertisement; provisional permit; vote on question**

Any original application for a permit to hold or conduct a horse race meeting shall be filed with the commission prior to August 1 of any year. An application shall be deemed to be original when filed each time before any such permit has been finally granted to the applicant to hold or conduct a horse race meeting for the first year.

Within 15 days after the filing of any such original application, the commission shall determine whether the same is in due form and meets the requirements of law in all respects; and upon being satisfied thereof, the commission shall forthwith appoint a time, not later than September 15 next, when a public hearing shall be held on such application within the county wherein it is proposed to conduct the race meeting for which the permit is sought, and shall cause a display advertisement, approximately 11 inches by 8 inches in size, to be published at least once in a daily newspaper, and at least once in a weekly newspaper, published, or circulated if none be published, in said county. Such advertisement shall be so published at least 15 days before the date of such public hearing, and shall contain sufficient information to apprise the public as to the purpose of such hearing, the time and place thereof, and the nature of the permit applied for. Such advertisement shall be prepared and placed by the commission but shall be paid for by the applicant. If, after such public hearing, the commission shall act favorably on such application, its determination shall be to the effect that a permit to hold or conduct a running race meeting or a harness race meeting, as the case may be, is provisionally granted pending approval thereof by the legal voters of the county and of the municipality in which it is proposed to hold or conduct such race meeting.

Thereupon, but not less than 30 days before the next ensuing general election, the commission shall in writing certify to the county clerk of the county in which it is proposed to hold or conduct such horse race meeting that such permit has been so provisionally granted; and such county clerk shall cause to be printed, in the same manner as all other public questions to be submitted to the voters are by law required to be printed, upon each sample ballot and each official ballot to be used in such county at the next ensuing general election, the following question:

"Shall (insert running race meetings or harness race meetings, as the case may be) be permitted in the county of (insert name of county)?"

When duly voted upon, said public question shall be deemed to be approved only if a majority of the votes cast thereon by the legal voters of the county and also a majority of the votes cast thereon by the legal

voters of the municipality in which it is proposed to hold or conduct such horse race meeting, shall have been cast in favor thereof; and in the event the majority of votes cast thereon in the county and also in the municipality shall have been cast in favor of said public question, the commission shall, at its next meeting to be held for the consideration of applications for dates for horse race meetings after the first year filed prior to October 15 proceed with the application upon which the permit was provisionally granted, in the manner provided by law for the allotment of racing dates for the ensuing year and for the subsequent granting or issuance of a permit to hold or conduct a horse race meeting as authorized by law.

In the event a majority of the votes cast on said public question in the county or in the municipality shall have been cast against said public question, the commission shall in writing notify the applicant that the permit provisionally granted is canceled and thenceforth shall be of no effect, and no permit to conduct or hold any horse race meeting, of the nature designated in the public question so voted upon, in the same county shall be granted unless and until, after a new application filed and public hearing held after public notice and permit provisionally granted (following the procedure hereinabove specified), the same public question shall again have been submitted to the legal voters of the county, and a majority of the votes cast thereon in the county and also in the municipality in which it is proposed to hold or conduct such horse race meeting shall have been cast in favor thereof; provided, however, that the same public question shall not be submitted to the legal voters of the same county oftener than once in 5 years.

The votes cast for or against said public question, whenever it shall appear upon the ballot at any general election, shall be counted and the result thereof returned by the election officials and a canvass of such election had and announced in the manner now provided by law; but the result in each municipality shall be separately tabulated in such return.

L.1949, c. 26, p. 82, s. 1. Amended by L.1972, c. 23, s. 1, eff. May 15, 1972.

#### **5:5-40. Deduction from deposit of deficiency in payments**

In the event such permit holder does not make all the payments due and payable hereunder, to the extent of such failure to pay, there shall be deducted from such ten thousand dollars (\$10,000.00) sufficient to pay any such deficiency.

L.1940, c. 17, p. 77, s. 20.

#### **5:5-41. Forfeiture of deposit**

In the event of the failure of any permit holder to run horse races on the dates allotted by the commission through the fault or neglect of such permit holder, said sum of ten thousand dollars (\$10,000.00) shall be forfeited to the account of said commission.

L.1940, c. 17, p. 77, s. 21.

#### **5:5-42. Return of deposit when horse race meeting not held; conditions**

If for any reason or cause beyond the control of and through no fault or neglect of any holder of a permit and while such holder of a permit is not in default in the payment of any fee or other obligation required to be paid to the commission under the provisions of this act it should become impossible or impracticable in the opinion of the commission to conduct the horse race meeting for which such permit was issued, the commission at the request of such permit holder and upon proper showing shall return to such permit holder the sum of ten thousand dollars (\$10,000.00) deposited by such permit holder in conformity with

this act at the time of filing his application for a permit.

L.1940, c. 17, p. 77, s. 22.

### **5:5-43. Applications for racing dates; time for filing and action thereon; allotments; hearings; form of applications**

All applications for dates for horse race meetings after the first year shall be filed with the commission prior to October 15 of each year and shall be acted upon by the commission at a meeting of the commission to be held not later than December 1 of the same year. At such meeting so held the commission shall act upon all applications filed with it prior to October 15 of such year and shall allot to the respective applicants, subject as hereinbefore and hereinafter stated, racing dates for the ensuing year. In making such allotment of racing dates, the commission shall endeavor to allot to each applicant, subject to the restrictions herein provided, the dates requested in the respective applications so filed by such applicant, after giving due consideration to all of the factors involved and the interests of such respective applicants and the public. Any applicant whose application has been filed prior to October 15 may be present in person or by agent or counsel and be heard by the commission with respect to such allotment or allotments at the meeting of the commission to be held prior to December 1 of the same year. In the event any such application is filed with the commission on or after October 15 of any year, the commission shall act upon the same at a meeting of the commission to be held not later than 60 days following the filing of such application; and any licensee or applicant may be present in person or by agent or counsel and be heard at such meeting of the commission with respect to such application or applications. The commission shall prescribe forms to be used in making such applications and all applications shall be made on the forms prescribed by the commission.

L.1940, c. 17, p. 78, s. 23. Amended by L.1949, c. 26, p. 85, s. 2; L.1972, c. 23, s. 2, eff. May 15, 1972.

#### **5:5-43.1. Multiple permitholders; limitation of allotted racing days; waiver**

If a holder of a permit to conduct harness or thoroughbred race meetings at a New Jersey racetrack purchases, leases, or otherwise acquires another existing racetrack facility located in this State, and is thereafter granted another permit by the commission to conduct racing days at the acquired racetrack, the racing days allotted for the acquired racetrack shall be limited, in type of racing and in amount of days, to those allotted to the prior permitholder of the acquired racetrack facility for the year 1985 as of December 13, 1984.

In the event that as a result of a fire or another act of God an existing racetrack facility is precluded from conducting the number and types of racing days allotted to it in a particular year, the commission may, upon application by the permitholder, waive the above limitation with respect to another racing facility owned, leased or otherwise acquired by the permitholder.

L.1984, c. 247, s. 2.

#### **5:5-44. Renewal of permit for horse race meeting; additional racing days**

a. In the event any person, partnership, association, corporation or public body corporate and politic is granted a permit under this act to conduct a race meeting pursuant to provisions thereof, such permit shall be renewed upon application of the permitholder yearly for the next succeeding 10 years, for the same dates allotted to such permitholder during the preceding year, where it is in the public interest to do so, or for

such other dates, not exceeding 75 racing days in the aggregate for running racing and not exceeding 100 days in the aggregate for harness racing, as the commission shall designate; provided, however, that should any permitholder reject any or all of the days to which they are entitled, the commission may allot them, or any of them, among the remaining permitholders. Such allotment shall be on a basis which in the discretion of the commission appears most appropriate for the purpose of providing continuity of racing in the State; and provided, further, that such permitholder has not violated any of the provisions of this act.

b. In addition to the racing days aforesaid, the commission shall allot equally among the four running racing permitholders an additional 100 racing days. The commission may also allot among the harness racing permitholders an additional 200 days, in any proportion it deems fit where it is in the public interest to do so. For purposes of this section, the term public interest shall include the following factors: (1) Protecting the State's revenues from racing and generating additional revenues to the State, its agencies and subdivisions; (2) Providing for continuity of racing and year-round racing so as to promote the racing industry and maintain and enhance the employment which it provides in this State; (3) Providing a recreational opportunity for residents in the several areas of the State where licensed tracks are situate; (4) Maintaining and improving this State's competitive position with regard to neighboring racing states.

c. In the event any permitholder should reject any or all of the days to which they are entitled or which they are allotted by the commission, the commission may allot those days, or any of them, among the remaining permitholders. Such allotment shall be on a basis which in the discretion of the commission appears most appropriate for the purpose of providing continuity of racing in the State and where the commission finds such allotment to be in the public interest; and provided, further, that such permitholder has not violated any of the provisions of this act.

L.1940, c. 17, p. 79, s. 24. Amended by L.1941, c. 137, p. 462, s. 8; L.1952, c. 125, p. 469, s. 1; L.1962, c. 17, s. 1; L.1963, c. 35, s. 1, eff. May 13, 1963; L.1967, c. 66, s. 1, eff. May 23, 1967; L.1968, c. 65, s. 1, eff. June 18, 1968; L.1974, c. 149, s. 1, eff. Jan. 1, 1975; L.1975, c. 327, s. 1; L.1980, c. 25, s. 1.

### **5:5-44.1. Applicability of amendatory and supplemental act of 1963**

The provisions of this amendatory and supplemental act shall be applicable to race meetings held in 1963. In order to effectuate the intent of this legislation that the commission should be authorized to allot the additional racing days for running racing herein authorized among the existing permit holders during the year 1963 and thereafter, the provisions of the act to which this act is a supplement relative to the time for filing applications for horse race meetings, and for commission action with respect to such applications, and such other provisions shall be inconsistent with the intent and purpose of this act shall be inoperative as to the allotment of such additional days during 1963.

L.1963, c. 35, s. 6, eff. May 13, 1963.

### **5:5-44.2. Charity racing days for the developmentally disabled**

Each holder of a permit to hold or conduct horse race meetings shall, with the approval of the New Jersey Racing Commission, be allotted 3 racing days in addition to the days authorized by the New Jersey Racing Commission pursuant to P.L.1940, c. 17 (C. 5:5-22 et seq.); provided, however, that should any permit holder reject the additional days, the commission may allot them among the remaining permit holders, and provided further that the provisions of this section shall not apply where to do so would require the breach of an agreement entered into by the commission. Said additional days shall be known as "Charity Racing Days for the Developmentally Disabled."

L.1977, c. 200, s. 1, eff. Jan. 1, 1977. Amended by L.1983, c. 20, s. 1, eff. Jan. 21, 1983.

### **5:5-44.3. Distribution of State share**

2. All moneys received by the commission, pursuant to section 46 of P.L.1940, c.17 (C.5:5-66), section 2 of P.L.1984, c.236 (C.5:5-66.1), section 5 of P.L.1982, c.201 (C.5:5-98), or section 7 of P.L.1971, c.137 (C.5:10-7), as its share of the total contributions to all parimutuel pools conducted or made on the additional racing days hereinbefore provided for shall be distributed to the organizations and in the amounts designated by the New Jersey State Developmental Disabilities Council, created pursuant to Executive Order Number 20 of 1971, as modified pursuant to Executive Order Number 49 of 1973 and Executive Order Number 42 of 1976, as hereinafter prescribed.

L.1977,c.200,s.2; amended 1983,c.20,s.2; 1993,c.353,s.1.

### **5:5-44.4. Determination of organizations to receive moneys by developmental disabilities council**

The New Jersey State Developmental Disabilities Council shall determine annually which organizations in New Jersey shall receive the moneys to be distributed pursuant to section 2 of this supplemental act; provided, however, that such organizations shall be nonprofit organizations which expend funds for direct services in full-time programs to New Jersey residents who are developmentally disabled, and provided further, however, that each such organization shall be affiliated with a national organization of the same type and purpose. As used herein, "developmentally disabled" means a disability of a person which (1) is attributable to:

- (a) mental retardation, cerebral palsy, epilepsy or autism;
  - (b) any other condition found to be closely related to mental retardation because such condition results in impairment of general intellectual functioning or adaptive behavior similar to impairment resulting from mental retardation or which requires treatment and services similar to those required for mental retardation; or
  - (c) dyslexia resulting from a disability described in subparagraphs (a) and (b);
- (2) originates before such person attains age 18;
- (3) has continued or can be expected to continue indefinitely; and
- (4) constitutes a substantial handicap to such person's ability to function normally in society.

L.1977, c. 200, s. 3, eff. Jan. 1, 1977.

### **5:5-44.5. Annual allocation of amounts to each eligible organization**

The New Jersey State Developmental Disabilities Council shall allocate annually the amount each eligible organization shall receive. Such allocation shall be made in the following manner: one-half of the total amount available for distribution shall be distributed proportionally among the eligible organizations on the basis of the officially accepted incident rate of each type of disability in relation to the total number of developmentally-disabled residents of this State; and one-half shall be distributed proportionally among the eligible organizations on the basis of the number of developmentally-disabled residents of this State who

are served by each organization in relation to the total number of developmentally-disabled residents of this State who are served by all such organizations.

L.1977, c. 200, s. 4, eff. Jan. 1, 1977.

#### **5:5-44.6. Books and records; annual audit; access for examination**

The New Jersey State Developmental Disabilities Council shall keep books and records to clearly show the number of children and adults served by the organizations receiving moneys under the provisions of this act and shall submit no later than December 15 of each year said books and records to the Office of Fiscal Affairs for a complete audit by said office. The Office of Fiscal Affairs shall at all reasonable times have access to said books and records of the council for the purpose of examining and checking the same and ascertaining whether or not the bases prescribed in this supplemental act for the distribution of the moneys received pursuant to this supplemental act have been correctly applied. Any organization which has received more than the amount to which it is entitled shall refund the amount in excess, and said amount shall be distributed among the remaining eligible organizations in the manner prescribed in this supplemental act.

L.1977, c. 200, s. 5, eff. Jan. 1, 1977.

#### **5:5-44.7 Designation of "Charity Racing Day for the Vietnam Veterans' Memorial"; fund.**

1. a. The New Jersey Racing Commission shall designate one of the racing days authorized each year to a holder of a permit to hold or conduct a horse race meeting pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) as "Charity Racing Day for the Vietnam Veterans' Memorial" or shall allot to each such permit holder one additional racing day to be known as "Charity Racing Day for the Vietnam Veterans' Memorial."
- b. All moneys received by the commission as its share of the total contributions to all parimutuel pools conducted or made on the racing day designated or allotted pursuant to subsection a. of this section shall be deposited in the Vietnam Veterans' Memorial Fund, created pursuant to section 4 of P.L.1985, c.494 (C.52:18A-208).
- c. The commission shall designate or allot the days provided for in subsection a. of this section until sufficient funds from all sources have been credited to the Vietnam Veterans' Memorial Fund, created pursuant to section 4 of P.L.1985, c.494 (C.52:18A-208), to pay for the construction of the Vietnam Veterans' Memorial. The Vietnam Veterans' Memorial Committee, established pursuant to section 2 of P.L.1985, c.494 and reconstituted pursuant to section 1 of P.L.1989, c.148, shall inform the commission of the amount necessary to construct this memorial, and the State Treasurer shall periodically certify to the commission the amount of moneys in the fund.
- d. For the purposes of this section, the Vietnam Veterans' Memorial shall include that part of the memorial known as the Vietnam Era Educational Center.

L.1992,c.113,s.1; amended 1996, c.75, s.3.

#### **5:5-44.8. "Charity Racing Day for Backstretch Benevolency Programs," fund**

1. a. The New Jersey Racing Commission shall designate one of the racing days authorized each year to a

holder of a permit to hold or conduct a horse race meeting pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) as "Charity Racing Day for Backstretch Benevolency Programs" or shall allot to each such permit holder one additional racing day to be known as "Charity Racing Day for Backstretch Benevolency Programs."

b. All moneys received by the commission as its share of the total contributions to all parimutuel pools conducted or made on the racing day designated or allotted pursuant to subsection a. of this section shall be deposited in a separate fund to be known as the Backstretch Benevolency Programs Fund, which is hereby created in the Department of the Treasury. The moneys in the fund shall be appropriated exclusively to the commission to be used by it to fund programs which promote the health, safety, or welfare of backstretch employees. As used in this subsection, "backstretch employee" means any person employed at a racetrack as a stable hand, groom, walker or exerciser or in any similar position designated by the commission which involves the handling or care of horses.

L.1993,c.15,s.1.

### **5:5-44.8a. Penalty deposited in Backstretch Fund**

1. Notwithstanding the provisions of any other law to the contrary, whenever the New Jersey Racing Commission imposes a monetary penalty on any licensee for a violation of the provisions of P.L.1940, c.17 (C.5:5-22 et seq.), or any regulation promulgated thereunder, the penalty shall be deposited in the Backstretch Fund established pursuant to subsection b. of section 1 of P.L.1993, c.15 (C.5:5-44.8).

L.1995,c.15.

### **5:5-44.9 "Charity Racing Day for the Horse Park of New Jersey and for the Care of Retired Horses", designated**

1. a. The New Jersey Racing Commission shall designate one of the racing days authorized each year to a holder of a permit to hold or conduct a horse race meeting pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) as "Charity Racing Day for the Horse Park of New Jersey and for the Care of Retired Horses" or shall allot to each such permit holder one additional racing day to be known as "Charity Racing Day for the Horse Park of New Jersey and for the Care of Retired Horses."

b. All moneys received by the commission as its share of the total contributions to all parimutuel pools conducted or made on the racing day designated or allotted pursuant to subsection a. of this section shall be deposited in a separate fund to be known as the Horse Park of New Jersey and the Care of Retired Horses Fund, which is hereby created in the Department of the Treasury. Fifty percent of the moneys in the fund shall be appropriated to the Department of Agriculture to be used as a grant to the Horse Park of New Jersey, and 50% shall be appropriated to the Department of Agriculture for grants to organizations which care for retired racehorses.

L.1997,c.80,s.1.

### **5:5-45. Meetings on not more than certain number of tracks; conflict in dates**

Permits shall be granted by the commission to operate a running race meeting on not more than three tracks and harness race meetings on not more than four tracks. No person, partnership, association or corporation shall be granted a permit to operate a harness race meeting on any day or days for which a prior permit holder has been granted a permit to conduct a harness race meeting located within twenty-five miles of any

track already licensed without the consent of such prior licensee.

L.1940, c. 17, p. 79, s. 25. Amended by L.1941, c. 137, p. 463, s. 9; L.1949, c. 26, p. 86, s. 3; L.1953, First Sp.Sess., c. 445, p. 2435, s. 1.

### **5:5-46. Notice of allotment of racing dates; acceptance; bond or deposit**

At the time of allotting any racing dates to any applicant, the commission shall notify such applicant of the dates allotted which notice shall be in writing and sent by registered mail addressed to such applicant at the address stated in his application, and shall be mailed on the date such allotment is so made. Each applicant so notified shall within 10 days after the mailing of such notice of allotment or within such period of time as the commission shall otherwise direct, comply with the following conditions:

- (1) File with the commission an acceptance of such allotment in the form prescribed by the commission;
- (2) Execute and deliver to it in case of running and harness races a bond, payable to the State of New Jersey, in such amount as the commission shall direct which shall be sufficient to secure payment to the commission of the amounts of contributions to parimutuel pools and breaks required to be paid to the commission every seventh day of every race meeting, with sufficient surety or sureties to be approved by the commission and conditioned for the payment of all sums due and payable as in this act provided and for the observance in all respects of the provisions of this act. In lieu of any such bond there may be delivered to the commission for deposit negotiable securities in such amount as the commission shall direct as security for said payments.

L.1940, c. 17, p. 79, s. 26. Amended by L.1941, c. 137, p. 463, s. 10; L.1971, c. 85, s. 2, eff. April 8, 1971.

### **5:5-47. Permits; issuance; limitations; qualifications**

Upon compliance with the foregoing conditions, the commission shall issue a permit to such applicant to hold or conduct such horse race meeting as authorized by this act. Such permit shall specify the person, partnership, association or corporation to whom the same is issued; the dates upon which such horse race meeting is to be held or conducted; the hours of such days between which such horse racing will be permitted, which shall be in between the hours during which the conduct of racing is authorized by law, the location of the place, track or enclosure at, on or within which said horse race meeting is to be held or conducted; and shall acknowledge receipt of the payment of the deposit and the filing of the bond provided for in this act. The commission may in its discretion authorize a permit holder to conduct the horse race meeting for which it has been issued a permit, or a portion thereof, at a place, track or enclosure owned or operated by another permit holder upon application therefor made by both said permit holders, subject to such terms, conditions, and requirements as the commission shall direct. No permit shall be issued to permit running racing on any track that is less than 1 mile in circumference nor harness racing on any track that is less than 1/2 mile in circumference. No such permit shall be transferable nor shall it apply to any place, track or enclosure other than the one specified therein unless otherwise directed by the commission. No such permit shall be issued so as to permit horse racing at any place, track or enclosure except on Mondays through Fridays between the hours of 12 noon and 1 a.m. the following day and on Saturdays between the hours of 12 noon and 12 midnight. No permit shall be granted under this act to any person, partnership, association or corporation so as to permit more than 75 horse racing days in the aggregate in any 1 calendar year for running races, except as otherwise provided for herein, nor more than 100 racing days in the aggregate in any 1 calendar year for harness races; nor shall any permit be granted to the same person, partnership, association or corporation for the holding or conducting of a horse race meeting except at one track, place or enclosure in this State, unless otherwise directed by the commission. No such permit shall be issued to any person, partnership, association or corporation that is in any way in default in the payment of any obligation or debt due to the State of New Jersey under the provisions of this act, nor shall

any permit be issued to any corporation under the provisions of this act unless said corporation be organized under and by virtue of the laws of the State of New Jersey, nor shall any permit be issued to any applicant who shall be deemed by said commission not to be of sufficient financial integrity and moral responsibility to hold a horse race meeting conducive to the best interests of legitimate racing.

L.1940, c. 17, p. 80, s. 27. Amended by L.1941, c. 137, p. 464, s. 11; L.1952, c. 125, p. 470, s. 2; L.1962, c. 17, s. 2; L.1963, c. 35, s. 2; L.1967, c. 66, s. 2, eff. May 23, 1967; L.1968, c. 65, s. 2, eff. June 18, 1968; L.1971, c. 85, s. 3, eff. April 8, 1971; L.1972, c. 23, s. 3, eff. May 15, 1972; L.1974, c. 149, s. 2, eff. Jan. 1, 1975.

### **5:5-47.1. Emergency permit**

In the event that any licensed race meeting cannot be held or completed at the time prescribed by the license for the holding thereof, because of the occurrence of an event beyond the permit holder's control, such as a fire, hurricane, tornado or other catastrophe, the permit holder shall be entitled to an emergency permit to hold or complete the said race meeting at any other available race track, upon such terms and conditions as shall be fixed by the New Jersey Racing Commission.

L.1952, c. 222, p. 758, s. 2.

### **5:5-48. Admission of spectators; fees; admission tax; free passes**

Every permit that shall be granted for the holding of a horse race meeting shall be upon the express condition and agreement that no person shall be admitted as a spectator without the payment of an admission fee in such amount as the permit holder may determine but in no event less than the price to be from time to time established by the commission, plus an admission tax of \$0.05 per person for every paid admission, and that no free passes shall be issued except to the commissioners, employees of the commission, employees of the permit holders engaged in and about the operation of the permit holder's track, the owners of horses actually racing, their actual employees, and duly accredited members of the press; should the permit holder desire to issue free passes for admission to a horse race meeting other than those herein specified it shall be done only upon the approval of the commission.

The permit holder shall, at the same times payments are made to the commission pursuant to section 46 (C. 5:5-66), pay to the State Treasurer for deposit in an account to be known as a Local Expense Fund, hereby created, amounts collected by reason of the collection of an admission tax imposed by ordinance adopted pursuant to this section, which receipts shall be distributed as shall be provided by law.

The admission tax authorized under this section shall not be imposed, charged or collected except pursuant to an ordinance adopted by the governing body of the municipality in which the race meeting is held or, if the said race meeting is held at a site comprising parts of two or more municipalities, by substantially similar ordinances adopted by the governing bodies of each such municipality. Such ordinance or ordinances shall set forth the intention of the municipality that the admission tax authorized under this section shall be imposed at every race meeting held in the municipality subsequent to the adoption thereof, and shall remain in effect until repealed by the governing body. An admission tax imposed pursuant to similar ordinances adopted by two or more governing bodies shall remain in effect until the said ordinances have been repealed by all of them.

L.1940, c. 17, p. 81, s. 28. Amended by L.1974, c. 181, s. 2, eff. Dec. 16, 1974.

### **5:5-48.1. Local expense fund; distribution**

Moneys deposited in the local expense fund created pursuant to section 28 of P.L.1940, c. 17 (C. 5:5-48) as amended by section 2 of P.L.1974, c. 181 shall be held for distribution to those municipalities at or in reasonable proximity to the site of race meetings, and which, in the determination of the commission, have incurred expenses as a result of said meetings, in accordance with the following:

- a. The commission shall notify said municipalities of their eligibility for a share of said moneys;
- b. Thereupon, said municipalities may submit claims setting forth the nature of the services performed and the amount expended for said services;
- c. The commission shall evaluate and determine the validity of the claims based upon reasonable increases to said municipalities in police, fire and court costs, and the costs of other municipal services;
- d. The commission shall distribute the moneys deposited in the fund to each municipality to the extent said moneys are available, and if not, then in the proportion that the valid claim bears to the total valid claims so submitted; and
- e. Distributions shall be made to a municipality at or in reasonable proximity to the site of a race meeting from only those moneys deposited in the fund by the racing permit holders conducting the race meeting.

Distribution of moneys in the fund shall be subject to the approval of the State Treasurer.

Moneys undistributed in any year shall remain in the fund which shall continue from year to year.

L.1977, c. 313, s. 1, eff. Jan. 6, 1978.

### **5:5-49. Running race permitholder; one race per day limited to registered New Jersey bred foals**

Every running race permitholder shall program to run at least one race per day which shall be limited to registered New Jersey bred foals. These races shall provide opportunities for all classes of horses to participate and shall carry a purse 25% higher than corresponding open races. If in the opinion of the commission sufficient competition cannot be had among such class of horses, said race may be eliminated for said day and a substitute race provided instead.

L.1940, c. 17, p. 81, s. 29. Amended by L.1981, c. 118, s. 1, eff. April 9, 1981.

### **5:5-50. Permit and compliance with statute as condition precedent to horse race meeting**

No person, partnership, association or corporation shall hold or conduct, or assist, aid or abet in holding or conducting any meeting within the State of New Jersey whereat horse race meetings shall be permitted for any stake, purse or reward whereat pari-mutuel betting is licensed, except and unless such person, partnership, association or corporation shall first comply with the provisions of this act and be granted a permit by the commission to conduct a horse race meeting as provided by this act.

L.1940, c. 17, p. 81, s. 30.

### **5:5-51. Races or meetings subject to rules, regulations and conditions; revocation or refusal of permits and licenses; notice; hearing**

All horse races or horse race meetings conducted under any such permit and all licenses issued shall be subject to the rules, regulations and conditions from time to time prescribed by the commission, and every permit to conduct a horse race meeting and all licenses issued by the commission shall contain such recital as a condition therein and shall be revocable by the commission for any violation thereof or of any of the provisions of this act. The commission shall forthwith, after it has refused or revoked any such permit or license or taken such other action, give notice thereof to the party against whom any such action has been taken, in writing, addressed to the party or parties affected, at its or their addresses as stated in the last application filed with the commission. In case any permit or license is revoked by the commission or in case any applicant is aggrieved at the action of the commission, the party or parties affected by said revocation or action shall be entitled to a hearing in the manner hereinafter provided.

L.1940, c. 17, p. 82, s. 31.

### **5:5-52. Hearing on revocation or refusal of permits or licenses; when revocation or suspension effective**

Such person feeling aggrieved may within three days after service of such notice of the action of the commission request a hearing by petition in writing, which hearing shall be held within four days after such petition has been served upon the chairman or secretary of the commission. In case of a revocation of a permit for a horse race meeting, it shall not be deemed to be in effect until after such hearing shall have taken place and the commission shall have affirmed its order of revocation; provided, however, a license of any pari-mutuel employee and all horse owners, riders, agents, trainers, stewards, timers, judges, grooms, and others, acting in any capacity in connection with the training of the horses or the actual running of the horse races in any such horse race meeting may be suspended pending such hearing by one or more of the members of the commission for violation of any provision of this act or of any rule or regulation of the commission.

L.1940, c. 17, p. 82, s. 32.

### **5:5-53. Place of hearing; service of notice; continuance; evidence; record of case; counsel**

Such hearing by the commission shall be held at such place in the State of New Jersey as the commission may designate, and any notice herein provided for shall be served by mailing the same postage prepaid by registered mail to the party or parties affected. Any such notice so mailed shall be deemed to have been served on the secular day next following the date of said mailing. The commission may continue such hearing from time to time for the convenience of all parties or for a more thorough investigation and in conducting such hearing shall not be bound by technical rules of evidence, but all evidence offered before the commission shall be reduced to writing and shall, with the petition and exhibits, if any, and the findings of the commission, be permanently preserved, and shall constitute the record of the commission in such case. Any of the parties affected by such hearing may be represented by counsel and shall have the right to introduce evidence.

L.1940, c. 17, p. 83, s. 33.

### **5:5-54. Oaths and witnesses; subpoenas; misconduct, failure to attend or produce records**

34. Each member of the commission and the executive director shall have power to administer oaths and examine witnesses, and shall have the power to issue subpoenas to compel the attendance of witnesses and the production of all necessary reports, books, papers, documents, correspondence and other evidence at any designated place of hearing. The subpoenas shall be authenticated by the seal of the commission, and any party to a proceeding before the commission may secure from it subpoenas without charge. Misconduct on the part of a person attending a hearing or the failure of a witness when duly subpoenaed to attend, give testimony or produce any records, shall be punishable by the Superior Court in the county wherein the offense is committed in the same manner as such failure is punishable by that court in a case therein pending.

L.1940,c.17,s.34; amended 1953, c.6, s.8; 1974, c.181, s.6; 1991,c.91,s.184.

### **5:5-55. Reference to executive director or member of commission to take testimony and report**

The commission may, as occasion shall require, by order, refer to the executive director or to one or more of its members the duty of taking testimony in a matter pending before it, and to report thereon to the commission, but no determination shall be made therein except by the commission.

L.1940, c. 17, p. 83, s. 35. Amended by L.1974, c. 181, s. 7, eff. Dec. 16, 1974.

### **5:5-56. Fees for attendance of witnesses**

The fees for the attendance of witnesses shall be the same as for the attendance of witnesses in other civil cases and shall be paid by such aggrieved party.

L.1940, c. 17, p. 84, s. 36.

### **5:5-57. False testimony as perjury**

A person who, having been sworn or affirmed as a witness in any such proceeding, shall willfully give false testimony shall be guilty of perjury.

L.1940, c. 17, p. 84, s. 37.

### **5:5-58. Depositions of witnesses**

The commission, or any member thereof, or any applicant, may in connection with any hearing before the commission cause the deposition of witnesses within or without the State to be taken on oral or written interrogatories in the manner prescribed by statute for depositions in suits at law in the courts of record in this State.

L.1940, c. 17, p. 84, s. 38.

### **5:5-59. Findings**

At the conclusion of such hearing the commission shall within thirty days make its findings (such findings to be the basis of the revocation of the permit or other action taken by the commission).

L.1940, c. 17, p. 84, s. 39.

### **5:5-60. Review**

The action of the commission and the propriety thereof shall be subject to review by a proceeding in lieu of prerogative writ in the Superior Court.

L.1940, c. 17, p. 84, s. 40. Amended by L.1953, c. 6, p. 60, s. 9.

### **5:5-61. Costs and expense of commission at hearing or investigation; bond for costs**

The actual costs and expense of the commission incurred in connection with any such hearing or investigation shall be paid by the applicant upon the commission's delivering to the applicant a statement thereof. The commission, in its discretion, may require the applicant, before he shall be entitled to a hearing as hereinbefore provided, to give a surety bond or other satisfactory assurance that such applicant will pay all costs of such hearing.

L.1940, c. 17, p. 84, s. 41.

### **5:5-62. Places for wagering**

42. A permit holder may provide a place or places in the race meeting grounds or enclosure at which such holder of a permit may conduct and supervise the parimutuel system of wagering by patrons on the results of the horse races conducted by such permit holder at a horse race meeting, on the results of simulcast horse races as provided by the "Simulcasting Racing Act," P.L.1985, c.269 (C.5:5-110 et seq.), or on the results of simulcast horse races as provided by section 37 of P.L.1992, c.19 (C.5:5-125), and such parimutuel system of wagering upon the results of such horse races shall not under any circumstances, if conducted under the provisions of this act and in conformity thereto, be held or construed to be unlawful, other statutes of the State of New Jersey to the contrary notwithstanding. Such place or places so provided in conformity with this section shall be equipped with such automatic ticket issuing and vending machines and with adding machine equipment capable of accurate and speedy determination of the amount of money in each pool and on each horse and the amount of award or dividend to winning patrons and displaying the same to the patrons. Such machine shall further be equipped with automatic or hand operated machinery suitable for displaying on the mutuel board across the track, in plain view of the public, the total amount of sales on each and every race and the amount of award or dividend to winning patrons.

L.1940,c.17,s.42; amended 1983,c.340,s.11; 1985,c.269,s.13; 1992,c.19,s.39.

## **5:5-63. Mutuel board**

43. The machine, or mutuel board, is also to display the approximate odds on each horse in any race; the value of a \$2.00 mutuel ticket, straight, place and show, on the first three horses in any race; the elapsed time of the race; the value of a \$2.00 daily double ticket, if conducted, and any other information that may be necessary for the guidance of the general public. Any such machine must be approved by the commission before it may be used, and to prevent a monopoly in the use of any particular machine or type thereof the commission may in its discretion approve the use of any other machine. No other place or method of betting, pool making, wagering or gambling shall be used or permitted by the holder of a permit, nor shall the parimutuel system of wagering be conducted on any races except horse races at the racetrack where such parimutuel system of wagering is conducted, simulcast horse races as provided by the "Simulcasting Racing Act," sections 1 through 12 of P.L.1985, c.269 (C.5:5-110 et seq.), or simulcast horse races as provided by section 37 of P.L.1992, c.19 (C.5:5-125).

L.1940,c.17,s.43; amended 1983,c.340,s.12; 1985,c.269,s.14; 1992,c.19,s.40.

### **5:5-63.1. Alternative systems of wagering; pools**

1. a. The New Jersey Racing Commission may, by regulation promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), authorize a permitholder to conduct a system of wagering in which the bettor selects the winning horse in each of four or more consecutive races designated by the permitholder up to the maximum number of races allowed by the commission. The races in which this system of wagering is to be conducted and the method of distributing the parimutuel pool chosen by the permitholder pursuant to paragraph (1) of subsection c. of this section shall be approved by the commission and shall be clearly specified in the program for the races conducted at a horse race meeting.

b. The parimutuel pool of bettors participating in this form of wagering shall be separate from all other wagering pools on races conducted by the permitholder. Tickets for this form of wagering shall be sold in denominations of not less than \$1 and only from machines capable of issuing tickets for the authorized number of races.

c. The pool for distribution to winners of races using this form of wagering shall be distributed as follows:

(1) 100% of the pool shall be paid to the winner or winners of those races each day or, alternatively, 75% of the pool shall be paid to the winner or winners of those races each day and 25% of the pool shall be paid to the bettor or bettors who selected the next largest number of winning horses in those races;

(2) In the event that there is no winner, 25% of the pool shall be paid to the bettor or bettors who selected the largest number of winning horses in those races and 75% of the pool shall be carried over and added to the pool on the next day that this system of wagering is conducted;

(3) If on the last day on which this system of wagering is conducted at a horse race meeting during a calendar year, no bettor selects the winning horses in those races, the total amount of the pool which exists on that day in connection with those races shall be paid to the bettor or bettors who selected the largest number of winning horses in those races. No part of the pool shall be carried over to the next year's race meeting.

L.1993,c.24,s.1.

## **5:5-64 Distribution of parimutuel pools**

44. Each holder of a permit shall distribute all sums deposited in any pool where the patron is required to select one horse to the winners thereof, less an amount which in harness races shall not exceed 17% of the total deposits plus the breaks and which in other races shall not exceed 17% of the total deposits plus the breaks. In every pool where the patron is required to select two horses, the holder of each permit for either harness or running track shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 19% of the total deposits plus the breaks. In every pool where the patron is required to select three or more horses, every holder of a permit shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 25% of the total deposits plus the breaks. Every permitholder shall distribute to the persons holding winning tickets in any of the aforementioned pools, as a minimum, a sum not exceeding \$0.10, calculated on the basis of each dollar deposited in any pool after the deduction of the said 17%, 19% or 25%, as the case may be. Should the amount remaining in the pool be insufficient to pay the winners the minimum, the breakage accruing in that race, or any necessary portion thereof, shall be applied toward making up any such deficiency. The breaks are hereby defined as the odd cents over any multiple of \$0.10, calculated on the basis of \$1.00 otherwise payable to a patron. Every permitholder engaged in the business of conducting running race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) and the Garden State Racetrack as provided in section 5 of P.L.1982, c.201 (C.5:5-98), shall distribute as purse money the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in a pool as herein provided. Every permitholder engaged in the business of conducting harness race meetings under this act, except the New Jersey Sports and Exposition Authority and the Garden State Racetrack as provided in section 5 of P.L.1982, c.201 (C.5:5-98), shall retain for his own uses and purposes 50% of the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in the pool as herein provided, and shall distribute as purse money the remaining 50%. The New Jersey Sports and Exposition Authority shall retain all breaks commencing on May 10, 1971 as revenue to the authority, except as the same shall have been applied toward making up a deficiency in a pool as herein provided.

Every permitholder shall submit to the commission every seventh day of any and every race meeting a report under oath showing the daily and total amount of such breaks, together with such other information as the commission may require. All sums held by any permitholder for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within six months from the time such tickets are issued shall be paid upon the expiration of such six-month holding period as follows:

- a. In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the racing commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);
- b. In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46 b.(1)(e) and section 46 b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and
- c. In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

Where it is shown to the satisfaction of the commission that the reason for the parimutuel tickets being outstanding and unclaimed is the loss, misplacement or theft of said tickets within the confines and control of the parimutuel department of any permitholder, and it is further shown to the satisfaction of the commission that said parimutuel tickets have been cashed by such parimutuel department, the commission may adjust and credit the permitholder's account accordingly and the permitholder shall reimburse any employee who has been held personally accountable and paid for such lost, stolen or misplaced tickets. All outstanding parimutuel ticket money shall be deposited in an account separate and apart from the track's mutuel or general treasury account. The outstanding parimutuel ticket account shall be subject to the rules

and regulations prescribed by the Division of New Jersey Racing Commission.

L.1940, c.17, s.44; amended amended 1944, c.227; 1946, c.169; 1947, c.107, s.1; 1948, c.33, s.1; 1952, c.222, s.1; 1954, c.87, s.1; 1962, c.17, s.3; 1963, c.35, s.3; 1967, c.40, s.2; 1969, c.50, s.1; 1971, c.45, s.1; 1971, c.85, s.4; 1974, c.181, s.1; 1980, c.25, s.2; 1986, c.19, s.1; 1997, c.29, s.1.

### **5:5-64.1 Harness race pools**

1. Notwithstanding the provisions of section 44 of P.L.1940, c.17 (C.5:5-64) or any other law to the contrary, a holder of a permit to conduct harness race meetings, who operates a racetrack at which harness race meetings were conducted during calendar year 1984, but which were suspended for 30 days or more during that calendar year because of fire, and a holder of a permit to conduct harness race meetings, who conducted harness race meetings at the aforementioned racetrack during 1984 and who continues to conduct harness race meetings at that racetrack, shall distribute all sums deposited in any pool where the patron is required to select one horse to the winners thereof, less an amount which shall not exceed 17% of the total deposits plus the breaks. In every pool where the patron is required to select two horses, the holder of the permit shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 19% of the total deposits plus the breaks. In every pool where the patron is required to select three or more horses, the holder of the permit shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 25% of the total deposits plus the breaks. The permitholder shall distribute to the persons holding winning tickets in any of the aforementioned pools, as a minimum, a sum not exceeding \$0.10, calculated on the basis of each dollar deposited in any pool after the deduction of the 17%, 19% or 25%, as the case may be. Should the amount remaining in the pool be insufficient to pay the winners the minimum, the breakage accruing in that race, or any necessary portion thereof, shall be applied toward making up any such deficiency. The breaks are hereby defined as the odd cents over any multiple of \$0.10, calculated on the basis of \$1.00 otherwise payable to a patron. The permitholder shall retain for his own uses and purposes 50% of the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in a pool as herein provided, and shall distribute as purse money the remaining 50%. The permitholder shall submit to the commission every seventh day of any and every race meeting a report under oath showing the daily and total amount of the breaks, together with such other information as the commission may require. All sums held by the permitholder for payment of outstanding parimutuel tickets, not claimed by the persons entitled thereto within six months from the time such tickets are issued, shall be paid upon the expiration of such six-month holding period as follows: a. beginning July 1, 1997 50% shall be paid to the racing commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1); b. 25% shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering; and c. 25% shall be retained by the permitholder to supplement overnight purses.

Where it is shown to the satisfaction of the commission that the reason for the parimutuel tickets being outstanding and unclaimed is the loss, misplacement or theft of the tickets within the confines and control of the parimutuel department of the permitholder, and it is further shown to the satisfaction of the commission that the parimutuel tickets have been cashed by the parimutuel department, the commission may adjust and credit the permitholder's account accordingly and the permitholder shall reimburse any employee who has been held personally accountable and paid for such lost, stolen or misplaced tickets.

All outstanding parimutuel ticket money shall be deposited in an account separate and apart from the track's mutuel or general treasury account. The outstanding parimutuel ticket account shall be subject to the rules and regulations prescribed by the Division of New Jersey Racing Commission.

L.1984, c.236, s.1; amended 1986, c.19, s.2 (1984, c.236, s.3; eff. date amended 1993, c.323); 1997, c.29, s.2.

## **5:5-65. Minors**

No holder of a permit shall knowingly permit any minor to be a patron of the pari-mutuel system of wagering conducted or supervised by it.

L.1940, c. 17, p. 86, s. 45.

## **5:5-66 Disposition of undistributed deposits**

46. Every permitholder engaged in the business of conducting horse race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) and the Garden State Racetrack as provided in section 5 of P.L.1982, c.201 (C.5:5-98), shall make disposition of the deposits remaining undistributed pursuant to section 44 as follows:

a. In the case of harness races:

(1) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, 1.25% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select two horses, the permitholder shall pay 2.25% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall pay 5.25% of the total contributions;

(2) Hold and set aside in an account designated as a special trust account 1.15% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

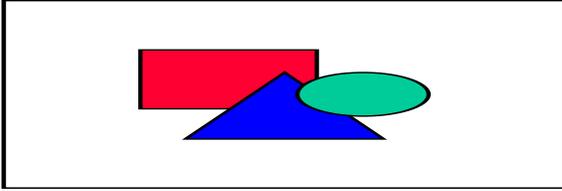
(a) 37% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(b) 55% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(c) 5% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion roster of the Standardbred Breeders' and Owners' Association of New Jersey, which sire such registered New Jersey bred money earners;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

(3) Retain 7.7875%, or in the case of races on a charity racing day 7.20%, of so much of such total contributions for his own uses and purposes. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall retain 8.7575%, or in the case of races on a charity racing day 7.70%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 11.6675%, or in the case of races on a charity racing day 9.20%, of the total contributions. Each permitholder shall contribute out of its 11.6675% or 9.20% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a pre-race blood testing program, and such other testing programs which the



commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(4) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 7.69375%, or in the case of races on a charity racing day 7.40%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.2% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the tracks. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 8.42875%, or in the case of races on a charity racing day 7.90%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.63375%, or in the case of races on a charity racing day 9.40%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.63375% or 9.40% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a pre-race blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .29375% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .52875%, and for pools where the patron is required to select three or more horses, the amount shall be 1.23375%.

(6) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .05% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .09%, and for pools where the patron is required to select three or more horses, the amount shall be .21%.

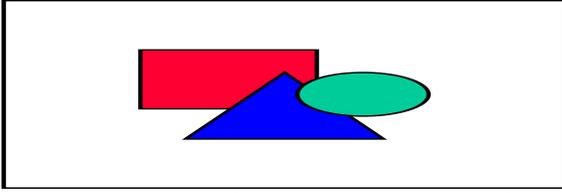
(7) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .025% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .045%, and for pools where the patron is required to select three or more horses, the amount shall be .105%.

Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

b. In the case of running races:

(1) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, does not exceed \$1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .30% of so much of the total contributions to all



parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select three or more horses, the permitholder shall pay 1.30% of the total contributions.

(b) Hold and set aside in an account designated as a special trust account 5% of 1% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

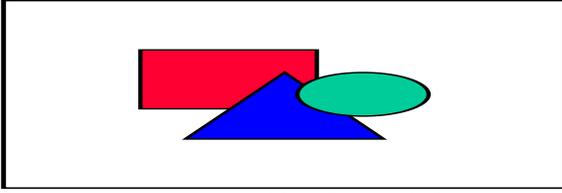
(c) Retain 9.991%, or in the case of races on a charity racing day 9.85%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 11.061%, or in the case of races on a charity racing day 10.92%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.941%, or in the case of races on a charity racing day 13.33%, of the total contributions. Each permitholder shall contribute out of its 13.941% or 13.33% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association 6.141%, or in the case of races on a charity racing day 6.00%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.071%, or in the case of races on a charity racing day 6.93%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 9.631%, or in the case of races on a charity racing day 9.02%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horseman's Benevolent Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 9.631% or 9.02% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) 80% of 1% of all pools shall be deducted and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey; to improve purses for closed races; to provide awards for owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners and awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred



Breeders' Association of New Jersey .012% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .052%.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .006% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .026%.

(i) Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, 50% of 1% of the total contributions shall be held and set aside in the special trust account referred to in subparagraph (e) of this paragraph.

(j) Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

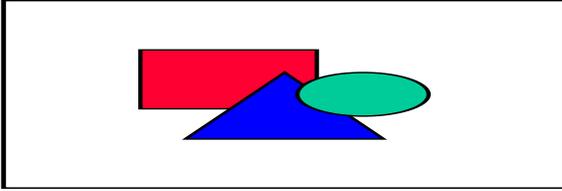
(2) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, exceeds \$1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .50% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race.

(b) Hold and set aside in an account designated as a special trust account 5% of 1% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.305%, or in the case of races on a charity racing day 9.07%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 10.375%, or in the case of races on a charity racing day 10.14%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.545%, or in the case of races on a charity racing day 13.31%, of the total contributions. Each permitholder shall contribute out of its 13.545% or 13.31% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association 6.815%, or in the case of races on a charity racing day 6.58%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.745%, or in the case of races on a charity racing day 7.51%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.085%, or in the case of races on a charity racing day 9.85%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the



New Jersey Thoroughbred Horseman's Benevolent Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.085% or 9.85% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) 80% of 1% of all pools shall be deducted and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey; to improve purses for closed races; to provide awards for owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners and awards to New Jersey thoroughbred breeders' associations for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

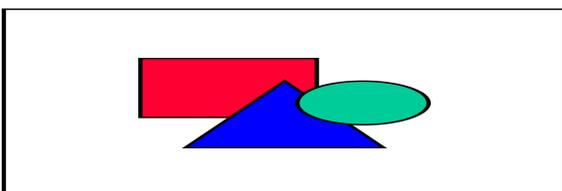
(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(i) Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, 49% of 1% of the total contributions shall be held and set aside in the special trust account referred to in subparagraph (e) of this paragraph.

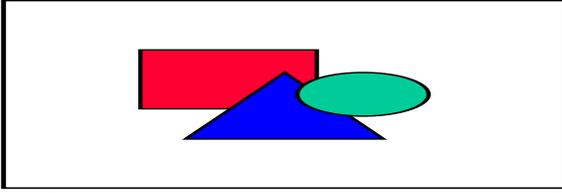
(j) Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

L.1940,c.17,s.46; amended 1947, c.107, s.2; 1948, c.33, s.2; 1949, c.26, s.4; 1954, c.87, s.2; 1962, c.17, s.4; 1963, c.35, s.4; 1967, c.40, s.3; 1971, c.85, s.5; (1971, c.85, s.5 repealed 1971, c.159, s.2); 1971, c.159, s.1; 1974, c.181, s.3; 1975, c.327, s.2; 1980, c.25, s.3; 1981, c.118, s.2; 1981, c.449, s.1; 1982, c.234; 1983, c.157; 1986, c.19, s.3; 1993, c.128; 1993, c.353, s.2; 1997, c.80, s.2.

### 5:5-66.1 Undistributed deposits



L.1940, c.17 (C.5:5-66) or any other law to the meetings who operates a racetrack at which harness racing was conducted during 1984 but which were suspended for 30 days or more pursuant to the expiration of a permit to conduct harness race meetings who operated a racetrack during 1984 and who continues to



conduct harness race meetings at that racetrack, shall make disposition of the deposits remaining undistributed pursuant to section 1 of this act as follows:

a. On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .50% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race;

b. Hold and set aside in an account designated as a special trust account 1.15% of such total contributions in all pools to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

(1) 37% thereof to increase purses and grant awards for starting horses as provided or as may be provided by rules of the New Jersey Racing Commission with payment to be made in the same manner as payment of other purses and awards;

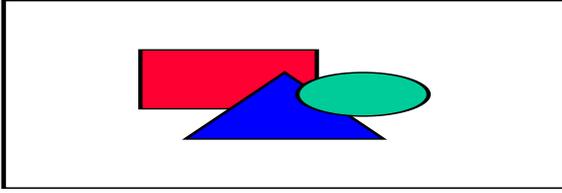
(2) 55% thereof for the establishment of a Sire Stakes Program for standardbred horses with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(3) 5% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallions roster of the Standardbred Breeders' and Owners' Association of New Jersey which sire such registered New Jersey bred money earners;

(4) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

c. Retain 7.935%, or in the case of races on a charity racing day 7.70%, of so much of such total contributions for his own uses and purposes. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall retain 8.935%, or in the case of races on a charity racing day 8.70%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 11.935%, or in the case of races on a charity racing day 11.70%, of the total contributions. The permitholder shall contribute out of its 11.935% or 11.70% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the Racing Commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

d. Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 7.7675%, or in the case of races on a charity racing day 7.65%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.2% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the tracks. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 8.7675%, or in the case of races on a charity racing day 8.65%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 11.7675%, or in



the case of races on a charity racing day 11.65%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the permitholder shall retain out of the 11.7675% or 11.65% to be distributed as purse money, a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

e. In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.

f. In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

g. In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from the permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

L.1984,c.236,s.2; amended 1993, c.353, s.3; 1997, c.80, s.3.

### **5:5-67. Books and records of permit holder; audit of accounts; reports; non-payment of amount due commission as misdemeanor**

Every permit holder conducting horse race meetings under this act shall keep his books and records as to clearly show a separate record total amount of money contributed to every parimutuel pool on each race, and within sixty days after the conclusion of every race meeting shall submit to the commission a complete audit of such accounts certified by a certified public accountant qualified to practice in the State of New Jersey and approved by the commission; provided, that all of such reports shall be filed not later than December first of the year in which such race meeting is held, except where such race meeting is held after November first in which case such report shall be filed no later than December fifteenth of the year in which such race meeting is held. The commission or its duly authorized representatives shall at all reasonable times have access to all records of any holder of a permit for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the State of New Jersey are being paid by such permit holder. Any holder of a permit failing or refusing to pay the amount found to be due under the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000.00), in addition to the amount so found to be due from such holder of a permit. All fines paid into court by a holder of a permit found guilty of violating this section shall be transmitted and paid over by the clerk of the court to the said commission.

L.1940, c. 17, p. 86, s. 47.

### **5:5-67.1. Uniform method of keeping accounts and records; audit annually; revocation of permit**

The State Commissioner of Taxation and Finance shall prescribe a uniform method by which permit holders engaged in the business of conducting horse race meetings shall be required to maintain complete and detailed financial accounts and records relating to the operations of their tracks, and it shall be the duty of each permit holder to comply therewith.

The State Commissioner of Taxation and Finance shall also annually cause to be made by some competent person or persons in his department a thorough audit of the books and records of each permit holder, which audit shall be kept on file in his office at all times, and a copy of which shall be forwarded to the commission immediately upon the completion thereof; and each permit holder shall permit access to its books and records for the purpose of having such audit made, and shall produce, upon written order of the head of said department, any and all papers and information required for such purpose.

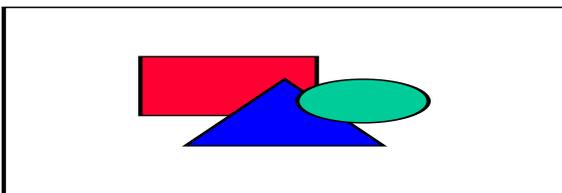
The commission may, after hearing, revoke the permit of any permit holder failing to comply with the provisions of this section, and every such failure shall be reported to the commission by the State Commissioner of Taxation and Finance.

L.1947, c. 107, p. 536, s. 3, eff. May 6, 1947.

### **5:5-68. Payment of moneys into state treasury**

All moneys received by said commission under the provisions of this act shall be by it paid into the State treasury and, except as to moneys deposited in the New Jersey Horse Breeding and Development Account, or distributed as otherwise provided by law, shall be part of the free treasury funds.

L.1940, c. 17, p. 87, s. 48. Amended by L.1967, c. 40, s. 6, eff. April 28, 1967; L.1971, c. 45, s. 2, eff. March 8, 1971.



#### **5:5-68.1 Appropriation to Racing Commission**

4. Beginning July 1, 1997, amounts resulting from parimutuel tickets remaining unclaimed after six months which are paid to the Racing Commission for deposit in the general fund pursuant to subsection a. of section 44 of P.L.1940, c.17 (C.5:5-64), subsection a. of section 1 of P.L.1984, c.236 (C.5:5-64.1) and paragraph (1) of subsection g. of section 7 of P.L.1971, c.137 (C.5:10-7) shall be appropriated each fiscal year to the Racing Commission to be used for the expenses of the commission.

L.1997,c.29, s.4.

### **5:5-69. Holding or conducting horse race meeting for stake, purse or reward, except in accordance with permit, as misdemeanor; disposition of fines**

Any person, partnership, association or corporation holding or conducting, or any person or persons aiding or abetting in the holding or conducting of any meeting within the State of New Jersey, at which the racing of horses shall be permitted for any stake, purse or reward, except in accordance with a permit duly issued by the commission as herein provided, shall be guilty of a misdemeanor, and upon conviction shall be punished for each such offense by a fine of not less than five thousand dollars (\$5,000.00) and not more than ten thousand dollars (\$10,000.00) or by imprisonment in the county jail or workhouse for not more than one year, or by both such fine and imprisonment. For the purpose of this section, each day of horse racing in violation of the provisions of this act shall be considered a separate and distinct offense. All fines paid into court by any person, partnership, association or corporation found guilty of violating this section shall be transmitted and paid over by the clerk of the court to the said commission.

L.1940, c. 17, p. 87, s. 49.

### **5:5-70. Holding or conducting horse race meeting contrary to or in violation of statute as misdemeanor; disposition of fines**

Any person, partnership, association or corporation holding or conducting any meeting within the State of New Jersey, at which horse racing is permitted held or conducted contrary to or in violation of any of the provisions and requirements of this act, or any person or persons aiding, assisting or abetting in the holding or conducting of such meeting, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each such offense by a fine of not less than five thousand dollars (\$5,000.00) and not more than ten thousand dollars (\$10,000.00), or by imprisonment in the county jail or workhouse for not more than one year, or by both such fine and imprisonment. For the purpose of this section each day of racing in violation of the provisions of this act shall be considered as a separate and distinct offense. All fines paid into court by any person, partnership, association or corporation found guilty of violating this section shall be transmitted and paid over by the clerk of the court to the said commission.

L.1940, c. 17, p. 88, s. 50.

### **5:5-71. Unlawful acts; penalty**

Any person who shall influence or have any understanding or connivance with any owner, driver, jockey, groom or other person associated with or interested in any stable, horse or race in which any horse participated or is to participate, or who shall prearrange or predetermine the results of any such race, any person who attempts to or does interfere with, tamper with, injure or destroy by the use of any narcotic, drug, stimulant, appliance, or by any other means any horse that is to run in a race in the State of New Jersey, whether such horse be the property of such person or another, shall be guilty of a misdemeanor. Any person who shall have the control over any horse that is to run in a race in the State of New Jersey and who allows or permits it to run with the knowledge of any interference with, any tampering with, any injury to by any narcotic, drug, stimulant, appliance or by any other means shall be guilty of a misdemeanor. Any person who causes, instigates, counsels, or in any way aids or abets in any interference with, tampering with, injury to or destruction of any horse that is to run in a race in New Jersey by the use of any narcotic, drug, stimulant, appliance or by any other means shall be guilty of a misdemeanor. The owners of any such horse, their agents or employees shall permit any member of the State Racing Commission or any person appointed by such commission for that purpose to make such test as the commission deems proper in order to determine whether any such horse has been so interfered with, tampered with, injured or destroyed by the use of any narcotic, drug, stimulant, appliance or by any other means. Any person who shall violate any provision of this section shall be guilty of a misdemeanor and upon conviction thereof shall be imprisoned

in the State Prison for not less than one year and not more than ten years, or shall be fined not less than one thousand dollars (\$1,000.00), nor more than five thousand dollars (\$5,000.00), or be punished by both such imprisonment and fine in the discretion of the court.

L.1940, c. 17, p. 88, s. 51. Amended by L.1941, c. 137, p. 465, s. 12.

### **5:5-72. Exceptions; premiums or prizes by fair or agricultural society; harness racing or trotting of horses**

Nothing contained in this act shall prohibit any fair or agricultural society now organized under any law of this State from offering premiums or awarding prizes as heretofore nor the harness racing or trotting of horses for a premium or a prize when the pari-mutuel system of wagering or, any other wagering, pool making or betting is not permitted or conducted thereat; providing, however, no horse racing shall be permitted on any track of this State for any purpose whatsoever between the last day of November in any year and the first day of April of the succeeding year.

L.1940, c. 17, p. 89, s. 52.

### **5:5-73. Permit required**

53. Nothing herein, however, shall be construed to permit the parimutuel system of wagering upon any racetrack unless such racetrack be first granted a permit as provided by this act; and it is hereby declared to be unlawful for any person, partnership, association or corporation to permit, conduct or supervise upon any racetrack the parimutuel system of wagering except in accordance with the provisions of this act, the "Simulcasting Racing Act," P.L.1985, c.269 (C.5:5-110 et seq.), or section 37 of P.L.1992, c.19 (C.5:5-125).

L.1940,c.17,s.53; amended 1983,c.340,s.13; 1985,c.269,s.15; 1992,c.19,s.41.

### **5:5-74. Use of grounds or track of permit holder for fairs, exhibitions or hunt race meet**

Nothing in this act shall be construed to prevent in any way the use of any grounds, enclosure or race track owned or controlled by any permit holder for any fair, county fair, State fair, agricultural or live stock exhibition, or hunt race meet recognized by the National Steeplechase and Hunt Association, even though running racing, harness racing or trotting be conducted thereat, or for any other lawful purpose, when no betting, wagering, pool selling or gambling upon the result of horse racing held thereat is permitted with the knowledge or acquiescence of the person or persons conducting the same, and when the pari-mutuel system of wagering is not conducted.

L.1940, c. 17, p. 90, s. 54. Amended by L.1941, c. 137, p. 466, s. 13.

### **5:5-75. Application to racing of horses only**

Nothing herein shall in any way be construed to permit or to apply to any method or manner of racing except the racing of horses, as herein set forth.

L.1940, c. 17, p. 90, s. 55.

### **5:5-76. Enforcement of Act**

It shall be the duty of the Attorney-General and of the several county prosecutors in this State to enforce the provisions of this act, and the Governor may upon request of the commission order the law enforcing officers of the State of New Jersey or of the various counties and municipalities to assign a sufficient number of deputies to prevent horse racing at any track within the respective jurisdiction of such counties and municipalities, a permit for which has been refused, suspended or revoked by the commission.

L.1940, c. 17, p. 90, s. 56. Amended by L.1953, c. 6, p. 60, s. 10.

### **5:5-77. Appointment of persons with police powers, duties and liabilities; terms; compensation**

In addition thereto said commission may appoint four persons, each of whom, upon being certified by the chairman of the commission to the Secretary of State as such appointee, shall take oath before the Secretary of State to discharge the duties of his position. Such persons, upon appointment and qualification, shall have and possess all the powers, duties and liabilities of police officers in cities, towns, townships and boroughs, in the making of arrests and the execution of criminal processes, the enforcement of all the laws of the State and of the provisions of this act.

Such persons, when appointed, shall hold their positions or employment at the pleasure of the commission or for such terms as the commission may fix or determine. Their compensation shall be such sum as may be agreed upon between the commission and the licensees or permittees authorized or licensed to hold race meetings under the provisions of this act and be paid by such licensees or permittees.

Such persons may be assigned to such duties as the commission may, in its discretion, deem necessary and such persons shall be responsible to no one in the conduct of their duties except the Racing Commission.

L.1940, c. 17, p. 91, s. 57.

### **5:5-78. Photographic devices at finish line**

Every track that operates running races under this act must be equipped with photographic devices for taking pictures at the finish line so as to determine the respective positions of the first three places of the contestants in a close race.

L.1940, c. 17, p. 91, s. 58. Amended by L.1941, c. 137, p. 467, s. 14.

### **5:5-79. Special permit; special running race meetings**

Notwithstanding any of the provisions of the act to which this is a supplement, the commission may grant a special permit, upon joint application of the holders of the outstanding permits authorizing running races in this State, for the holding or conducting of a special running race meeting at one or more of the otherwise authorized running race tracks on such days, other than Sunday, during the entire calendar year of 1962 as the commission may designate. Such special running race meeting shall not exceed 30 racing days in the

aggregate during such calendar year.

L.1962, c. 17, s. 5.

### **5:5-80. Special permit; separate books and records; report and audits**

A special permit holder shall keep and maintain separate books and records for the special running race meeting to the same extent as is required of a permit holder and shall file such report and audits as may otherwise be required on or before such date as the commission may designate.

L.1962, c. 17, s. 6.

### **5:5-81. Special permit; percentage of contributions payable to commission**

Notwithstanding any amount paid by any permit holder pursuant to the provisions of section 46 of the act to which this is a supplement and in satisfaction of any obligation of the special permit holder thereunder, the special permit holder shall pay to the commission for the special running race meeting held during 1962 a sum equal to 7 1/2 % of so much of the total contributions to all pari-mutuel pools conducted or made during such special running race meeting as does not exceed \$40,000,000.00, and 8 1/2 % of so much of such total contributions as exceeds \$40,000,000.00.

L.1962, c. 17, s. 7.

### **5:5-82. Special permit; additional percentage payable; deduction of expenses**

(a) In addition to the amounts otherwise provided in section 7 of this act, a special permit holder for the special running race meeting conducted during calendar year 1962 shall pay to the commission a sum equal to 6% of so much of the total contributions to all pari-mutuel pools conducted or made during such special running race meeting as does not exceed \$40,000,000.00, and 5% of so much of such total contributions as exceed \$40,000,000.00, but shall be entitled to deduct from such sum all expenses applicable to the holding of such running race meeting as shall be approved by the commission. The commission shall approve the following expenses:

(1) Purses and stakes.

(2) Salaries and wages, including the welfare and pension fund contributions and payroll taxes payable by the employer, of police and security personnel, pari-mutuel employees, track maintenance personnel and all personnel employed in connection with the actual conduct of the race.

(3) Expenses in connection with jockeys including necessary supplies, insurance, laundry and meals.

(4) Office equipment and supplies, including postage, stationery and printing costs, in connection with pari-mutuel department and the actual operation of racing.

(5) Rental charges for totalisator, daily double machine and other equipment, including actual repair charges thereto, used in connection with pari-mutuel department and the actual operation of racing.

(6) Any other expenses incurred in connection with the pari-mutuel department and the actual operation of racing, including but not limited to bank service charges, cash over and short and claims, saliva and other tests, stable supplies, valet pool, uniforms and trophies.

All of the above expenses shall be allowed only to the extent that they are actually incurred in connection with the holding of the special running race meeting.

(b) A special permit holder shall pay the sum required in subsection (a) of this section to the commission within 15 days of the last day of the running race meeting.

L.1962, c. 17, s. 8.

### **5:5-83. Special running race meeting; law applicable**

Except to the extent the provisions of this act are inconsistent therewith, the provisions of the act to which this is a supplement shall apply in their entirety to any special running race meeting and any special permit holder.

L.1962, c. 17, s. 9.

### **5:5-84. Sunday and night horse race meetings**

In addition to the hours for which the conduct of horse racing is authorized pursuant to the act to which this act is a supplement, the New Jersey Racing Commission, in issuing a permit to an otherwise qualified applicant, may authorize the conduct of horse race meetings on the days and during such hours between 12:00 o'clock noon and 1:00 o'clock A.M. the following day on every day of the week, as shall be specified in the permit, except that an applicant who opts to conduct horse race meetings on Sunday shall not conduct racing on one other day of the week.

L.1966,c.206,s.1; amended 1990,c.82,ss.2,6.

### **5:5-85. Parimutuel wagering at horse race meetings**

The conduct of the parimutuel system of wagering at horse race meetings on the days upon which such meetings are conducted is authorized and shall be lawful between the hours of 8 a.m. and 1 a.m. the following day on Mondays through Saturdays and between 12 noon and 1 a.m. the following day on Sundays at horse race meetings held on Sunday pursuant to section 1 of P.L.1966, c.206 (C.5:5-84), including wagering at any horse race meeting upon the result of any and all horse races held at such meeting when such wagering is during the hours when wagering is permitted pursuant to this act and prior to the conduct of any race held at said meeting, in the same manner and to the same extent as the parimutuel system of wagering is now authorized.

L.1966,c.206,s.2; amended 1990,c.82,ss.3,6.

### **5:5-86. Legislative findings**

The Legislature finds and declares that measures are required to improve the breeding of horses and the development of the horse industry in this State and for that purpose to provide additional funds from which purses payable to the owners of winning horses may be increased so that New Jersey tracks may attract the better grade of horses and have available through New Jersey breeding an adequate number of high-quality horses for their race meetings, and to encourage the retention in this State of contending horses to meet the

growing demand for horses at race tracks.

L.1967, c. 40, s. 1, eff. April 28, 1967.

### **5:5-88. Payment of moneys to New Jersey horse breeding and development account; distribution**

Every permitholder shall remit and pay to the commission in installments and at the same time and manner provided in section 46 of P.L.1940, c. 17 (C. 5:5-66) all moneys set aside in the special trust account for contributions and awards and horse breeding and promotion pursuant to section 46a.(2)(c) and (d) thereof, section 46b.(1)(b) and (2)(b) thereof, subsection f.(1)(a)(iii) and (iv) and subsection f.(2)(a) of section 7 of P.L.1971, c. 137 (C. 5:10-7), and subsection a.(1)(c) and (d) and subsection b.(1) of section 5 of P.L.1982, c. 201 (C. 5:5-98). All such special trust account moneys received by the commission shall be separately accounted for and paid into the State Treasury for deposit and maintenance by the State Treasurer in a special account entitled "New Jersey Horse Breeding and Development Account." Moneys credited to such special account shall be appropriated to and used by the Department of Agriculture, under the supervision of the State Board of Agriculture, after consultation with and approval of the State Treasurer, for contributions and awards to improve and promote thoroughbred and standardbred breeding in the manners and amounts as provided in said sections.

The Department of Agriculture is authorized to confer with and seek the advice of the New Jersey Equine Advisory Board with reference to the distribution of the moneys as herein provided.

L.1967, c. 40, s. 5, eff. April 28, 1967. Amended by L.1969, c. 50, s. 3; L.1971, c. 85, s. 6, eff. April 8, 1971; L.1980, c. 25, s. 5; L.1982, c. 201, s. 7, eff. Dec. 16, 1982.

### **5:5-89. State programs; notifying secretary of agriculture of amount for deposit**

(a) To assist the Department of Agriculture in formulating State programs in aid of the breeding and development of horses and the preparation of recommendations as to budget requests for such programs, the commission shall, following the close of each horse meeting, notify the Secretary of Agriculture of the total amount of special trust account funds transmitted to the State Treasury for deposit in the New Jersey Horse Breeding and Development Account as a result of such horse race meeting.

(b) The Secretary of Agriculture shall, at the end of each fiscal year, provide the New Jersey Racing Commission with a detailed financial statement of receipts and expenditures under sections 4(b) and 4(c) of this act.

(c) The State Treasurer shall cause to be made, at the end of each fiscal year, a thorough audit of the New Jersey Horse Breeding and Development Account.

L.1967, c. 40, s. 7, eff. April 28, 1967. Amended by L.1969, c. 50, s. 4.

### **5:5-91. Sire stakes program; establishment**

There is hereby established in the State of New Jersey a Sire Stakes Program for standardbred horses, bred in the State of New Jersey and to be the product of a registered New Jersey stallion, registered with the Standardbred Breeders' and Owners' Association of New Jersey as such and listed in their registry books.

Those horses eligible to race under said Sire Stakes Program shall be any foal of any registered New Jersey stallion standing at a New Jersey breeding farm and either owned by a resident of the State of New Jersey or leased by a resident thereof for a period of not less than 10 years to stand the full season on a New Jersey breeding farm. A copy of any such lease shall be filed with the United States Trotting Association, the Standardbred Breeders' and Owners' Association of New Jersey and the New Jersey Racing Commission.

Said Sire Stakes Program shall be administered by a board of trustees consisting of five members, four appointed by the Governor, two of whom shall be members of the Standardbred Breeders' and Owners' Association of New Jersey, two representatives of racing interests generally, and the Secretary of Agriculture, ex officio. Of members first appointed, the term of office of one appointee member of the Standardbred Breeders' and Owners' Association shall be 2 years, the other appointee member of such association shall be 1 year, the term of office of one appointee representing racing interests generally shall be for 2 years and the other appointee representing racing interests generally shall be for a term of 1 year. Thereafter, appointments shall be for terms of 2 years. No member of the board of trustees shall be compensated for his services, however, reasonable travel and other expenses incurred in connection with duties as members of the board may be reimbursed.

The board of trustees is authorized to do all that is necessary for the proper administration of the said Sire Stakes Program and shall prepare, issue and promulgate rules and regulations providing for

- a. Classes and divisions of races, eligibility of horses and owners therefor and prizes and awards to be awarded.
- b. Nominating, sustaining and entry fees on horses and races.
- c. Such temporary programs including eligibility of horses, breeding, and other matters as may be necessary to make the Sire Stakes Program operable as soon as possible.
- d. Registration and certification of New Jersey stallions, mares bred to such stallions and foals produced thereby.
- e. Such other matters as the board determines to be necessary and appropriate for the proper administration and implementation of the Sire Stakes Program.

The funds for the Sire Stakes Program pursuant to section 46 of P.L.1940, c. 17 and the nominating, sustaining and entry fees provided for herein shall be administered by the New Jersey Department of Agriculture by deposit in a trust account entitled Sire Stakes Fund. All disbursements therefrom for the payment of purses and awards, cost of administration, reimbursement of expenses of members of the board of trustees and any other appropriate expenses shall be made by the Secretary of Agriculture or his designee. A report shall be prepared and filed annually by the secretary with the Racing Commission setting forth an itemization of all deposits to and expenditures from said fund.

Sire stake races shall be run at all licensed harness tracks in the State of New Jersey. Said races and purses and awards awarded therefor shall be pursuant to the rules and regulations of the board of trustees hereunder, the New Jersey Racing Commission and the United States Trotting Association.

L.1971, c. 85, s. 1, eff. April 8, 1971.

### **5:5-92. Horsemen's benevolent and protective, standardbred breeders' and owners', and thoroughbred breeders' associations; annual audit; filing**

The New Jersey Horsemen's Benevolent and Protective Association, the Standardbred Breeders' and Owners' Association of New Jersey, and the Thoroughbred Breeders' Association of New Jersey shall file annually with the State Treasurer and the Racing Commission during the month of February for the

preceding calendar year an audit prepared by a certified public accountant of New Jersey of all funds received by such associations under this Title. Said reports shall be subject to review by the treasurer and the Racing Commission.

L.1975, c. 327, s. 3.

### **5:5-93. Standards for determination of New Jersey ownership**

The Standardbred Breeders' and Owners' Association, in the case of standardbred horses, and the Thoroughbred Breeders Association, in the case of thoroughbred horses, shall promulgate standards for determining New Jersey ownership, individual or corporate, of horses for the purposes of qualifying for breeder or stallion awards or for races limited to New Jersey owned or New Jersey bred horses. Such standards shall be subject to the approval of the Racing Commission. Any objection to such standards or the implementation of those standards may be appealed to the commission.

L.1980, c. 25, s. 6.

### **5:5-94. Legislative findings**

The Legislature finds and declares:

- a. The destruction by fire of the Garden State Racetrack in the spring of 1977 was a severe blow to the economic well-being of the area surrounding the racetrack and of the larger South Jersey area, most importantly because of the loss of jobs directly and indirectly connected with the operation of the racetrack and the serving of its patrons.
- b. The demise of the racetrack has also hurt the State because of the loss of revenue to the State generated by attendance at the racetrack and has harmed the racing industry in the State because of an insufficient number of tracks to establish a successful year-round circuit for thoroughbred racing.
- c. It is vitally important that the Garden State Racetrack be reopened as soon as possible so that the economic benefits of an operating track and its attendant service industries will once again flow into the area--and to the State as a whole.
- d. It is desirable to accomplish this reopening through the private sector rather than through a governmental authority, and in order to do so, it is justifiable to offer a private buyer economic advantages and encouragement so that such a buyer will make the initial sizeable capital investment necessary to rebuild the track and will make the continuing expenditures necessary for a successful racetrack operation.
- e. Precedent already exists for recognizing the particular financial problems and needs of individual racetracks and addressing those problems and needs, namely, by allowing a thoroughbred racetrack that receives an average daily parimutuel handle of \$1 million or less to pay less in revenue to the State than a track with a daily handle of more than \$1 million, and by allowing a thoroughbred track with a daily handle of more than \$1 million to retain for its own use an additional 1% out of the State's share of the handle when that track faces competition from a harness track during the summer months.

L.1982, c. 201, s. 1, eff. Dec. 16, 1982.

### **5:5-95. Acquisition of Garden State Racetrack by Sports and Exposition Authority; suspension**

Notwithstanding the provisions of P.L.1978, c. 1 (C. 5:10-27 et seq.) to the contrary, the New Jersey Sports and Exposition Authority shall not acquire the Garden State Racetrack during the period of one year following the effective date of this act.

L.1982, c. 201, s. 2, eff. Dec. 16, 1982.

### **5:5-96. Private purchase of Garden State Racetrack; application for racing permits**

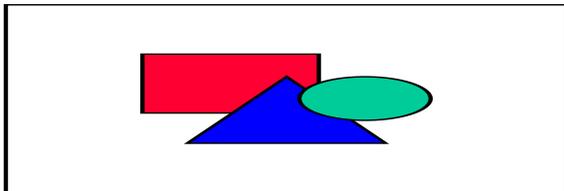
Notwithstanding the provisions of P.L.1940, c. 17 (C. 5:5-22 et seq.) to the contrary, if a private buyer purchases the Garden State Racetrack during the period of one year following the effective date of this act and applies to the New Jersey Racing Commission for a racing permit or permits, the commission shall review and act on the application within 30 days after its filing and is authorized in its sole discretion to determine whether a permit shall be granted to the applicant. If, after the review, the commission acts favorably on the application, a permit shall be granted to the applicant without any further approval. No hearing, referendum, or other election or proceeding shall be required for the private buyer to hold or conduct the horse race meetings with parimutuel wagering herein authorized.

L.1982, c. 201, s. 3, eff. Dec. 16, 1982.

### **5:5-97. Racing date allocation; renewal allotment**

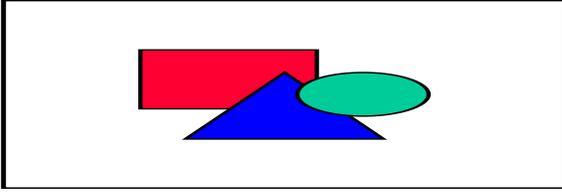
In granting a permit to the applicant to conduct a horse race meeting, the commission shall not be subject to any limitation as to the number of tracks authorized for the conduct of horse race meetings pursuant to any provision of P.L.1940, c. 17 (C. 5:5-22 et seq.). The permit shall set forth the dates to be allotted to the applicant for its initial horse race meetings. Thereafter application for dates for horse race meetings by the permitholder and the allotment thereof by the commission, including the renewal of the same dates theretofore allotted, shall be governed by the applicable provisions of P.L.1940, c. 17 (C. 5:5-22 et seq.). Notwithstanding the provision of any other law to the contrary, the commission shall allot annually to the permitholder, in the case of running racing, not less than 100 racing days after January 31 and prior to July 1, and in the case of harness racing, not less than 100 racing days after August 31 and prior to January 1 following, if and to the extent that application is made therefor.

L.1982, c. 201, s. 4, eff. Dec. 16, 1982.



### **5:5-98 Garden State Racetrack**

5. The permitholder shall distribute the sums deposited in parimutuel pools to winners thereof in accordance with section 44 of P.L.1940, c.17 (C.5:5-64) and shall dispose of the deposits remaining



undistributed as follows:

a. In the case of harness races:

(1) Hold and set aside in an account designated as a special trust account 1% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40 (C.5:5-88), for the following purposes and no other:

(a) 42 1/2% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(b) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as provided;

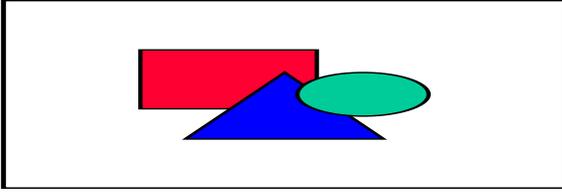
(c) 5 1/2% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses, which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion roster of the Standardbred Breeders' and Owners' Association of New Jersey, which sire such registered New Jersey bred money earners;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

Payment of the sums held and set aside pursuant to subparagraphs (c) and (d) shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

(2) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 5.1175%, or in the case of races on a charity racing day 5%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.5% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the permitholder. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 5.6175%, or in the case of races on a charity racing day 5.5%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 7.1175%, or in the case of races on a charity racing day 7%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the permitholder shall retain out of the 7.1175% or 7% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(3) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.



(4) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

b. In the case of running races:

(1) Hold and set aside in an account designated as a special trust account 5% of 1% of such total contributions, to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(2) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association 4.475%, or in the case of races on a charity racing day 4.24%, of such total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association shall not exceed 2.9% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horseman's Benevolent Association and the permitholder. Notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 7.475%, or in the case of races on a charity racing day 7.24%, of the total contributions.

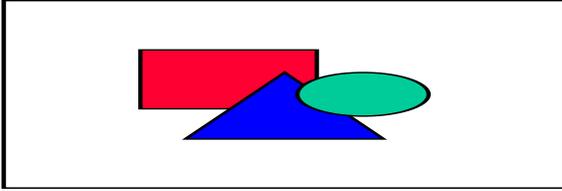
(3) 60% of 1% of all pools shall be deducted and set aside in the special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66). The commission may, however, reduce this amount for a period of time to be determined by the commission upon a request by the permitholder and a determination by the commission that the payment of that amount would cause extreme financial hardship for the permitholder. In no event shall the commission reduce the amount to less than 10% of 1% of total contributions to all parimutuel pools at running race meetings at the racetrack. The permitholder may request an extension of the period of reduction or a further reduction or, subsequent to any restoration of the amount specified above, another reduction.

(4) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

For pools where a patron is required to select three or more horses, 50% of 1% of the total contributions shall be held and set aside in the special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66).

Payment of the sums held and set aside pursuant to paragraphs (1) and (3) of this subsection shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.



In addition to the amounts above, in the case of races on a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), an amount equal to 1/2 of 1% of all parimutuel pools shall be paid to the commission at the time and in the manner prescribed by the commission.

All amounts remaining in parimutuel pools, including the breaks, after the distribution and payments required by this section shall constitute revenues of the permitholder. Except as otherwise provided in this section, the permitholder shall not be required to make any payments to the commission or others in connection with contributions to parimutuel pools.

L.1982,c.201,s.5; amended 1985, c.129; 1986, c.19, s.4; 1993, c.353, s.4; 1995, c.64; 1997, c.80, s.4.

### **5:5-99. Conduct of meetings and wagering; standards, rules, regulations and conditions**

Except as otherwise provided in this act, the horse race meetings and parimutuel wagering conducted by the permitholder shall be conducted in the manner and subject to compliance with the standards set forth in P.L.1940, c. 17 (C. 5:5-22 et seq.) and the rules, regulations, and conditions prescribed by the racing commission thereunder for the conduct of horse race meetings and for parimutuel wagering at those meetings.

L.1982, c. 201, s. 6, eff. Dec. 16, 1982.

### **5:5-110. Short title**

Sections 1 through 12 of this act shall be known and may be cited as the "Simulcasting Racing Act."

L. 1985, c. 269, s. 1, eff. Nov. 5, 1985.

### **5:5-111. Definitions**

2. As used in this act:

a. "Horsemen's organization" means the Horsemen's Benevolent and Protective Association, the Standardbred Breeders' and Owners' Association, or another organization or group representing a majority of horsemen engaged in competing for purses during a regularly scheduled horse race meeting, as the case may be.

b. "Intertrack wagering" means parimutuel wagering on simulcast horse races held at an in-State sending track by patrons at a receiving track and the electronic transmission of the wagers to the in-State sending track.

c. "Intertrack wagering license" means a license issued by the New Jersey Racing Commission permitting intertrack wagering.

d. "Receiving track" means a racetrack within the State which is operated by the holder of an annual permit to conduct a horse race meeting and which is equipped to receive simulcast horse races and to conduct intertrack wagering on those races.

e. "In-State sending track" means a racetrack within the State which is operated by the holder of an annual permit to conduct a horse race meeting and which is equipped to provide simulcast horse races to a receiving track and to conduct intertrack wagering on those races.

f. "Out-of-State sending track" means a racetrack in a jurisdiction other than the State of New Jersey which is lawfully permitted to conduct a horse race meeting and to provide simulcast horse races to a racetrack in this State.

g. "Simulcast horse races" means horse races conducted at an in-State sending track or an out-of-State sending track, as the case may be, and transmitted simultaneously by picture to a receiving track.

h. "Interstate common pool" means a parimutuel pool established within this State or in another state or foreign nation within which is combined comparable parimutuel pools of one or more receiving tracks located in one or more states or foreign nations upon a race at a sending track located within or outside of this State for the purpose of establishing pay-off prices in the various jurisdictions.

L.1985,c.269,s.2; amended 1991,c.411,s.1.

### **5:5-112. Intertrack wagering license**

Upon the filing of a joint application by a receiving and an in-State sending track and after the holding of a public hearing, the New Jersey Racing Commission may issue an intertrack wagering license to a receiving track specifying the periods of time during a calendar year and the hours during the day or night when intertrack wagering is permitted and prescribing any other conditions or terms the commission deems appropriate, provided that:

a. The receiving track demonstrates to the satisfaction of the commission that it has conducted a regularly scheduled horse race meeting pursuant to an annual permit issued by the commission and has complied with the terms of the permit, or the receiving track agrees to conduct such a horse race meeting and to comply with the terms of the permit for the meeting unless otherwise directed or permitted by the commission.

b. The in-State sending track produces an agreement in writing, or testimony at the public hearing, demonstrating that the horsemen's organization engaged in competing for the purses at the in-State sending track approves of intertrack wagering during the period when an intertrack wagering license shall be in effect.

c. If intertrack wagering will occur at the receiving track at the same time the receiving track is conducting a horse race meeting, the receiving track produces an agreement in writing, or testimony at the public hearing, demonstrating that the horsemen's organization at the receiving track approves of intertrack wagering during the period of the horse race meeting.

L. 1985, c. 269, s. 3, eff. Nov. 5, 1985.

### **5:5-113. Joint application requirements**

A joint application for an intertrack wagering license shall include a written agreement between the receiving and in-State sending tracks providing a detailed plan of operation for the simultaneous picture transmission of races from the in-State sending track to the receiving track, the transmission to the in-State sending track of wagers placed at the receiving track, and the distribution of the parimutuel pool to the winning ticketholders at the receiving track.

L. 1985, c. 269, s. 4, eff. Nov. 5, 1985.

### **5:5-114. Filing of objection**

Any holder of a permit to conduct a horse race meeting within the State may file an objection to a joint application prior to the public hearing required to be held on the application. Any permit holder filing such an objection shall have the burden to demonstrate at the public hearing good cause as to why the issuance of an intertrack wagering license would be adverse to the public interest, as defined in section 24 of P.L. 1940, c. 17 (C. 5:5-44).

L. 1985, c. 269, s. 5, eff. Nov. 5, 1985.

### **5:5-115. No substitution of in-State races**

Under no circumstances shall a receiving track be permitted to substitute a race transmitted to it from an in-State sending track for a live race or races scheduled during a horse race meeting at the receiving track. Subject to the approval of the New Jersey Racing Commission and agreement in writing from the horsemen's organization at the receiving track, and in accordance with applicable federal law, a receiving track may substitute a race of national interest transmitted to it from an out-of-State sending track for a live race or races scheduled during a horse race meeting at the receiving track, pursuant to section 10 of this act.

L. 1985, c. 269, s. 6, eff. Nov. 5, 1985.

### **5:5-116. Distribution of wagers**

7. Except as otherwise provided in sections 8 and 10 of this act, and in sections 7 and 8 of P.L.1991, c.411 (C.5:5-123 and 5:5-124) and by the rules and regulations of the commission with respect to interstate common pools, sums wagered at the receiving track shall be deposited in the appropriate parimutuel pool generated at the in-State sending track for the race being transmitted and shall be distributed pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) as if such sums were wagered at the sending track. Payment to persons holding winning tickets at the receiving track shall be made according to the same odds as those generated at the in-State sending track.

L.1985,c.269,s.7; amended 1991,c.411,s.2.

### **5:5-117. Distribution of purse money**

8. Except as provided by section 8 of P.L.1991, c.411 (C.5:5-124) and by the rules and regulations of the commission with respect to interstate common pools, the in-State sending track shall reserve and set aside out of the portion of the parimutuel pool to be distributed as purse money pursuant to section 46 of

P.L.1940, c.17 (C.5:5-66) an amount equal to 25%, of the amount that would be distributed as purse money pursuant to that section on the basis of the parimutuel pool generated at the receiving track. These sums shall be forwarded to the receiving track and shall be used to supplement the payment of overnight purses at the next horse race meeting to be conducted by the receiving track, except that if the receiving track is conducting a horse race meeting at the same time as the receipt of the simulcast horse races, the receiving track shall use those sums to supplement overnight purses at that horse race meeting.

L.1985,c.269,s.8; amended 1988,c.27; 1991,c.411,s.3.

### **5:5-118. Intertrack wagering declared lawful**

Notwithstanding any other law to the contrary, intertrack wagering shall be lawful; provided that an intertrack wagering license has been issued to the receiving track.

L. 1985, c. 269, s. 9, eff. Nov. 5, 1985.

### **5:5-119. Simulcasting of out-of-State races**

10. Notwithstanding any other law to the contrary, the New Jersey Racing Commission, upon application by a receiving track and in accordance with applicable federal law, may permit the track to receive simulcast horse races of national interest held at out-of-State sending tracks and to conduct parimutuel wagering thereon. Except as provided by section 7 of P.L.1991, c.411 (C.5:5-123) and by the rules and regulations of the commission with respect to interstate common pools, all receipts from wagering under this section shall form a pool at the receiving track and shall be distributed pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) as if those receipts were the product of wagering on live races at that time at the receiving track.

L.1985,c.269,s.10; amended 1991,c.411,s.4.

### **5:5-120. In-State races simulcast out-of-State**

11. Notwithstanding any other law to the contrary, the New Jersey Racing Commission, upon application by an in-State sending track and in accordance with applicable federal law, may permit the track to contract with an entity in another jurisdiction to permit any legal wagering entity in the other jurisdiction to receive simulcast horse races run live at the in-State sending track and to conduct parimutuel wagering thereon within the other jurisdiction. The terms and conditions of the contract shall be established by the parties and may include as consideration therefor the receipt by the in-State sending track of a percentage of the sum wagered on a given race or races in accordance with the law of the receiving jurisdiction and may include participation in interstate common pools as provided by section 6 of P.L.1991, c.411 (C.5:5-122).

L.1985,c.269,s.11; amended 1991,c.411,s.5.

### **5:5-121. Rules, regulations**

The commission shall promulgate and adopt such rules and regulations as are necessary to effectuate the purposes of this act.

L. 1985, c. 269, s. 12, eff. Nov. 5, 1985.

### **5:5-122. Interstate common pools**

6. Subject to applicable federal laws, the commission may permit receiving tracks which are authorized to receive simulcast horseraces of national interest held at out-of-State sending tracks pursuant to section 10 of P.L.1985, c.269 (C.5:5-119) and in-State sending tracks authorized to transmit simulcast horse races to other jurisdictions pursuant to section 11 of P.L.1985, c.269 (C.5:5-120) to participate in interstate common pools.

Except as provided in sections 7 and 8 of P.L.1991, c.411 (C.5:5-123 and 5:5-124) and by rule or regulation of the commission, all provisions of the laws of this State governing parimutuel wagering shall apply to interstate common pools.

Except as otherwise provided by rule or regulation of the commission, participation in an interstate common pool shall not cause any participating party to be deemed to be doing business in any state other than the state in which it is physically located.

L.1991,c.411,s.6.

### **5:5-123. Distribution of and wagering rules for receiving track parimutuel pools merged into interstate common pools**

7. With the prior approval of the commission, a receiving track which the commission has permitted to receive simulcast horse races of national interest held at out-of-State sending tracks and to conduct parimutuel wagering thereon pursuant to section 10 of P.L.1985, c.269 (C.5:5-119) may combine parimutuel pools in this state with comparable pools at the out-of-State sending track. The types of wagering takeout, distribution of winnings and rules of racing in effect for parimutuel pools at the sending racetrack shall govern wagers placed in this State and merged into the interstate common pool. Breakage for interstate common pools shall be calculated in accordance with the law or rules governing the sending racetrack and shall be distributed between participating jurisdictions in the manner agreed to between the receiving track and the out-of-State sending track.

With the prior approval of the commission and the concurrence of the out-of-State sending track, a receiving track and receiving tracks or entities in other states other than the state in which the sending track is located may form an interstate common pool. With respect to such interstate common pools the commission may approve types of wagering, takeout, distribution of winnings, rules of racing and method of calculating breakage which are different from those which would otherwise be applied in this State but which are consistent for all parties to the interstate common pool.

The receiving track may deduct from wagers placed in any interstate common pool any fee to the person or entity conducting the race for the privilege of conducting parimutuel wagering on the race and costs incurred in transmitting the broadcast of the race and participation in the interstate common pool.

Any provision of law or contract governing the distribution of shares of the takeout, from wagers placed in this State in separate parimutuel pools on races run in another state, to this State as parimutuel taxes or respectively to breeder awards and to purses in this State shall remain in effect for wagers placed in interstate common pools. However, if the commission shall have approved an adjustment in the takeout rates, the distribution of the takeout within this State shall be adjusted proportionately to reflect the adjustment in the takeout rate. In addition, with the approval of the receiving track and the organization representing respectively a majority of the breeders or other horsepersons, their respective share may be modified.

L.1991,c.411,s.7.

### **5:5-124. Wagering and distribution rules for sending track parimutuel pools merged into interstate common pools**

8. With the prior approval of the commission, an in-State sending track which the commission has permitted to contract with a legal wagering entity in another jurisdiction to receive horse races run live at the in-State sending track and to conduct parimutuel wagering thereon within the other jurisdiction may permit parimutuel pools in other States to be combined with its comparable wagering pools or with wagering pools established by other states. The commission may modify its rules and adopt separate rules governing interstate common pools and may establish separate rules governing the calculation of breakage for interstate common pools.

Parimutuel taxes shall not be imposed upon any amounts wagered in an interstate common pool other than upon amounts wagered in this state.

Any provision of law or contract governing the distribution of shares of the takeout from wagers placed in other states in separate parimutuel pools on races run in this State, to this State as parimutuel taxes or respectively to breeders and to purses in this State shall remain in effect for wagers placed in interstate common pools. However, with the approval of the in-State sending track and the organization representing respectively a majority of the breeders or other horsepersons, their respective share may be modified.

L.1991,c.411,s.8.

### **5:5-125. Race track may receive simulcast transmissions from out-of-State track; interstate common pools, formation**

37. a. (1) Notwithstanding any other law to the contrary, the New Jersey Racing Commission, upon application by a receiving track, as defined in section 2 of P.L.1985, c.269 (C.5:5-111), and in accordance with applicable federal law, may permit the track to receive, in addition to the horse races authorized by section 10 of P.L.1985, c.269 (C.5:5-119), simulcast transmissions of the racing program, in full or in part, from any out-of-State sending track, as defined in section 2 of P.L.1985, c.269 (C.5:5-111), during any time period, provided that the receiving track agrees to receive all simulcast horse races which any in-State sending track wishes to transmit to it during that same time period, and provided further that, except as provided in subsection b. of this section, the parimutuel pools at the receiving track shall be combined with comparable parimutuel pools at the out-of-State sending track. No limit shall be placed on the number of racing programs the track may receive from out-of-State sending tracks except as otherwise provided herein.

(2) Whenever an out-of-State sending track participates in simulcasting pursuant to paragraph (1) of this subsection and the parimutuel pools are combined at the out-of-State sending track, the types of wagering, takeout, distribution of winnings, rules of racing, method of calculating breakage, and the percentage of deposits remaining undistributed from a parimutuel pool after payment is made to winning ticket holders shall be determined in accordance with the law or policy applicable to the out-of-State sending track. However, moneys resulting from breakage on amounts wagered at the receiving track and from outstanding parimutuel tickets issued at the receiving track in all instances shall be distributed as provided by section 38 of this act.

b. With the prior approval of the New Jersey Racing Commission and the concurrence of the out-of-State sending track, a receiving track and receiving tracks or entities in other states other than the state in which the sending track is located may form an interstate common pool, as defined in section 2 of P.L.1985, c.269

(C.5:5-111). With respect to such interstate common pools, the Racing Commission may approve types of wagering, takeout, distribution of winnings, rules of racing, method of calculating breakage, and a percentage of deposits remaining undistributed from a parimutuel pool after payment is made to winning ticket holders which are different from those which would otherwise be applied in this State but which are consistent for all parties to the interstate common pool. However, moneys resulting from breakage on amounts wagered at the receiving track and from outstanding parimutuel tickets issued at the receiving track in all instances shall be distributed as provided in section 38 of this act.

c. A receiving track which is authorized by the New Jersey Racing Commission to receive the racing program, in full or in part, from an out-of-State sending track pursuant to subsection a. of this section shall pay the out-of-State sending track an amount equal to not more than 3% of each parimutuel pool generated at the receiving track. If the receiving track negotiates an agreement to pay the out-of-State sending track an amount equal to less than 3% of the parimutuel pool generated at the receiving track, the receiving track shall be entitled to retain the difference between the amount agreed upon and 3%.

L.1992,c.19,s.37.

### **5:5-126. Distribution of amounts resulting from parimutuel pool for out-of-State program**

38. a. If a receiving track which is authorized by the New Jersey Racing Commission to receive the racing program, in full or in part, from an out-of-State sending track pursuant to section 37 of this act is not conducting live racing at the time of receiving the out-of-State races, the amount resulting from the takeout rate shall be distributed as follows:

(1) (Deleted by amendment, P.L.1993, c.353.)

(2) .50% of the parimutuel pool generated at the in-State receiving track shall be deposited as follows:

(a) in the case of an in-State receiving track which conducts harness races, in the special trust account established pursuant to or specified in section 46a.(2) of P.L.1940, c.17 (C.5:5-66), section 2b. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(1) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(a) of P.L.1971, c.137 (C.5:10-7), as appropriate, for use and distribution as provided in section 46a.(2)(a), (b), and (c) of P.L.1940, c.17 (C.5:5-66), section 2b.(1), (2), and (3) of P.L.1984, c.236 (C.5:5-66.1), section 5a.(1)(a), (b), and (c) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(a)(i), (ii), and (iii) of P.L.1971, c.137 (C.5:10-7); and

(b) in the case of an in-State receiving track which conducts running races, in the special trust account established pursuant to or specified in section 46b.(1)(e) or (2)(e) of P.L.1940, c.17 (C.5:5-66), section 5b.(3) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(c) of P.L.1971, c.137 (C.5:10-7), as appropriate, for use and distribution as provided therein;

(3) .03% of the parimutuel pool generated at the in-State receiving track shall be paid to the New Jersey Racing Commission and set aside in the special trust account for horse breeding and development for distribution and use as provided in section 5 of P.L.1967, c.40 (C.5:5-88);

(4) on the basis of all races in each program, or if two or more programs are being transmitted simultaneously, on the basis of all races in all such programs running simultaneously, 3.735% of the first \$100,000 of the total pool generated at the in-State receiving track; 5.235% of the total pool from \$100,001 to \$150,000; 5.735% of the total pool from \$150,001 to \$250,000; 6.235% of the total pool from \$250,001 to \$300,000; and, if the amount of the total pool is above \$300,000, 6.485% of the total amount of the pool or the percentage of the parimutuel pool for overnight purses on live races that the receiving track and

horsemen have agreed to by contract, whichever is greater, shall be paid as follows:

(a) in the case of an in-State receiving track which conducts harness races, .1175% of the parimutuel pool to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen, and the remaining amount as overnight purse money at the next race meeting at the receiving track, except that if the receiving track is conducting a horse race meeting at the same time as the receipt of the simulcast horse races, the receiving track shall use those sums to supplement overnight purses at that horse race meeting, and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey, as provided in section 46a.(4) of P.L.1940, c.17 (C.5:5-66), section 2d. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate; and

(b) in the case of an in-State receiving track which conducts running races, as overnight purse money at the next race meeting at the receiving track, except that if the receiving track is conducting a horse race meeting at the same time as the receipt of the simulcast horse races, the receiving track shall use those sums to supplement overnight purses at that horse race meeting, and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association, as provided in section 46b.(1)(d) or (2)(d) of P.L.1940, c.17 (C.5:5-66), section 5b.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate;

(5) .02% of the parimutuel pool generated at the in-State receiving track shall be paid as follows:

(a) in the case of an in-State receiving track which conducts harness races, to the Sire Stakes Program for standardbred horses; and

(b) in the case of an in-State receiving track which conducts running races, to the Thoroughbred Breeders' Association of New Jersey;

(6) .01% of the parimutuel pool generated at the in-State receiving track shall be paid to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8); and (7) the amount remaining after the deduction of the amounts under paragraphs (2), (3), (4), (5), and (6) shall be paid to the receiving track.

b. If a receiving track includes out-of-State races as part of its live racing program in any way, the amount resulting from the takeout rate shall be distributed as follows:

(1) (Deleted by amendment, P.L.1993, c.353.)

(2) .50% of the parimutuel pool generated at the in-State receiving track shall be deposited as follows:

(a) in the case of an in-State receiving track which conducts harness races, in the special trust account established pursuant to or specified in section 46a.(2) of P.L.1940, c.17 (C.5:5-66), section 2b. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(1) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(a) of P.L.1971, c.137 (C.5:10-7), as appropriate, for use and distribution as provided in section 46a.(2)(a), (b), and (c) of P.L.1940, c.17 (C.5:5-66), section 2b.(1), (2), and (3) of P.L.1984, c.236 (C.5:5-66.1), section 5a.(1)(a), (b), and (c) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(a)(i), (ii), and (iii) of P.L.1971, c.137 (C.5:10-7); and

(b) in the case of an in-State receiving track which conducts running races, in the special trust account established pursuant to or specified in section 46b.(1)(e) or (2)(e) of P.L.1940, c.17 (C.5:5-66), section 5b.(3) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(c) of P.L.1971, c.137 (C.5:10-7), as appropriate, for use and distribution as provided therein;

(3) .03% of the parimutuel pool generated at the in-State receiving track shall be paid to the New Jersey

Racing Commission and set aside in the special trust account for horse breeding and development for distribution and use as provided in section 5 of P.L.1967, c.40 (C.5:5-88);

(4) 6.235% of the parimutuel pool generated at the in-State receiving track or the percentage of the parimutuel pool for overnight purses on live races that the racetrack and horsemen have agreed to by contract, whichever is greater, shall be paid as follows:

(a) in the case of an in-State receiving track which conducts harness races, .1175% of the parimutuel pool to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen, and the remaining amount as overnight purse money at the current race meeting at the receiving track and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey, as provided in section 46a.(4) of P.L.1940, c.17 (C.5:5-66), section 2d. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate; and

(b) in the case of an in-State receiving track which conducts running races, as overnight purse money at the current race meeting at the receiving track and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association, as provided in section 46b.(1)(d) or (2)(d) of P.L.1940, c.17 (C.5:5-66), section 5b.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate;

(5) .02% of the parimutuel pool generated at the in-State receiving track shall be paid as follows:

(a) in the case of an in-State receiving track which conducts harness races, to the Sire Stakes Program for standardbred horses; and

(b) in the case of an in-State receiving track which conducts running races, to the Thoroughbred Breeders' Association of New Jersey;

(6) .01% of the parimutuel pool generated at the in-State receiving track shall be paid to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8); and

(7) the amount remaining after the deduction of the amounts under paragraphs (2), (3), (4), (5), and (6) shall be paid to the receiving track.

c. All breakage moneys and outstanding parimutuel ticket moneys resulting from the wagering at the receiving track on the additional out-of-State simulcast races authorized by section 37 shall be divided as follows:

(1) 50% shall be paid to the receiving track; and

(2) 50% shall be paid as follows:

(a) in the case of an in-State receiving track which conducts harness races, as overnight purse money at the receiving track and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey, as provided in section 46a.(4) of P.L.1940, c.17 (C.5:5-66), section 2d. of P.L.1984, c.236 (C.5:5-66.1), section 5a.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(1)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate; and

(b) in the case of an in-State receiving track which conducts running races, as overnight purse money at the receiving track and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association, as provided in section 46b.(1)(d) or (2)(d) of P.L.1940, c.17 (C.5:5-

66), section 5b.(2) of P.L.1982, c.201 (C.5:5-98), or section 7f.(2)(b) of P.L.1971, c.137 (C.5:10-7), as appropriate.

L.1992,c.19,s.38; amended 1993,c.353,s.5.

## **CHAPTER 9. STATE LOTTERY LAW**

### **5:9-1. Short title**

This act shall be known and may be cited as the "State Lottery Law."

L.1970, c. 13, s. 1, eff. Feb. 16, 1970.

### **5:9-2. Purpose of act**

This act is enacted to implement the amendment of Article IV, Section VII, paragraph 2, of the Constitution of New Jersey, approved by the people in the general election of November, 1969, and to carry out the mandate thereof by establishing a lottery to be operated by the State, the entire net proceeds of which are to be used for State institutions and State aid for education.

L.1970, c. 13, s. 2, eff. Feb. 16, 1970.

### **5:9-3. Definitions**

For the purposes of this act:

- a. "Commission" shall mean the State Lottery Commission established by this act.
- b. "Division" shall mean the Division of the State Lottery created by this act.
- c. "Lottery" or "State lottery" shall mean the lottery established and operated pursuant to this act.
- d. "Director" shall mean the Director of the Division of the State Lottery.

L.1970, c. 13, s. 3, eff. Feb. 16, 1970.

### **5:9-4. Division of the state lottery; establishment**

There is hereby established in the Department of the Treasury a Division of the State Lottery, which shall include a State Lottery Commission and a director.

L.1970, c. 13, s. 4, eff. Feb. 16, 1970.

### **5:9-5. State lottery commission; members**

The commission shall consist of the State Treasurer and six public members, all of whom shall be citizens and residents of this State and all of whom shall be appointed by the Governor by and with the advice and

consent of the Senate. No more than three of the six public members shall be members of the same political party. The public members shall be appointed for terms of 5 years, except that of the members first appointed, one shall be appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years, and one for a term of 5 years, commencing as of the date of their appointment by the Governor. The term of each of the members first appointed shall be designated by the Governor. The term of the additional public member appointed pursuant to this 1983 amendatory act shall be five years. The members shall annually elect one of the public members as chairman of the commission and shall also annually elect one of the public members as vice chairman of the commission.

Any vacancy in the commission occurring for any reason other than the expiration of term shall be filled for the unexpired term in the same manner as the original appointment.

Any public member of the commission may be removed from office by the Governor, for cause, upon notice and opportunity to be heard at a public hearing.

The public members of the commission shall receive no salaries but shall be allowed reasonable expenses incurred in the performance of their official duties in an amount not exceeding \$5,000.00 per annum in the case of the chairman, and \$3,500.00 in the case of each of the other commissioners.

The State Treasurer may designate an officer or employee of his department to represent him at meetings of the commission, who may lawfully vote and otherwise act on behalf of the Treasurer. Any designation shall be in writing, delivered to the commission and filed with the Secretary of State and shall continue in effect, unless by its terms it is made for a fixed period, until revoked or amended in the same manner as provided for the designation.

L.1970, c. 13, s. 5, eff. Feb. 16, 1970. Amended by L.1983, c. 60, s. 1, eff. Feb. 7, 1983.

### **5:9-6. Director of division**

The division shall be under the immediate supervision and direction of a director, who shall be a person qualified by training and experience to direct the work of such division. The director shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.

Any vacancy occurring in the office of the director shall be filled in the same manner as the original appointment.

The director of said division shall devote his entire time and attention to the duties of his office and shall not be engaged in any other profession or occupation. He shall receive such salary as shall be provided by law.

L.1970, c. 13, s. 6, eff. Feb. 16, 1970.

### **5:9-7. Commission; powers and duties**

The commission shall have the power, and it shall be its duty:

- a. After full and thorough study of the report and recommendations of the State Lottery Planning Commission established pursuant to Joint Resolution Number 11, approved November 20, 1969, and such other pertinent information as may be available, to promulgate such rules and regulations governing the establishment and operation of a State lottery as it deems necessary and desirable in order that the mandate of the people expressed in their approval of the amendment to Article IV, Section VII, paragraph 2, of the

Constitution in the general election of November, 1969, may be fully implemented, in order that such a lottery shall be initiated at the earliest feasible and practicable time, and in order that such lottery shall produce the maximum amount of net revenues for State institutions and State aid for education consonant with the dignity of the State and the general welfare of the people. Such rules and regulations may include, but shall not be limited to, the following:

- (1) The type of lottery to be conducted.
- (2) The price, or prices, of tickets or shares in the lottery.
- (3) The number and sizes of the prizes on the winning tickets or shares.
- (4) The manner of selecting the winning tickets or shares.
- (5) The manner of payment of prizes to the holders of winning tickets or shares, including, subject to the approval of the State Treasurer, provision for payment of prizes not to exceed \$599.00 by agents licensed hereunder out of moneys received from sales of tickets or shares.
- (6) The frequency of the drawings or selections of winning tickets or shares, without limitation.
- (7) Without limit as to number, the type or types of locations at which tickets or shares may be sold.
- (8) The method to be used in selling tickets or shares.
- (9) The licensing of agents to sell tickets or shares, provided that no person under the age of 21 shall be licensed as an agent.
- (10) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public.
- (11) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among (a) the payment of prizes to the holders of winning tickets or shares, (b) the payment of costs incurred in the operation and administration of the lottery, including the expenses of the division and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of lottery equipment and materials, (c) for the repayment of the money appropriated to the State Lottery Fund pursuant to section 23 of this act, and (d) for transfer to the general fund for State institutions and State aid for education; provided, however, that no less than 30% of the total revenues accruing from the sale of lottery tickets or shares shall be dedicated to (d), above.
- (12) Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

Notwithstanding the provisions of any other law to the contrary, no rule or regulation establishing a lottery game shall be considered an "administrative rule" or "rule" pursuant to P.L.1968, c. 410 (C. 52:14B-1 et seq.).

- b. To amend, repeal, or supplement any such rules and regulations from time to time as it deems necessary or desirable.
- c. To advise and make recommendations to the director regarding the operation and administration of the lottery.
- d. To report monthly to the Governor and the Legislature the total lottery revenues, prize disbursements and other expenses for the preceding month, and to make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor and the

Legislature, and including such recommendations for changes in this act as it deems necessary or desirable.

e. To report immediately to the Governor and the Legislature any matters which shall require immediate changes in the laws of this State in order to prevent abuses and evasions of this act or rules and regulations promulgated thereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

f. To carry on a continuous study and investigation of the lottery throughout the State (1) for the purpose of ascertaining any defects in this act or in the rules and regulations issued thereunder by reason whereof any abuses in the administration and operation of the lottery or any evasion of this act or the rules and regulations may arise or be practiced, (2) for the purpose of formulating recommendations for changes in this act and the rules and regulations promulgated thereunder to prevent such abuses and evasions, (3) to guard against the use of this act and the rules and regulations issued thereunder as a cloak for the carrying on of organized gambling and crime, and (4) to insure that said law and rules and regulations shall be in such form and be so administered as to serve the true purposes of this act.

g. To make a continuous study and investigation of (1) the operation and the administration of similar laws which may be in effect in other states or countries, (2) any literature on the subject which from time to time may be published or available, (3) any Federal laws which may affect the operation of the lottery, and (4) the reaction of New Jersey citizens to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this act.

L.1970, c. 13, s. 7, eff. Feb. 16, 1970. Amended by L.1977, c. 169, s. 1, eff. Aug. 10, 1977; L.1981, c. 182, s. 1, eff. June 19, 1981.

### **5:9-7.1. Video machines**

Notwithstanding any other provision of law to the contrary, no lottery or type of lottery or lottery game shall be authorized or conducted which uses any video mechanical, electrical or other video device, contrivance or machine which, upon the insertion by the participant of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, tokens to be exchanged for cash, or any other prize, whether the payoff is made automatically from the machine or in any other manner whatsoever.

L.1983, c. 80, s. 1, eff. March 1, 1983.

### **5:9-8. Director; powers and duties**

The director shall have the power, and it shall be his duty to:

a. Supervise and administer the operation of the lottery in accordance with the provisions of this act and with the rules and regulations of the commission.

b. Subject to the approval of the commission, appoint such deputy directors as may be required to carry out the functions and duties of the division, which deputy directors shall be in the unclassified service of the civil service.

c. Subject to the approval of the commission and Title 11 of the Revised Statutes, Civil Service, appoint such professional, technical and clerical assistants and employees as may be necessary to perform the duties imposed upon the division by this act.

d. Act as secretary and executive officer of the commission.

e. In accordance with the provisions of this act and the rules and regulations of the commission, to license as agents to sell lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent, in such amount as provided in the rules and regulations of the commission. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the rules and regulations of the commission.

f. Shall confer regularly as necessary or desirable and not less than once every month with the commission on the operation and administration of the lottery; shall make available for inspection by the commission, upon request, all books, records, files, and other information and documents of the division; shall advise the commission and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery.

g. Suspend or revoke any license issued pursuant to this act or the rules and regulations promulgated thereunder.

h. Subject to the approval of the commission and the applicable laws relating to public contracts, to act on behalf of the commission as using agency with respect to purchases made by the Division of Purchase and Property of goods and services required in the operation of the lottery.

i. To certify monthly to the State Treasurer and the commission a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

L.1970, c. 13, s. 8, eff. Feb. 16, 1970. Amended by L.1983, c. 60, s. 2, eff. Feb. 7, 1983.

### **5:9-9. Meetings of commission; quorum; transmission of minutes to governor and return**

No action of the commission shall be binding unless taken at a meeting at which at least four of the seven members are present and shall vote in favor thereof. The minutes of every meeting of the commission, including any rules and regulations promulgated by the commission or any amendments, revisions, supplements or repeal thereof, shall be forthwith transmitted, by and under the certification of the secretary thereof, to the Governor at the Executive Chamber, State House, Trenton. The Governor shall, within 10 days after said minutes shall have been so delivered, cause the same to be returned to the commission, either with or without his veto of any action therein recited as having been taken by the commission. If the Governor shall not return the minutes within said 10 days, any action recited therein shall have force and effect according to the wording thereof.

L.1970, c. 13, s. 9, eff. Feb. 16, 1970. Amended by L.1983, c. 60, s. 3, eff. Feb. 7, 1983.

### **5:9-10. Subpoenas; failure to appear**

The commission shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before it in any matter over which it has jurisdiction, control or supervision. The commission shall have the power to administer oaths and affirmations to persons whose testimony is required. If a person subpoenaed to attend in any such proceeding or hearing fails to obey the command of the subpoena without reasonable cause, or if a person in attendance in any such proceeding or hearing refuses, without lawful cause, to be examined or to answer a legal or pertinent question or to exhibit any book, account, record or other document when ordered so to do by the commission, the commission may apply to any judge of the Superior Court, upon proof by

affidavit of the facts, for an order returnable in not less than 2 nor more than 10 days, or as the court shall prescribe, directing such person to show cause before the court why he should not comply with such subpoena or such order.

Upon return of the order, the court before whom the matter shall come on for hearing shall examine such person under oath, and if the court shall determine, after giving such person an opportunity to be heard, that he refused without legal excuse to comply with such subpoena or such order of the director, the court may order such person to comply therewith forthwith and any failure to obey the order of the court may be punished as a contempt of the Superior Court.

L.1970, c. 13, s. 10, eff. Feb. 16, 1970.

### **5:9-11. Lottery sales agents; licensing**

No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business exclusively as a lottery sales agent. Before issuing such license the director shall consider such factors as (a) the financial responsibility and security of the person and his business or activity, (b) the accessibility of his place of business or activity to the public, (c) the sufficiency of existing licenses to serve the public convenience, and (d) the volume of expected sales.

For the purposes of this section, the term "person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

L.1970, c. 13, s. 11, eff. Feb. 16, 1970.

### **5:9-12. Lottery sales agents; authority to act**

Notwithstanding any other provision of law, any person licensed as provided in this act is hereby authorized and empowered to act as a lottery sales agent.

L.1970, c. 13, s. 12, eff. Feb. 16, 1970.

#### **5:9-12.1. Additional sanctions against licensees**

In addition to any penalty, fine or term of imprisonment authorized by law, the commission shall, after appropriate hearings and factual determinations, have the authority to impose the following sanctions upon any person licensed pursuant to P.L.1970, c. 13 (C. 5:9-1 et seq.):

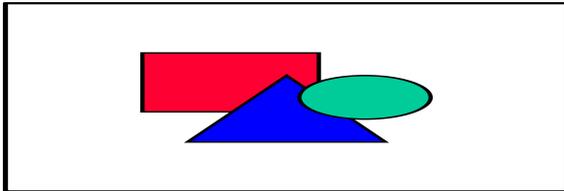
- a. Assess such civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed \$10,000.00;
- b. Order restitution of any moneys or property unlawfully obtained or retained by a licensee;
- c. Enter a cease and desist order which specifies the conduct which is to be discontinued, altered or implemented by the licensee;

d. Issue letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee so sanctioned; or

e. Impose any or all of the foregoing sanctions in combination with each other.

L.1983, c. 429, s. 1, eff. Jan. 5, 1984.

### **5:9-13 Assignment of prizes drawn; procedure.**



13. a. The right of any person to a prize drawn shall not be assignable, except as permitted by this section.

b. The payment of any prize drawn may be paid to the estate of a deceased prize winner upon receipt by the State Lottery of a certified copy of an order appointing an executor or an administrator.

c. Any person may be assigned and paid the prize to which the winner is entitled pursuant to a judicial order of the New Jersey Superior Court or a federal court having jurisdiction over property located in this State provided that the order pertains to claims of ownership in the prize drawn, division of marital property in divorce actions, bankruptcy, child support, appointment of a guardian or conservator, or distribution of an estate.

d. Any person may be assigned and paid a prize to which the winner is entitled pursuant to a judicial order of the New Jersey Superior Court or a federal court having jurisdiction over property located in this State provided that the order contains at least the following findings:

(1) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the winner;

(2) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the assignee;

(3) the date on which the winner won the prize;

(4) the date on which the winner claimed the prize;

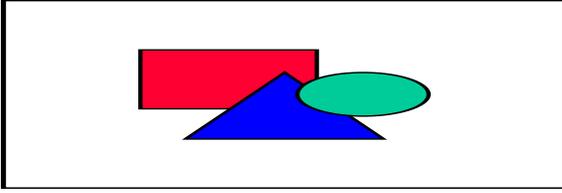
(5) the gross amount of the prize drawn before application of withholding taxes;

(6) the gross amount of payments to be made to the winner by the State Lottery before application of withholding taxes;

(7) the dates of the payments to be assigned and the amount of the specific payments to be assigned on each date;

(8) the identity of the winner's spouse, if any, and the interest of the spouse in the prize;

(9) the identity of any other co-owner, claimant or lienholder and the amount of the interests, liens, security interests, prior assignments or offsets asserted by such party;



(10) that the interest rate or discount rate, as applicable, and all fees and costs and other material terms relating to the assignment are expressly and clearly included in all material documents and in all documents that include any obligations of the prize winner;

(11) that the interest rate or discount rate, as applicable, associated with the assignment does not indicate overreaching or exploitation, does not exceed current usury rates, and does not violate any laws of usury of this State;

(12) that the winner has reviewed and understands the terms of the assignment;

(13) that the winner understands that the winner will not receive the prize payments, or portions thereof, for the years assigned;

(14) that the winner has agreed to the assignment of the winner's own free will without undue influence or duress;

(15) that the winner has retained, and consulted with, independent legal counsel who has advised the winner of the winner's legal rights and obligations;

(16) that the winner has retained, and consulted with, an independent tax advisor concerning the tax consequences of the assignment;

(17) that the winner does not seek assignment for purposes of evading creditors, judgments or obligations for child support; and

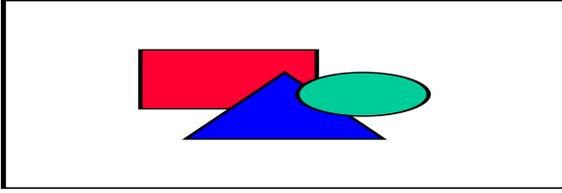
(18) that the winner has certified that the winner does not have a child support obligation, or if the winner has a child support obligation, that no arrearage is due and that the winner is not obligated to repay any public assistance benefits.

e. Before a winner is legally bound, by agreement, contract or otherwise, and prior to the issuance of an order pursuant to subsection d. of this section, the assignee shall provide the winner with all material documents which shall be binding on the assignor, including documents evidencing obligations of the winner, and a written notice recommending that the winner obtain independent counsel before signing any document which shall be binding on the assignor. All documents shall include a notice of the assignor's right to cancel the agreement which shall be located in immediate proximity to all spaces reserved for the signature of the winner in bold-faced type of at least 10 points and which shall provide as follows:

"You have the right to cancel this assignment without any cost to you until midnight three business days after the day on which you have signed an agreement to assign all or a portion of your prize.

Cancellation occurs when you give notice by regular first class mail, postage prepaid, to the assignee at the address listed at the top of the first page of this document that you wish to cancel the assignment. Notice is deemed given when deposited in a mailbox."

f. If the State Lottery determines that a judicial order granting an assignment, issued pursuant to subsection d. of this section, is complete and correct in all respects, the State Lottery shall, not later than 10 days after receiving a true and correct copy of the filed judicial order, send the winner and the assignee written confirmation of receipt of the court-ordered assignment and of the State Lottery's intent to rely thereon in making future payments to the assignee named in the order. The State Lottery shall, thereafter, make all payments in accordance with the judicial order. No change in the terms of any assignment shall be effective



unless made pursuant to a subsequent judicial order.

g. The State Lottery may impose a reasonable fee on an assignor to defray any direct or indirect administrative expenses associated with an assignment.

h. A winner shall not be permitted to assign the last two annual prize payments.

i. The State Lottery and the State are not parties to assignment proceedings, except that, the State may intervene as necessary to protect the State's interest in monies owed to the State.

j. The State Lottery and the State shall comply with, and rely upon, a judicial order in distributing payments subject to that order.

k. A winner may pledge or grant a security interest in all or part of a prize as collateral for repayment of a loan pursuant to a judicial order containing the findings required by subsection d. of this section which the court deems relevant to the pledge or grant.

l. Except where inconsistent with the provisions of this section, the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), shall apply to all transactions under this section.

m. The court shall cease to approve assignments pursuant to subsection d. of this section if:

(1) the United States Internal Revenue Service issues a technical rule letter, revenue ruling, or other public ruling in which it is determined that because of the right of assignment provided by subsection d. of this section, prizewinners who do not exercise the right to assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when received; or

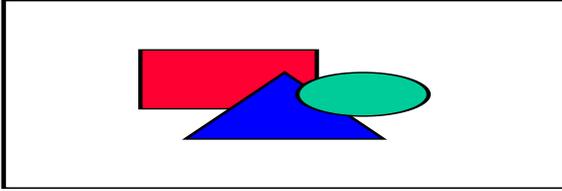
(2) a court of competent jurisdiction issues a published decision holding that because of the right of assignment provided by subsection d. of this section, prizewinners who do not exercise the right to assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when received.

n. Upon receipt, the director shall immediately file a copy of a letter or ruling of the United States Internal Revenue Service or a published decision of a court of competent jurisdiction, described in subsection m. of this section, with the Secretary of State. No assignment shall be approved pursuant to subsection d. of this section after the date of such filing.

o. Notwithstanding the provisions of this section, any lottery prize assignment or loan transaction which has been approved by a New Jersey Superior Court pursuant to section 13 of P.L.1970, c.13 (C.5:9-13) on or before May 15, 1998, regardless of whether such an order has been or is the subject of an appeal, shall, upon joint written agreement of the parties, be deemed a binding assignment or transaction and shall be honored by the Division of the State Lottery.

p. No change in the terms of any assignment shall be effective unless made pursuant to a subsequent court order under this section.

q. A voluntary assignment shall not include or cover payments, or portions of payments, that are subject to the offset pursuant to P.L.1991, c.384 (C.5:9-13.1 et seq.), P.L.1997, c. 306 (C.5:9-13.10 et seq.), or any other law unless appropriate provisions are made to satisfy the obligations giving rise to the offset.

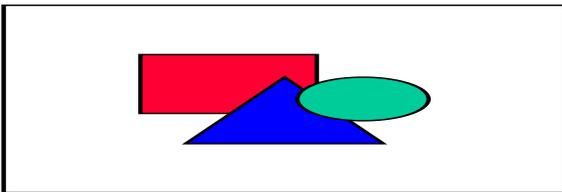


r.No lottery assignee shall directly or indirectly recommend or facilitate the hiring of any lawyer or accountant to assist the assignor in determining the appropriateness of the proposed assignment. Further, the assignee shall not offer prior to the closing tax or investment advice.

s.The director, commissioners and employees of the Division of the State Lottery shall be discharged of any and all liability upon payment of a prize drawn pursuant to this section.

L.1970,c.13,s.13; amended 1998, c.103.

### **5:9-13.1 Initiation of data exchange; prohibition on assignments, certain.**

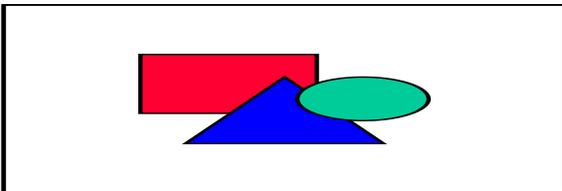


1. a. The Director of the Division of the State Lottery in the Department of the Treasury and the Director of the Division of Family Development in the Department of Human Services shall initiate an ongoing data exchange in the Office of Telecommunications and Information Systems in the Department of the Treasury before a payment is made of a State lottery prize in excess of \$600.

b.A delinquent Title IV-D obligor who is an annuity award winner shall be prohibited from assigning the annuity award.

L.1991,c.384,s.1; amended 1995, c.333; 1998, c.1, s.32.

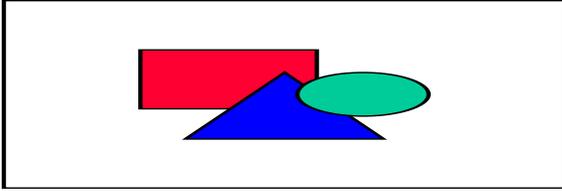
### **5:9-13.2 Provision of child support arrears and public assistance overpayment lists.**



2.The Commissioner of Human Services shall periodically supply the Office of Telecommunications and Information Systems with a list of:

a.those individuals in arrears of a court ordered child support obligation; and

b.those former recipients of Aid to Families with Dependent Children, pursuant to P.L.1959, c.86 (C.44:10-1 et seq.) or Work First New Jersey, pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), food stamp benefits issued pursuant to Pub.L. 95-113, Title XIII (7 U.S.C. s.2011 et seq.), or low-income home energy assistance benefits issued pursuant to Pub.L. 97-35, Title XXVI (42 U.S.C. s.8621 et seq.) who incurred an



overpayment which has not been repaid.

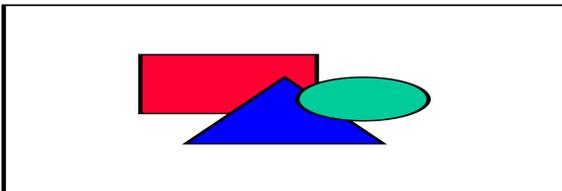
L.1991,c.384,s.2; amended 1998, c.1, s.33.

### **5:9-13.3. Provision of list of prize winners**

3. The Director of the Division of the State Lottery shall promptly provide the Office of Telecommunications and Information Systems with a prize winners list, which shall include the prize claimant's name, address and social security number and the amount of the pending payment.

L.1991,c.384,s.3.

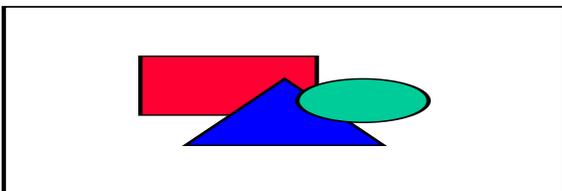
### **5:9-13.4 Cross check of social security numbers with lottery list.**



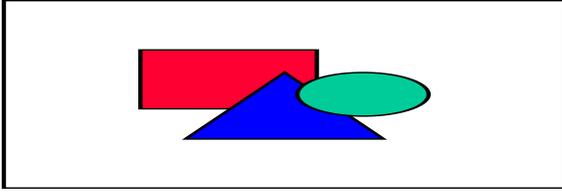
4. The Office of Telecommunications and Information Systems shall cross check the lottery list with the data supplied by the Commissioner of Human Services for a social security number match. If a match is made, the Office of Telecommunications and Information Systems shall notify the Commissioner of Human Services.

L.1991,c.384,s.4; amended 1998, c.1, s.34.

### **5:9-13.5 Withholding of certain lottery winnings.**

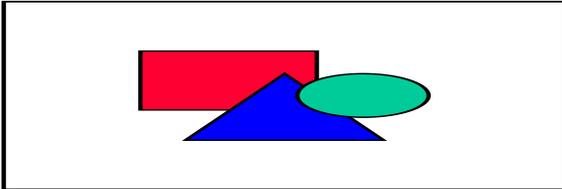


5. If a lottery prize claimant is in arrears of a child support order, or is a former recipient of Aid to Families with Dependent Children or Work First New Jersey, food stamp benefits or low-income home energy assistance benefits who has incurred an overpayment which has not been repaid, the Department of Human Services shall promptly notify the Department of the Treasury and the Division of the State Lottery of the claimant's name, address, social security number and amount due on an arrears child support order or the amount due on an overpayment. The Department of the Treasury shall withhold this amount from the pending lottery payment and transmit same to the Department of Human Services or the Probation Division, as the case may be, in accordance with regulations promulgated by the State Treasurer.



L.1991,c.384,s.5; amended 1998, c.1, s.35.

### **5:9-13.6 Lien on lottery proceeds.**



The county welfare agency which provided the public assistance benefits or the Probation Division, acting as agent for the child support payee, shall have a lien on the proceeds of the State lottery prize in an amount equal to the amount of child support arrearage or the amount of overpayment incurred.

The lien imposed by this act shall be enforceable in the Superior Court.

L.1991,c.384,s.6; amended 1998, c.1, s.36.

### **5:9-13.7. Remaining funds paid to claimant**

7. Any of the claimant's lottery prize funds remaining after withholding pursuant to the lien established pursuant to this act shall be paid to the claimant in accordance with lottery procedures.

L.1991,c.384,s.7.

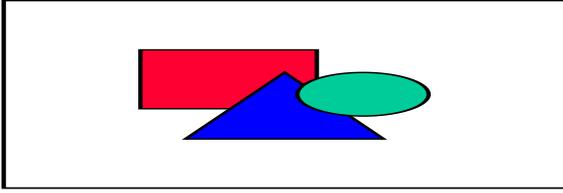
### **5:9-13.8. Rules, regulations; hearing; confidentiality**

8. The State Treasurer shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this act including, but not limited to, regulations providing for prompt notice to any prize winner from whose award the Department of the Treasury seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the prize winners with the opportunity for a hearing upon request prior to the disposition of any funds. For the purposes of this act, "prompt notice" shall mean notice within 14 days or less.

The State Treasurer shall also provide by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this act.

L.1991,c.384,s.8.

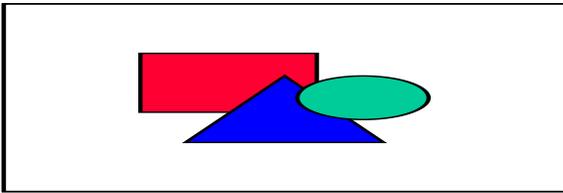
**5:9-13.9 Implementation costs.**



9.The costs associated with or necessary for the implementation of P.L.1991, c.384 (C.5:9-13.1 et seq.) shall be borne by the Department of Human Services.

L.1991,c.384,s.9; amended 1998, c.1, s.37.

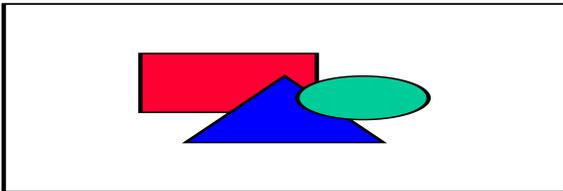
**5:9-13.10 Ongoing data exchange on student assistance.**



1.The Director of the Division of the State Lottery in the Department of the Treasury and the Executive Director of the Office of Student Assistance in, but not of, the Department of the Treasury shall initiate an ongoing data exchange in the Office of Telecommunications and Information Systems in the Department of the Treasury before a payment is made of a State lottery prize in excess of \$1,000.

L.1997,c.306,s.1.

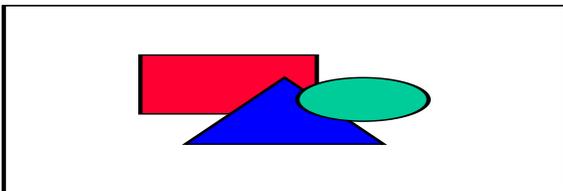
**5:9-13.11 List of individuals in default of student loan.**



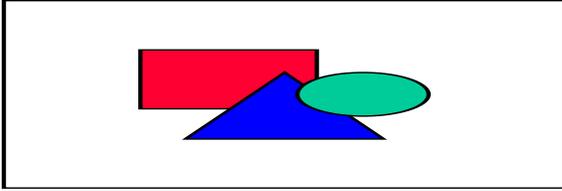
2.The Executive Director of the Office of Student Assistance shall periodically supply the Office of Telecommunications and Information Systems with a list of those individuals in default of student loan repayments to the Office of Student Assistance.

L.1997,c.306,s.2.

**5:9-13.12 Provision of list of lottery prize winners.**



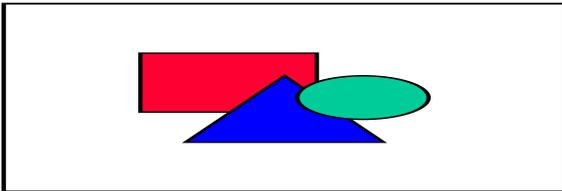
all promptly provide the Office of



Telecommunications and Information Systems with a prize winners list, which shall include the prize claimant's name, address and social security number and the amount of the pending payment.

L.1997,c.306,s.3.

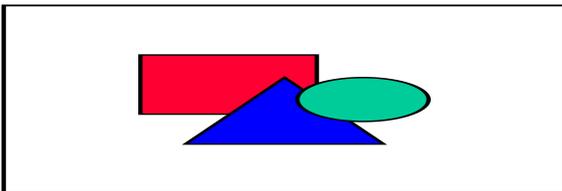
#### **5:9-13.13 Cross-checking of lottery list.**



4.The Office of Telecommunications and Information Systems shall cross check the lottery list with the data supplied by the Executive Director of the Office of Student Assistance for a social security number match. If a match is made, the Office of Telecommunications and Information Systems shall notify the Office of Student Assistance.

L.1997,c.306,s.4.

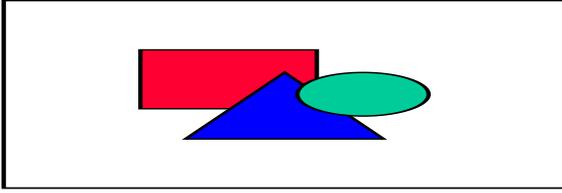
#### **5:9-13.14 Notification; withholding of lottery prize.**



5.If a lottery prize claimant is on the list of individuals in default of a student loan as reported pursuant to section 2 of P.L.1997, c.306 (C.5:9-13.11), the Office of Student Assistance shall promptly notify the Department of the Treasury and the Division of the State Lottery of the claimant's name, address, social security number and the outstanding amount of the student loan. The Department of the Treasury shall withhold this amount from the pending lottery payment and transmit same to the Office of Student Assistance after withholding any appropriate amounts for State or federal income taxes or for such other withholdings as may be required under State or federal law . If the amount of the student loan outstanding is greater than the amount available from the lottery payment, the entire amount available shall be transmitted to the Office of Student Assistance.

L.1997,c.306,s.5.

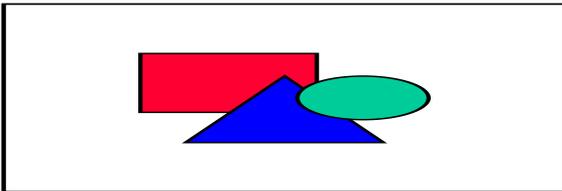
### **5:9-13.15 Payment of remainder of prize to claimant.**



6. Any of the claimant's lottery prize funds remaining after withholding pursuant to section 5 of P.L.1997, c.306 (C.5:9-13.14) shall be paid to the claimant in accordance with lottery procedures.

L.1997,c.306,s.6.

### **5:9-13.16 Rules, regulations, safeguards against disclosure, inappropriate use of information.**



7. The State Treasurer, in consultation with the Office of Student Assistance, shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this act including, but not limited to, regulations providing for prompt notice to any prize winner from whose award the Department of the Treasury seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the prize winners with the opportunity for a hearing upon request prior to the disposition of any funds. For the purposes of this act, "prompt notice" shall mean notice within 14 days or less.

The State Treasurer shall also provide by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this act.

L.1997,c.306,s.7.

### **5:9-14. Sale above fixed price; unlicensed sales; gifts**

No person shall sell a ticket or share at a price greater than that fixed by rule or regulation of the commission. No person other than a licensed lottery sales agent shall sell lottery tickets or shares, except that nothing in this section shall be construed to prevent any person from giving lottery tickets or shares to another as a gift.

Any person convicted of violating this section shall be guilty of a misdemeanor.

L.1970, c. 13, s. 14, eff. Feb. 16, 1970.

### **5:9-14.1. State lottery ticket; false or fraudulent making, forgery, alteration or counterfeiting**

Any person who falsely or fraudulently makes, forges, alters or counterfeits, or causes or procures to be made, forged, altered or counterfeited, any New Jersey State Lottery ticket, or any part thereof, prepared and prescribed by the Director of the Division of the State Lottery or by the State Lottery Commission under the authority of the act to which this act is a supplement, or who knowingly and willfully utters, publishes, passes or tenders as true, any such forged, altered or counterfeited New Jersey State Lottery ticket shall be guilty of a misdemeanor. If any person with intent to defraud secures, manufactures or causes to be secured or manufactured, or has in his possession any counterfeit New Jersey State Lottery ticket or device, he shall be guilty of a misdemeanor.

L.1973, c. 173, s. 1, eff. June 7, 1973.

### **5:9-15. Sales to person under eighteen years; gifts**

No ticket or share shall be sold to any person under the age of 18, but this shall not be deemed to prohibit the purchase of a ticket or share for the purpose of making a gift by a person 18 years of age or older to a person less than that age. Any licensee who knowingly sells or offers to sell a lottery ticket or share to any person under the age of 18 is a disorderly person.

L.1970, c. 13, s. 15, eff. Feb. 16, 1970.

### **5:9-16. Persons prohibited from purchasing tickets or shares**

No ticket or share shall be purchased by, and no prize shall be paid to any of the following persons: any officer or employee of the division or to any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons.

L.1970, c. 13, s. 16, eff. Feb. 16, 1970.

### **5:9-17. Unclaimed prize money**

Unclaimed prize money for the prize on a winning ticket or share shall be retained by the director for the person entitled thereto for 1 year after the drawing in which the prize was won. If no claim is made for said money within such year, the prize money shall be allocated to State institutions and State aid for education in the same manner as lottery revenues are allocated for such purposes under this act.

L.1970, c. 13, s. 17, eff. Feb. 16, 1970.

### **5:9-18. Deposit of receipts; reports**

The director may, in his discretion, require any or all lottery sales agents to deposit to the credit of the State Lottery Fund in banks, designated by the State Treasurer all moneys received by such agents from the sale of lottery tickets or shares, less the amount, if any, retained as compensation for the sale of the tickets or shares, and to file with the director or his designated agents reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as he may require. The director may

make such arrangements for any person, including a bank, to perform such functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to this act and the rules and regulations of the commission, and such functions, activities or services shall constitute lawful functions, activities and services of such person.

L.1970, c. 13, s. 18, eff. Feb. 16, 1970.

### **5:9-19. Other laws; applicability**

No other law providing any penalty or disability for the sale of lottery tickets or any acts done in connection with a lottery shall apply to the sale of tickets or shares performed pursuant to this act.

L.1970, c. 13, s. 19, eff. Feb. 16, 1970.

### **5:9-20. Persons under eighteen years; payment of prizes**

If the person entitled to a prize or any winning ticket is under the age of 18 years, and such prize is less than \$5,000.00, the director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of such minor. If the person entitled to a prize or any winning ticket is under the age of 18 years, and such prize is \$5,000.00 or more, the director may direct payment to such minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or a guardian of the minor as custodian for such minor. The person so named as custodian shall have the same duties and powers as a person designated as a custodian in a manner prescribed by the "New Jersey Uniform Gifts to Minors Act," P.L.1963, chapter 177 (C. 46:38-13 et seq.) and for the purposes of this section the terms "adult member of a minor's family," "guardian of a minor" and "bank" shall have the same meaning as in said act. The director shall be discharged of all further liability upon payment of a prize to a minor pursuant to this section.

L.1970, c. 13, s. 20, eff. Feb. 16, 1970.

### **5:9-21. State lottery fund; creation**

There is hereby created and established in the Department of the Treasury a separate fund, to be known as the "State Lottery Fund," to be deposited in such depositories as the State Treasurer may select. Such fund shall consist of all revenues received from the sale of lottery tickets or shares, and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

L.1970, c. 13, s. 21, eff. Feb. 16, 1970.

### **5:9-22. State lottery fund; appropriation of moneys; report; publication**

The moneys in said State Lottery Fund shall be appropriated only (a) for the payment of prizes to the holders of winning lottery tickets or shares, (b) for the expenses of the division in its operation of the lottery, (c) for State institutions and State aid for education as shall be provided by law, and (d) for the repayment to the general treasury of the amount appropriated to the fund pursuant to section 23 of this act. On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report accounting for the total revenues received in the State Lottery Fund and the specific amounts of money appropriated therefrom for specific expenditures during

the preceding six months ending December 31 and June 30.

L.1970, c. 13, s. 22, eff. Feb. 16, 1970. Amended by L.1984, c. 136, s. 1, eff. Jan. 1, 1985.

### **5:9-22.1. Eligibility for lottery proceeds**

1. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any program of education approved by the Department of Education or by institutions of higher education licensed by the Commission on Higher Education which is intended, in whole or in part, to serve citizens of this State of the age of 65 years or over, shall be considered eligible for State aid from the net proceeds of any State lottery, as shall be provided by law.

L.1987,c.222,s.1; amended 1994,c.48,s.295.

### **5:9-22.2. State aid for higher education facilities trust fund**

10. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any trust fund established to provide grants to New Jersey's public and private institutions of higher education for the construction, reconstruction, development, extension, and improvement of instructional, laboratory, communication, and research facilities shall be considered eligible for State aid from the net proceeds of any State lottery, as shall be provided by law.

L.1993,c.375,s.10.

### **5:9-22.3 County juvenile offender rehabilitation programs eligible for State aid**

10. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), a juvenile offender rehabilitation program established and maintained pursuant to the provisions of P.L.1997, c.81 (C.30:8-61 et al.) shall be considered an education program eligible for State aid, to the extent permitted by law, from the net proceeds of any State lottery; provided, however, no such program, regardless of whether that program is established and maintained by one county or by two or more counties, shall receive in any fiscal year an amount of State aid under the provisions of this section more than either the actual cost of the program or \$1,000,000, whichever is less.

L.1997,c.81, s.10.

### **5:9-23. Emergency Transportation Tax Act; prizes exempt**

The prizes received pursuant to the provisions of this act shall be exempt from the "Emergency Transportation Tax Act" (P.L.1961, c. 32).

L.1970, c. 13, s. 24, eff. Feb. 16, 1970.

### **5:9-24. Annual post-audit**

The State Auditor shall conduct an annual post-audit of all accounts and transactions of the division and

such other special post-audits as he may be directed to conduct pursuant to chapter 24 of Title 52 of the Revised Statutes.

L.1970, c. 13, s. 25, eff. Feb. 16, 1970.

### **5:9-25. Severability**

If any clause, sentence, paragraph, subdivision, section, provision or other portion of this act or the application thereof to any person or circumstances is held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, provision or other portion thereof directly involved in such holding or to the person and circumstances therein involved. If any provision of this act is inconsistent with, in conflict with, or contrary to any other provision of law, such provision of this act shall prevail over such other provision and such other provision shall be deemed to have been amended, superseded or repealed to the extent of such inconsistency, conflict and contrariety.

L.1970, c. 13, s. 26, eff. Feb. 16, 1970.

## **CHAPTER 12. CASINO CONTROL ACT**

### **5:9-1. Short title**

This act shall be known and may be cited as the "State Lottery Law."

L.1970, c. 13, s. 1, eff. Feb. 16, 1970.

### **5:9-2. Purpose of act**

This act is enacted to implement the amendment of Article IV, Section VII, paragraph 2, of the Constitution of New Jersey, approved by the people in the general election of November, 1969, and to carry out the mandate thereof by establishing a lottery to be operated by the State, the entire net proceeds of which are to be used for State institutions and State aid for education.

L.1970, c. 13, s. 2, eff. Feb. 16, 1970.

### **5:9-3. Definitions**

For the purposes of this act:

- a. "Commission" shall mean the State Lottery Commission established by this act.
- b. "Division" shall mean the Division of the State Lottery created by this act.
- c. "Lottery" or "State lottery" shall mean the lottery established and operated pursuant to this act.
- d. "Director" shall mean the Director of the Division of the State Lottery.

L.1970, c. 13, s. 3, eff. Feb. 16, 1970.

#### **5:9-4. Division of the state lottery; establishment**

There is hereby established in the Department of the Treasury a Division of the State Lottery, which shall include a State Lottery Commission and a director.

L.1970, c. 13, s. 4, eff. Feb. 16, 1970.

#### **5:9-5. State lottery commission; members**

The commission shall consist of the State Treasurer and six public members, all of whom shall be citizens and residents of this State and all of whom shall be appointed by the Governor by and with the advice and consent of the Senate. No more than three of the six public members shall be members of the same political party. The public members shall be appointed for terms of 5 years, except that of the members first appointed, one shall be appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years, and one for a term of 5 years, commencing as of the date of their appointment by the Governor. The term of each of the members first appointed shall be designated by the Governor. The term of the additional public member appointed pursuant to this 1983 amendatory act shall be five years. The members shall annually elect one of the public members as chairman of the commission and shall also annually elect one of the public members as vice chairman of the commission.

Any vacancy in the commission occurring for any reason other than the expiration of term shall be filled for the unexpired term in the same manner as the original appointment.

Any public member of the commission may be removed from office by the Governor, for cause, upon notice and opportunity to be heard at a public hearing.

The public members of the commission shall receive no salaries but shall be allowed reasonable expenses incurred in the performance of their official duties in an amount not exceeding \$5,000.00 per annum in the case of the chairman, and \$3,500.00 in the case of each of the other commissioners.

The State Treasurer may designate an officer or employee of his department to represent him at meetings of the commission, who may lawfully vote and otherwise act on behalf of the Treasurer. Any designation shall be in writing, delivered to the commission and filed with the Secretary of State and shall continue in effect, unless by its terms it is made for a fixed period, until revoked or amended in the same manner as provided for the designation.

L.1970, c. 13, s. 5, eff. Feb. 16, 1970. Amended by L.1983, c. 60, s. 1, eff. Feb. 7, 1983.

#### **5:9-6. Director of division**

The division shall be under the immediate supervision and direction of a director, who shall be a person qualified by training and experience to direct the work of such division. The director shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall serve at the pleasure of the Governor.

Any vacancy occurring in the office of the director shall be filled in the same manner as the original appointment.

The director of said division shall devote his entire time and attention to the duties of his office and shall

not be engaged in any other profession or occupation. He shall receive such salary as shall be provided by law.

L.1970, c. 13, s. 6, eff. Feb. 16, 1970.

### **5:9-7. Commission; powers and duties**

The commission shall have the power, and it shall be its duty:

a. After full and thorough study of the report and recommendations of the State Lottery Planning Commission established pursuant to Joint Resolution Number 11, approved November 20, 1969, and such other pertinent information as may be available, to promulgate such rules and regulations governing the establishment and operation of a State lottery as it deems necessary and desirable in order that the mandate of the people expressed in their approval of the amendment to Article IV, Section VII, paragraph 2, of the Constitution in the general election of November, 1969, may be fully implemented, in order that such a lottery shall be initiated at the earliest feasible and practicable time, and in order that such lottery shall produce the maximum amount of net revenues for State institutions and State aid for education consonant with the dignity of the State and the general welfare of the people. Such rules and regulations may include, but shall not be limited to, the following:

- (1) The type of lottery to be conducted.
- (2) The price, or prices, of tickets or shares in the lottery.
- (3) The number and sizes of the prizes on the winning tickets or shares.
- (4) The manner of selecting the winning tickets or shares.
- (5) The manner of payment of prizes to the holders of winning tickets or shares, including, subject to the approval of the State Treasurer, provision for payment of prizes not to exceed \$599.00 by agents licensed hereunder out of moneys received from sales of tickets or shares.
- (6) The frequency of the drawings or selections of winning tickets or shares, without limitation.
- (7) Without limit as to number, the type or types of locations at which tickets or shares may be sold.
- (8) The method to be used in selling tickets or shares.
- (9) The licensing of agents to sell tickets or shares, provided that no person under the age of 21 shall be licensed as an agent.
- (10) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public.
- (11) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among (a) the payment of prizes to the holders of winning tickets or shares, (b) the payment of costs incurred in the operation and administration of the lottery, including the expenses of the division and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of lottery equipment and materials, (c) for the repayment of the money appropriated to the State Lottery Fund pursuant to section 23 of this act, and (d) for transfer to the general fund for State institutions and State aid for education; provided, however, that no less than 30% of the total revenues accruing from the sale of lottery tickets or shares shall be dedicated to (d), above.
- (12) Such other matters necessary or desirable for the efficient and economical operation and

administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

Notwithstanding the provisions of any other law to the contrary, no rule or regulation establishing a lottery game shall be considered an "administrative rule" or "rule" pursuant to P.L.1968, c. 410 (C. 52:14B-1 et seq.).

b. To amend, repeal, or supplement any such rules and regulations from time to time as it deems necessary or desirable.

c. To advise and make recommendations to the director regarding the operation and administration of the lottery.

d. To report monthly to the Governor and the Legislature the total lottery revenues, prize disbursements and other expenses for the preceding month, and to make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor and the Legislature, and including such recommendations for changes in this act as it deems necessary or desirable.

e. To report immediately to the Governor and the Legislature any matters which shall require immediate changes in the laws of this State in order to prevent abuses and evasions of this act or rules and regulations promulgated thereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

f. To carry on a continuous study and investigation of the lottery throughout the State (1) for the purpose of ascertaining any defects in this act or in the rules and regulations issued thereunder by reason whereof any abuses in the administration and operation of the lottery or any evasion of this act or the rules and regulations may arise or be practiced, (2) for the purpose of formulating recommendations for changes in this act and the rules and regulations promulgated thereunder to prevent such abuses and evasions, (3) to guard against the use of this act and the rules and regulations issued thereunder as a cloak for the carrying on of organized gambling and crime, and (4) to insure that said law and rules and regulations shall be in such form and be so administered as to serve the true purposes of this act.

g. To make a continuous study and investigation of (1) the operation and the administration of similar laws which may be in effect in other states or countries, (2) any literature on the subject which from time to time may be published or available, (3) any Federal laws which may affect the operation of the lottery, and (4) the reaction of New Jersey citizens to existing and potential features of the lottery with a view to recommending or effecting changes that will tend to serve the purposes of this act.

L.1970, c. 13, s. 7, eff. Feb. 16, 1970. Amended by L.1977, c. 169, s. 1, eff. Aug. 10, 1977; L.1981, c. 182, s. 1, eff. June 19, 1981.

### **5:9-7.1. Video machines**

Notwithstanding any other provision of law to the contrary, no lottery or type of lottery or lottery game shall be authorized or conducted which uses any video mechanical, electrical or other video device, contrivance or machine which, upon the insertion by the participant of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, tokens to be exchanged for cash, or any other prize, whether the payoff is made automatically from the machine or in any other manner whatsoever.

L.1983, c. 80, s. 1, eff. March 1, 1983.

### **5:9-8. Director; powers and duties**

The director shall have the power, and it shall be his duty to:

- a. Supervise and administer the operation of the lottery in accordance with the provisions of this act and with the rules and regulations of the commission.
- b. Subject to the approval of the commission, appoint such deputy directors as may be required to carry out the functions and duties of the division, which deputy directors shall be in the unclassified service of the civil service.
- c. Subject to the approval of the commission and Title 11 of the Revised Statutes, Civil Service, appoint such professional, technical and clerical assistants and employees as may be necessary to perform the duties imposed upon the division by this act.
- d. Act as secretary and executive officer of the commission.
- e. In accordance with the provisions of this act and the rules and regulations of the commission, to license as agents to sell lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent, in such amount as provided in the rules and regulations of the commission. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the rules and regulations of the commission.
- f. Shall confer regularly as necessary or desirable and not less than once every month with the commission on the operation and administration of the lottery; shall make available for inspection by the commission, upon request, all books, records, files, and other information and documents of the division; shall advise the commission and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery.
- g. Suspend or revoke any license issued pursuant to this act or the rules and regulations promulgated thereunder.
- h. Subject to the approval of the commission and the applicable laws relating to public contracts, to act on behalf of the commission as using agency with respect to purchases made by the Division of Purchase and Property of goods and services required in the operation of the lottery.
- i. To certify monthly to the State Treasurer and the commission a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

L.1970, c. 13, s. 8, eff. Feb. 16, 1970. Amended by L.1983, c. 60, s. 2, eff. Feb. 7, 1983.

### **5:9-9. Meetings of commission; quorum; transmission of minutes to governor and return**

No action of the commission shall be binding unless taken at a meeting at which at least four of the seven members are present and shall vote in favor thereof. The minutes of every meeting of the commission, including any rules and regulations promulgated by the commission or any amendments, revisions, supplements or repeal thereof, shall be forthwith transmitted, by and under the certification of the secretary thereof, to the Governor at the Executive Chamber, State House, Trenton. The Governor shall, within 10 days after said minutes shall have been so delivered, cause the same to be returned to the commission, either with or without his veto of any action therein recited as having been taken by the commission. If the

Governor shall not return the minutes within said 10 days, any action recited therein shall have force and effect according to the wording thereof.

L.1970, c. 13, s. 9, eff. Feb. 16, 1970. Amended by L.1983, c. 60, s. 3, eff. Feb. 7, 1983.

### **5:9-10. Subpoenas; failure to appear**

The commission shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before it in any matter over which it has jurisdiction, control or supervision. The commission shall have the power to administer oaths and affirmations to persons whose testimony is required. If a person subpoenaed to attend in any such proceeding or hearing fails to obey the command of the subpoena without reasonable cause, or if a person in attendance in any such proceeding or hearing refuses, without lawful cause, to be examined or to answer a legal or pertinent question or to exhibit any book, account, record or other document when ordered so to do by the commission, the commission may apply to any judge of the Superior Court, upon proof by affidavit of the facts, for an order returnable in not less than 2 nor more than 10 days, or as the court shall prescribe, directing such person to show cause before the court why he should not comply with such subpoena or such order.

Upon return of the order, the court before whom the matter shall come on for hearing shall examine such person under oath, and if the court shall determine, after giving such person an opportunity to be heard, that he refused without legal excuse to comply with such subpoena or such order of the director, the court may order such person to comply therewith forthwith and any failure to obey the order of the court may be punished as a contempt of the Superior Court.

L.1970, c. 13, s. 10, eff. Feb. 16, 1970.

### **5:9-11. Lottery sales agents; licensing**

No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business exclusively as a lottery sales agent. Before issuing such license the director shall consider such factors as (a) the financial responsibility and security of the person and his business or activity, (b) the accessibility of his place of business or activity to the public, (c) the sufficiency of existing licenses to serve the public convenience, and (d) the volume of expected sales.

For the purposes of this section, the term "person" shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

L.1970, c. 13, s. 11, eff. Feb. 16, 1970.

### **5:9-12. Lottery sales agents; authority to act**

Notwithstanding any other provision of law, any person licensed as provided in this act is hereby authorized and empowered to act as a lottery sales agent.

L.1970, c. 13, s. 12, eff. Feb. 16, 1970.

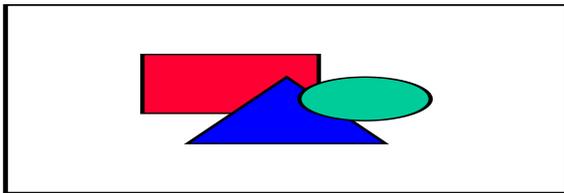
### **5:9-12.1. Additional sanctions against licensees**

In addition to any penalty, fine or term of imprisonment authorized by law, the commission shall, after appropriate hearings and factual determinations, have the authority to impose the following sanctions upon any person licensed pursuant to P.L.1970, c. 13 (C. 5:9-1 et seq.):

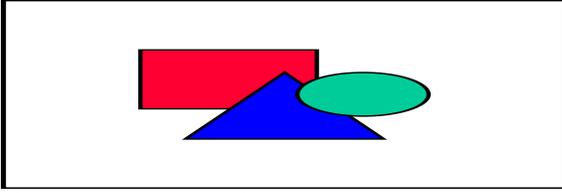
- a. Assess such civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed \$10,000.00;
- b. Order restitution of any moneys or property unlawfully obtained or retained by a licensee;
- c. Enter a cease and desist order which specifies the conduct which is to be discontinued, altered or implemented by the licensee;
- d. Issue letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee so sanctioned; or
- e. Impose any or all of the foregoing sanctions in combination with each other.

L.1983, c. 429, s. 1, eff. Jan. 5, 1984.

### **5:9-13 Assignment of prizes drawn; procedure.**

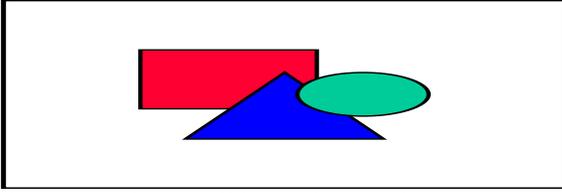


13. a. The right of any person to a prize drawn shall not be assignable, except as permitted by this section.
- b. The payment of any prize drawn may be paid to the estate of a deceased prize winner upon receipt by the State Lottery of a certified copy of an order appointing an executor or an administrator.
- c. Any person may be assigned and paid the prize to which the winner is entitled pursuant to a judicial order of the New Jersey Superior Court or a federal court having jurisdiction over property located in this State provided that the order pertains to claims of ownership in the prize drawn, division of marital property in divorce actions, bankruptcy, child support, appointment of a guardian or conservator, or distribution of an estate.
- d. Any person may be assigned and paid a prize to which the winner is entitled pursuant to a judicial order of the New Jersey Superior Court or a federal court having jurisdiction over property located in this State provided that the order contains at least the following findings:
  - (1) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the winner;
  - (2) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the assignee;



- (3) the date on which the winner won the prize;
- (4) the date on which the winner claimed the prize;
- (5) the gross amount of the prize drawn before application of withholding taxes;
- (6) the gross amount of payments to be made to the winner by the State Lottery before application of withholding taxes;
- (7) the dates of the payments to be assigned and the amount of the specific payments to be assigned on each date;
- (8) the identity of the winner's spouse, if any, and the interest of the spouse in the prize;
- (9) the identity of any other co-owner, claimant or lienholder and the amount of the interests, liens, security interests, prior assignments or offsets asserted by such party;
- (10) that the interest rate or discount rate, as applicable, and all fees and costs and other material terms relating to the assignment are expressly and clearly included in all material documents and in all documents that include any obligations of the prize winner;
- (11) that the interest rate or discount rate, as applicable, associated with the assignment does not indicate overreaching or exploitation, does not exceed current usury rates, and does not violate any laws of usury of this State;
- (12) that the winner has reviewed and understands the terms of the assignment;
- (13) that the winner understands that the winner will not receive the prize payments, or portions thereof, for the years assigned;
- (14) that the winner has agreed to the assignment of the winner's own free will without undue influence or duress;
- (15) that the winner has retained, and consulted with, independent legal counsel who has advised the winner of the winner's legal rights and obligations;
- (16) that the winner has retained, and consulted with, an independent tax advisor concerning the tax consequences of the assignment;
- (17) that the winner does not seek assignment for purposes of evading creditors, judgments or obligations for child support; and
- (18) that the winner has certified that the winner does not have a child support obligation, or if the winner has a child support obligation, that no arrearage is due and that the winner is not obligated to repay any public assistance benefits.

e. Before a winner is legally bound, by agreement, contract or otherwise, and prior to the issuance of an order pursuant to subsection d. of this section, the assignee shall provide the winner with all material documents which shall be binding on the assignor, including documents evidencing obligations of the winner, and a written notice recommending that the winner obtain independent counsel before signing any



document which shall be binding on the assignor. All documents shall include a notice of the assignor's right to cancel the agreement which shall be located in immediate proximity to all spaces reserved for the signature of the winner in bold-faced type of at least 10 points and which shall provide as follows:

"You have the right to cancel this assignment without any cost to you until midnight three business days after the day on which you have signed an agreement to assign all or a portion of your prize.

Cancellation occurs when you give notice by regular first class mail, postage prepaid, to the assignee at the address listed at the top of the first page of this document that you wish to cancel the assignment. Notice is deemed given when deposited in a mailbox."

f.If the State Lottery determines that a judicial order granting an assignment, issued pursuant to subsection d. of this section, is complete and correct in all respects, the State Lottery shall, not later than 10 days after receiving a true and correct copy of the filed judicial order, send the winner and the assignee written confirmation of receipt of the court-ordered assignment and of the State Lottery's intent to rely thereon in making future payments to the assignee named in the order. The State Lottery shall, thereafter, make all payments in accordance with the judicial order. No change in the terms of any assignment shall be effective unless made pursuant to a subsequent judicial order.

g.The State Lottery may impose a reasonable fee on an assignor to defray any direct or indirect administrative expenses associated with an assignment.

h.A winner shall not be permitted to assign the last two annual prize payments.

i.The State Lottery and the State are not parties to assignment proceedings, except that, the State may intervene as necessary to protect the State's interest in monies owed to the State.

j.The State Lottery and the State shall comply with, and rely upon, a judicial order in distributing payments subject to that order.

k.A winner may pledge or grant a security interest in all or part of a prize as collateral for repayment of a loan pursuant to a judicial order containing the findings required by subsection d. of this section which the court deems relevant to the pledge or grant.

l.Except where inconsistent with the provisions of this section, the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), shall apply to all transactions under this section.

m.The court shall cease to approve assignments pursuant to subsection d. of this section if:

(1) the United States Internal Revenue Service issues a technical rule letter, revenue ruling, or other public ruling in which it is determined that because of the right of assignment provided by subsection d. of this section, prizewinners who do not exercise the right to assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when received; or

(2) a court of competent jurisdiction issues a published decision holding that because of the right of assignment provided by subsection d. of this section, prizewinners who do not exercise the right to assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when received.

n. Upon receipt, the director shall immediately file a copy of a letter or ruling of the United States Internal Revenue Service or a published decision of a court of competent jurisdiction, described in subsection m. of this section, with the Secretary of State. No assignment shall be approved pursuant to subsection d. of this section after the date of such filing.

o. Notwithstanding the provisions of this section, any lottery prize assignment or loan transaction which has been approved by a New Jersey Superior Court pursuant to section 13 of P.L.1970, c.13 (C.5:9-13) on or before May 15, 1998, regardless of whether such an order has been or is the subject of an appeal, shall, upon joint written agreement of the parties, be deemed a binding assignment or transaction and shall be honored by the Division of the State Lottery.

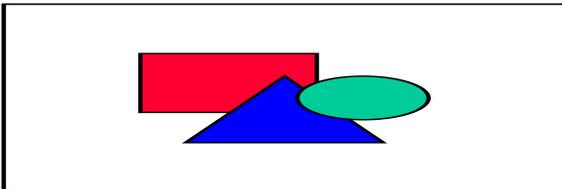
p. No change in the terms of any assignment shall be effective unless made pursuant to a subsequent court order under this section.

q. A voluntary assignment shall not include or cover payments, or portions of payments, that are subject to the offset pursuant to P.L.1991, c.384 (C.5:9-13.1 et seq.), P.L.1997, c. 306 (C.5:9-13.10 et seq.), or any other law unless appropriate provisions are made to satisfy the obligations giving rise to the offset.

r. No lottery assignee shall directly or indirectly recommend or facilitate the hiring of any lawyer or accountant to assist the assignor in determining the appropriateness of the proposed assignment. Further, the assignee shall not offer prior to the closing tax or investment advice.

s. The director, commissioners and employees of the Division of the State Lottery shall be discharged of any and all liability upon payment of a prize drawn pursuant to this section.

L.1970,c.13,s.13; amended 1998, c.103.



### **5:9-13.1 Initiation of data exchange; prohibition on assignments, certain.**

1. a. The Director of the Division of the State Lottery in the Department of the Treasury and the Director of the Division of Family Development in the Department of Human Services shall initiate an ongoing data exchange in the Office of Telecommunications and Information Systems in the Department of the Treasury before a payment is made of a State lottery prize in excess of \$600.

b. A delinquent Title IV-D obligor who is an annuity award winner shall be prohibited from assigning the annuity award.

L.1991,c.384,s.1; amended 1995, c.333; 1998, c.1, s.32.

### **5:9-13.2 Provision of child support arrears and public assistance overpayment lists.**

2. The Commissioner of Human Services shall periodically supply the Office of Telecommunications and Information Systems with a list of:

a.those individuals in arrears of a court ordered child support obligation; and

b.those former recipients of Aid to Families with Dependent Children, pursuant to P.L.1959, c.86 (C.44:10-1 et seq.) or Work First New Jersey, pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), food stamp benefits issued pursuant to Pub.L. 95-113, Title XIII (7 U.S.C. s.2011 et seq.), or low-income home energy assistance benefits issued pursuant to Pub.L. 97-35, Title XXVI (42 U.S.C. s.8621 et seq.) who incurred an overpayment which has not been repaid.

L.1991,c.384,s.2; amended 1998, c.1, s.33.

### **5:9-13.3. Provision of list of prize winners**

3. The Director of the Division of the State Lottery shall promptly provide the Office of Telecommunications and Information Systems with a prize winners list, which shall include the prize claimant's name, address and social security number and the amount of the pending payment.

L.1991,c.384,s.3.

### **5:9-13.4 Cross check of social security numbers with lottery list.**

4.The Office of Telecommunications and Information Systems shall cross check the lottery list with the data supplied by the Commissioner of Human Services for a social security number match. If a match is made, the Office of Telecommunications and Information Systems shall notify the Commissioner of Human Services.

L.1991,c.384,s.4; amended 1998, c.1, s.34.

### **5:9-13.5 Withholding of certain lottery winnings.**

5.If a lottery prize claimant is in arrears of a child support order, or is a former recipient of Aid to Families with Dependent Children or Work First New Jersey, food stamp benefits or low-income home energy assistance benefits who has incurred an overpayment which has not been repaid, the Department of Human Services shall promptly notify the Department of the Treasury and the Division of the State Lottery of the claimant's name, address, social security number and amount due on an arrears child support order or the amount due on an overpayment. The Department of the Treasury shall withhold this amount from the pending lottery payment and transmit same to the Department of Human Services or the Probation Division, as the case may be, in accordance with regulations promulgated by the State Treasurer.

L.1991,c.384,s.5; amended 1998, c.1, s.35.

### **5:9-13.6 Lien on lottery proceeds.**

The county welfare agency which provided the public assistance benefits or the Probation Division, acting as agent for the child support payee, shall have a lien on the proceeds of the State lottery prize in an amount equal to the amount of child support arrearage or the amount of overpayment incurred.

The lien imposed by this act shall be enforceable in the Superior Court.

L.1991,c.384,s.6; amended 1998, c.1, s.36.

### **5:9-13.7. Remaining funds paid to claimant**

7. Any of the claimant's lottery prize funds remaining after withholding pursuant to the lien established pursuant to this act shall be paid to the claimant in accordance with lottery procedures.

L.1991,c.384,s.7.

### **5:9-13.8. Rules, regulations; hearing; confidentiality**

8. The State Treasurer shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this act including, but not limited to, regulations providing for prompt notice to any prize winner from whose award the Department of the Treasury seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the prize winners with the opportunity for a hearing upon request prior to the disposition of any funds. For the purposes of this act, "prompt notice" shall mean notice within 14 days or less.

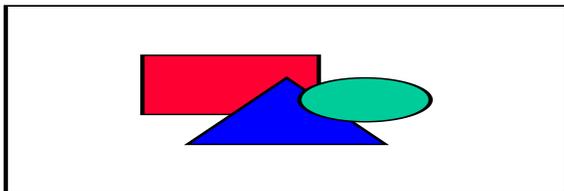
The State Treasurer shall also provide by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this act.

L.1991,c.384,s.8.

### **5:9-13.9 Implementation costs.**

9. The costs associated with or necessary for the implementation of P.L.1991, c.384 (C.5:9-13.1 et seq.) shall be borne by the Department of Human Services.

L.1991,c.384,s.9; amended 1998, c.1, s.37.



### **5:9-13.10 Ongoing data exchange on student assistance.**

1. The Director of the Division of the State Lottery in the Department of the Treasury and the Executive Director of the Office of Student Assistance in, but not of, the Department of the Treasury shall initiate an ongoing data exchange in the Office of Telecommunications and Information Systems in the Department of the Treasury before a payment is made of a State lottery prize in excess of \$1,000.

L.1997,c.306,s.1.

### **5:9-13.11 List of individuals in default of student loan.**

2.The Executive Director of the Office of Student Assistance shall periodically supply the Office of Telecommunications and Information Systems with a list of those individuals in default of student loan repayments to the Office of Student Assistance.

L.1997,c.306,s.2.

### **5:9-13.12 Provision of list of lottery prize winners.**

3.The Director of the Division of the State Lottery shall promptly provide the Office of Telecommunications and Information Systems with a prize winners list, which shall include the prize claimant's name, address and social security number and the amount of the pending payment.

L.1997,c.306,s.3.

### **5:9-13.13 Cross-checking of lottery list.**

4.The Office of Telecommunications and Information Systems shall cross check the lottery list with the data supplied by the Executive Director of the Office of Student Assistance for a social security number match. If a match is made, the Office of Telecommunications and Information Systems shall notify the Office of Student Assistance.

L.1997,c.306,s.4.

### **5:9-13.14 Notification; withholding of lottery prize.**

5.If a lottery prize claimant is on the list of individuals in default of a student loan as reported pursuant to section 2 of P.L.1997, c.306 (C.5:9-13.11), the Office of Student Assistance shall promptly notify the Department of the Treasury and the Division of the State Lottery of the claimant's name, address, social security number and the outstanding amount of the student loan. The Department of the Treasury shall withhold this amount from the pending lottery payment and transmit same to the Office of Student Assistance after withholding any appropriate amounts for State or federal income taxes or for such other withholdings as may be required under State or federal law . If the amount of the student loan outstanding is greater than the amount available from the lottery payment, the entire amount available shall be transmitted to the Office of Student Assistance.

L.1997,c.306,s.5.

### **5:9-13.15 Payment of remainder of prize to claimant.**

6. Any of the claimant's lottery prize funds remaining after withholding pursuant to section 5 of P.L. 1997, c. 306 (C.5:9-13.14) shall be paid to the claimant in accordance with lottery procedures.

L. 1997, c. 306, s. 6.

### **5:9-13.16 Rules, regulations, safeguards against disclosure, inappropriate use of information.**

7. The State Treasurer, in consultation with the Office of Student Assistance, shall promulgate, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this act including, but not limited to, regulations providing for prompt notice to any prize winner from whose award the Department of the Treasury seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the prize winners with the opportunity for a hearing upon request prior to the disposition of any funds. For the purposes of this act, "prompt notice" shall mean notice within 14 days or less.

The State Treasurer shall also provide by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this act.

L. 1997, c. 306, s. 7.

### **5:9-14. Sale above fixed price; unlicensed sales; gifts**

No person shall sell a ticket or share at a price greater than that fixed by rule or regulation of the commission. No person other than a licensed lottery sales agent shall sell lottery tickets or shares, except that nothing in this section shall be construed to prevent any person from giving lottery tickets or shares to another as a gift.

Any person convicted of violating this section shall be guilty of a misdemeanor.

L. 1970, c. 13, s. 14, eff. Feb. 16, 1970.

### **5:9-14.1. State lottery ticket; false or fraudulent making, forgery, alteration or counterfeiting**

Any person who falsely or fraudulently makes, forges, alters or counterfeits, or causes or procures to be made, forged, altered or counterfeited, any New Jersey State Lottery ticket, or any part thereof, prepared and prescribed by the Director of the Division of the State Lottery or by the State Lottery Commission under the authority of the act to which this act is a supplement, or who knowingly and willfully utters, publishes, passes or tenders as true, any such forged, altered or counterfeited New Jersey State Lottery ticket shall be guilty of a misdemeanor. If any person with intent to defraud secures, manufactures or causes to be secured or manufactured, or has in his possession any counterfeit New Jersey State Lottery ticket or device, he shall be guilty of a misdemeanor.

L. 1973, c. 173, s. 1, eff. June 7, 1973.

### **5:9-15. Sales to person under eighteen years; gifts**

No ticket or share shall be sold to any person under the age of 18, but this shall not be deemed to prohibit the purchase of a ticket or share for the purpose of making a gift by a person 18 years of age or older to a person less than that age. Any licensee who knowingly sells or offers to sell a lottery ticket or share to any person under the age of 18 is a disorderly person.

L.1970, c. 13, s. 15, eff. Feb. 16, 1970.

### **5:9-16. Persons prohibited from purchasing tickets or shares**

No ticket or share shall be purchased by, and no prize shall be paid to any of the following persons: any officer or employee of the division or to any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons.

L.1970, c. 13, s. 16, eff. Feb. 16, 1970.

### **5:9-17. Unclaimed prize money**

Unclaimed prize money for the prize on a winning ticket or share shall be retained by the director for the person entitled thereto for 1 year after the drawing in which the prize was won. If no claim is made for said money within such year, the prize money shall be allocated to State institutions and State aid for education in the same manner as lottery revenues are allocated for such purposes under this act.

L.1970, c. 13, s. 17, eff. Feb. 16, 1970.

### **5:9-18. Deposit of receipts; reports**

The director may, in his discretion, require any or all lottery sales agents to deposit to the credit of the State Lottery Fund in banks, designated by the State Treasurer all moneys received by such agents from the sale of lottery tickets or shares, less the amount, if any, retained as compensation for the sale of the tickets or shares, and to file with the director or his designated agents reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as he may require. The director may make such arrangements for any person, including a bank, to perform such functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to this act and the rules and regulations of the commission, and such functions, activities or services shall constitute lawful functions, activities and services of such person.

L.1970, c. 13, s. 18, eff. Feb. 16, 1970.

### **5:9-19. Other laws; applicability**

No other law providing any penalty or disability for the sale of lottery tickets or any acts done in connection with a lottery shall apply to the sale of tickets or shares performed pursuant to this act.

L.1970, c. 13, s. 19, eff. Feb. 16, 1970.

### **5:9-20. Persons under eighteen years; payment of prizes**

If the person entitled to a prize or any winning ticket is under the age of 18 years, and such prize is less than \$5,000.00, the director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of such minor. If the person entitled to a prize or any winning ticket is under the age of 18 years, and such prize is \$5,000.00 or more, the director may direct payment to such minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or a guardian of the minor as custodian for such minor. The person so named as custodian shall have the same duties and powers as a person designated as a custodian in a manner prescribed by the "New Jersey Uniform Gifts to Minors Act," P.L.1963, chapter 177 (C. 46:38-13 et seq.) and for the purposes of this section the terms "adult member of a minor's family," "guardian of a minor" and "bank" shall have the same meaning as in said act. The director shall be discharged of all further liability upon payment of a prize to a minor pursuant to this section.

L.1970, c. 13, s. 20, eff. Feb. 16, 1970.

### **5:9-21. State lottery fund; creation**

There is hereby created and established in the Department of the Treasury a separate fund, to be known as the "State Lottery Fund," to be deposited in such depositories as the State Treasurer may select. Such fund shall consist of all revenues received from the sale of lottery tickets or shares, and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

L.1970, c. 13, s. 21, eff. Feb. 16, 1970.

### **5:9-22. State lottery fund; appropriation of moneys; report; publication**

The moneys in said State Lottery Fund shall be appropriated only (a) for the payment of prizes to the holders of winning lottery tickets or shares, (b) for the expenses of the division in its operation of the lottery, (c) for State institutions and State aid for education as shall be provided by law, and (d) for the repayment to the general treasury of the amount appropriated to the fund pursuant to section 23 of this act. On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report accounting for the total revenues received in the State Lottery Fund and the specific amounts of money appropriated therefrom for specific expenditures during the preceding six months ending December 31 and June 30.

L.1970, c. 13, s. 22, eff. Feb. 16, 1970. Amended by L.1984, c. 136, s. 1, eff. Jan. 1, 1985.

#### **5:9-22.1. Eligibility for lottery proceeds**

1. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any program of education approved by the Department of Education or by institutions of higher education licensed by the Commission on Higher Education which is intended, in whole or in part, to serve citizens of this State of the age of 65 years or over, shall be considered eligible for State aid from the net proceeds of any State lottery, as shall be provided by law.

L.1987,c.222,s.1; amended 1994,c.48,s.295.

### **5:9-22.2. State aid for higher education facilities trust fund**

10. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any trust fund established to provide grants to New Jersey's public and private institutions of higher education for the construction, reconstruction, development, extension, and improvement of instructional, laboratory, communication, and research facilities shall be considered eligible for State aid from the net proceeds of any State lottery, as shall be provided by law.

L.1993,c.375,s.10.

### **5:9-22.3 County juvenile offender rehabilitation programs eligible for State aid**

10. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), a juvenile offender rehabilitation program established and maintained pursuant to the provisions of P.L.1997, c.81 (C.30:8-61 et al.) shall be considered an education program eligible for State aid , to the extent permitted by law, from the net proceeds of any State lottery; provided, however, no such program, regardless of whether that program is established and maintained by one county or by two or more counties, shall receive in any fiscal year an amount of State aid under the provisions of this section more than either the actual cost of the program or \$1,000,000, whichever is less.

L.1997,c.81, s.10.

### **5:9-23. Emergency Transportation Tax Act; prizes exempt**

The prizes received pursuant to the provisions of this act shall be exempt from the "Emergency Transportation Tax Act" (P.L.1961, c. 32).

L.1970, c. 13, s. 24, eff. Feb. 16, 1970.

### **5:9-24. Annual post-audit**

The State Auditor shall conduct an annual post-audit of all accounts and transactions of the division and such other special post-audits as he may be directed to conduct pursuant to chapter 24 of Title 52 of the Revised Statutes.

L.1970, c. 13, s. 25, eff. Feb. 16, 1970.

### **5:9-25. Severability**

If any clause, sentence, paragraph, subdivision, section, provision or other portion of this act or the application thereof to any person or circumstances is held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, provision or other portion thereof directly involved in such holding or to the person and

circumstances therein involved. If any provision of this act is inconsistent with, in conflict with, or contrary to any other provision of law, such provision of this act shall prevail over such other provision and such other provision shall be deemed to have been amended, superseded or repealed to the extent of such inconsistency, conflict and contrariety.

L.1970, c. 13, s. 26, eff. Feb. 16, 1970.

## **CHAPTER 12. CASINO CONTROL ACT**

### **5:12-1. Short title; declaration of policy and legislative findings**

1. Short title; Declaration of Policy and Legislative Findings.

a. This act shall be known and may be cited as the "Casino Control Act."

b. The Legislature hereby finds and declares to be the public policy of this State, the following:

(1) The tourist, resort and convention industry of this State constitutes a critical component of its economic structure and, if properly developed, controlled and fostered, is capable of providing a substantial contribution to the general welfare, health and prosperity of the State and its inhabitants.

(2) By reason of its location, natural resources and worldwide prominence and reputation, the city of Atlantic City and its resort, tourist and convention industry represent a critically important and valuable asset in the continued viability and economic strength of the tourist, convention and resort industry of the State of New Jersey.

(3) The rehabilitation and redevelopment of existing tourist and convention facilities in Atlantic City, and the fostering and encouragement of new construction and the replacement of lost convention, tourist, entertainment and cultural centers in Atlantic City will offer a unique opportunity for the inhabitants of the entire State to make maximum use of the natural resources available in Atlantic City for the expansion and encouragement of New Jersey's hospitality industry, and to that end, the restoration of Atlantic City as the Playground of the World and the major hospitality center of the Eastern United States is found to be a program of critical concern and importance to the inhabitants of the State of New Jersey.

(4) Legalized casino gaming has been approved by the citizens of New Jersey as a unique tool of urban redevelopment for Atlantic City. In this regard, the introduction of a limited number of casino rooms in major hotel convention complexes, permitted as an additional element in the hospitality industry of Atlantic City, will facilitate the redevelopment of existing blighted areas and the refurbishing and expansion of existing hotel, convention, tourist, and entertainment facilities; encourage the replacement of lost hospitality-oriented facilities; provide for judicious use of open space for leisure time and recreational activities; and attract new investment capital to New Jersey in general and to Atlantic City in particular.

(5) Restricting the issuance of casino licenses to major hotel and convention facilities is designed to assure that the existing nature and tone of the hospitality industry in New Jersey and in Atlantic City is preserved, and that the casino rooms licensed pursuant to the provisions of this act are always offered and maintained as an integral element of such hospitality facilities, rather than as the industry unto themselves that they have become in other jurisdictions.

(6) An integral and essential element of the regulation and control of such casino facilities by the State rests in the public confidence and trust in the credibility and integrity of the regulatory process and of casino operations. To further such public confidence and trust, the regulatory provisions of this act are designed to extend strict State regulation to all persons, locations, practices and associations related to the operation of licensed casino enterprises and all related service industries as herein provided. In addition, licensure of a limited number of casino establishments, with the comprehensive law enforcement supervision attendant thereto, is further designed to contribute to the public confidence and trust in the efficacy and integrity of the regulatory process.

(7) Legalized casino gaming in New Jersey can attain, maintain and retain integrity, public confidence and trust, and remain compatible with the general public interest only under such a system of control and regulation as insures, so far as practicable, the exclusion from participation therein of persons with known criminal records, habits or associations, and the exclusion or removal from any positions of authority or responsibility within casino gaming operations and establishments of any persons known to be so deficient in business probity, either generally or with specific reference to gaming, as to create or enhance the dangers of unsound, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incident thereto.

(8) Since the public has a vital interest in casino operations in Atlantic City and has established an exception to the general policy of the State concerning gaming for private gain, participation in casino operations as a licensee or registrant under this act shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee or registrant and upon the discharge of the affirmative responsibility of each such licensee or registrant to provide to the regulatory and investigatory authorities established by this act any assistance and information necessary to assure that the policies declared by this act are achieved. Consistent with this policy, it is the intent of this act to preclude the creation of any property right in any license, registration, certificate or reservation permitted by this act, the accrual of any value to the privilege of participation in gaming operations, or the transfer of any license, registration, certificate, or reservation, and to require that participation in gaming be solely conditioned upon the individual qualifications of the person seeking such privilege.

(9) Since casino operations are especially sensitive and in need of public control and supervision, and since it is vital to the interests of the State to prevent entry, directly or indirectly, into such operations or the ancillary industries regulated by this act of persons who have pursued economic gains in an occupational manner or context which are in violation of the criminal or civil public policies of this State, the regulatory and investigatory powers and duties shall be exercised to the fullest extent consistent with law to avoid entry of such persons into the casino operations or the ancillary industries regulated by this act.

(10) (Deleted by amendment, P.L.1995, c.18.)

(11) The facilities in which licensed casinos are to be located are of vital law enforcement interest to the State, and it is in the public interest that the regulatory and investigatory powers and duties conferred by this act include the power and duty to review architectural and site plans to assure that the proposal is suitable by law enforcement standards.

(12) Since the economic stability of casino operations is in the public interest and competition in the casino operations in Atlantic City is desirable and necessary to assure the residents of Atlantic City and of this State and other visitors to Atlantic City varied attractions and exceptional facilities, the regulatory and investigatory powers and duties conferred by this act shall include the power and duty to regulate, control and prevent economic concentration in the casino operations and the ancillary industries regulated by this act, and to encourage and preserve competition.

(13) It is in the public interest that the institution of licensed casino establishments in New Jersey be strictly regulated and controlled pursuant to the above findings and pursuant to the provisions of this act, which provisions are designed to engender and maintain public confidence and trust in the regulation of the

licensed enterprises, to provide an effective method of rebuilding and redeveloping existing facilities and of encouraging new capital investment in Atlantic City, and to provide a meaningful and permanent contribution to the economic viability of the resort, convention, and tourist industry of New Jersey.

(14) Confidence in casino gaming operations is eroded to the extent the State of New Jersey does not provide a regulatory framework for casino gaming that permits and promotes stability and continuity in casino gaming operations.

(15) Continuity and stability in casino gaming operations cannot be achieved at the risk of permitting persons with unacceptable backgrounds and records of behavior to control casino gaming operations contrary to the vital law enforcement interest of the State.

(16) The aims of continuity and stability and of law enforcement will best be served by a system in which continuous casino operation can be assured under certain circumstances wherein there has been a transfer of property or another interest relating to an operating casino and the transferee has not been fully licensed or qualified, as long as control of the operation under such circumstances may be placed in the possession of a person or persons in whom the public may feel a confidence and a trust.

(17) A system whereby the suspension or revocation of casino operations under certain appropriate circumstances causes the imposition of a conservatorship upon the suspended or revoked casino operation serves both the economic and law enforcement interests involved in casino gaming operations.

L.1977,c.110,s.1; amended 1978,c.7,s.1; 1981,c.503,s.1; 1987,c.409,s.1; 1987,c.410,s.1; 1991,c.182,s.1; 1995,c.18,s.1.

### **5:12-1.1. References to include "Casino Simulcasting Act"**

41. Any reference in the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) to "this act" or to "P.L.1977, c.110" shall be deemed to include, where appropriate, the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et seq.).

L.1993,c.292,s.41.

### **5:12-2. Definitions**

As used in this act, the words and terms have the meanings ascribed to them in sections 3 through 48 of this act, unless a different meaning clearly appears in the context.

L.1977, c. 110, s. 2, eff. June 2, 1977.

#### **5:12-2.1. "Affiliate"**

2. "Affiliate"--A person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the affiliated person.

L.1995,c.18,s.2.

### **5:12-2.2. "Annuity jackpot trust"**

3. "Annuity jackpot trust"--A trust that is formed by one or more casino licensees, in accordance with rules established by the commission, to assure that all payments that are due to the winner of a slot machine jackpot that is to be paid in installments at specified intervals in the future are actually paid when due.

L.1995,c.18,s.3.

### **5:12-3. "Applicant"**

"Applicant" --Any person who on his own behalf or on behalf of another has applied for permission to engage in any act or activity which is regulated under the provisions of this act.

L.1977, c. 110, s. 3, eff. June 2, 1977.

### **5:12-4. "Application"**

"Application" --A written request for permission to engage in any act or activity which is regulated under the provisions of this act.

L.1977, c. 110, s. 4, eff. June 2, 1977.

### **5:12-4.1. "Attorney"**

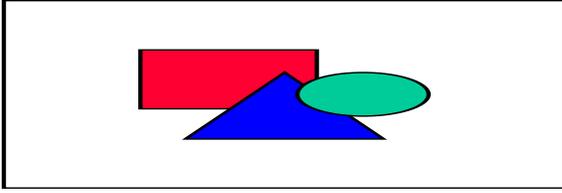
4. "Attorney"--Any attorney licensed to practice law in this State or any other jurisdiction, including an employee of a casino licensee.

L.1995,c.18,s.4.

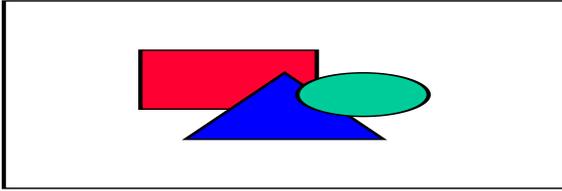
### **5:12-5. "Authorized game" or "authorized gambling game"**

5. "Authorized Game" or "Authorized Gambling Game"-- Roulette, baccarat, blackjack, craps, big six wheel, slot machines, minibaccarat, red dog, pai gow, and sic bo; any variations or composites of such games, provided that such variations or composites are found by the commission suitable for use after an appropriate test or experimental period under such terms and conditions as the commission may deem appropriate; and any other game which is determined by the commission to be compatible with the public interest and to be suitable for casino use after such appropriate test or experimental period as the commission may deem appropriate. "Authorized game" or "authorized gambling game" includes gaming tournaments in which players compete against one another in one or more of the games authorized herein or by the commission or in approved variations or composites thereof if the tournaments are authorized by the commission.

L.1977,c.110,s.5; amended 1979,c.282,s.1; 1985,c.350,s.1; 1991,c.182,s.2; 1992,c.9,s.1; 1992,c.19,s.22; 1993,c.292,s.1.



### **5:12-6. "Casino"**



6. "Casino" or "casino room" or "licensed casino" -- One or more locations or rooms in a casino hotel facility that have been approved by the commission for the conduct of casino gaming in accordance with the provisions of this act. "Casino " or "casino room" or "licensed casino" shall not include any casino simulcasting facility authorized pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et seq.).

L.1977,c.110,s.6; amended 1991, c.182, s.4; 1996, c.84, s.1.

### **5:12-7. "Casino employee"**

7. "Casino Employee"--Any natural person employed in the operation of a licensed casino or a simulcasting facility, including, without limitation, boxmen; dealers or croupiers; floormen; machine mechanics; casino security employees; count room personnel; cage personnel; slot machine and slot booth personnel; collection personnel; casino surveillance personnel; simulcasting facility personnel involved in wagering-related activities in a simulcasting facility; and data processing personnel; or any other natural person whose employment duties predominantly involve the maintenance or operation of gaming activity or equipment and assets associated therewith or who, in the judgment of the commission, is so regularly required to work in a restricted casino area that licensure as a casino employee is appropriate.

L.1977,c.110,s.7; amended 1979,c.282,s.2; 1987,c.353,s.1; 1991,c.182,s.5; 1992,c.9,s.2; 1992,c.19,s.23.

### **5:12-9. "Casino key employee"**

9. "Casino Key Employee"--Any natural person employed in the operation of a licensed casino or a simulcasting facility in a supervisory capacity or empowered to make discretionary decisions which regulate casino or simulcasting facility operations, including, without limitation, pit bosses; shift bosses; credit executives; casino cashier supervisors; casino or simulcasting facility managers and assistant managers; and managers or supervisors of casino security employees; or any other natural person empowered to make discretionary decisions which regulate the management of an approved hotel, including, without limitation, hotel managers; entertainment directors; and food and beverage directors; or any other employee so designated by the Casino Control Commission for reasons consistent with the policies of this act.

L.1977,c.110,s.9; amended 1987,c.355,s.1; 1992,c.19,s.24.

### **5:12-10. "Casino license"**

"Casino License"--Any license issued pursuant to this act which authorizes the holder thereof to own or operate a casino.

L. 1977, c.110, s. 10; amended 1978, c.7, s.2; 1987,c.410,s.2.

### **5:12-11. "Casino security employee"**

11. "Casino security employee" -- Any natural person employed by a casino licensee or its agent to provide physical security in a casino, simulcasting facility, or restricted casino area. "Casino security employee" shall not include any person who provides physical security solely in any other part of the casino hotel.

L.1977,c.110,s.11; amended 1991,c.182,s.7; 1993,c.292,s.2; 1995,c.18,s.5.

### **5:12-11.1. "Casino service employee"**

6. "Casino service employee" -- Any natural person employed to perform services or duties in a casino, casino simulcasting facility, or restricted casino area but who is not included within the definition of casino employee, casino key employee, or casino security employee as stated in sections 7, 9, and 11, respectively, of P.L.1977, c.110 (C.5:12-7, 5:12-9, and 5:12-11).

L.1995,c.18,s.6.

### **5:12-12. "Casino Service Industry"**

12. "Casino Service Industry" -- Any form of enterprise which provides casino applicants or licensees with goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility on a regular or continuing basis, including, without limitation, junket enterprises, security businesses, gaming schools, manufacturers, distributors and servicers of gaming and casino simulcasting devices or equipment, in-State and out-of-State sending tracks as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192), garbage haulers, maintenance companies, food purveyors, and construction companies, or any other enterprise which purchases goods or services from or which does any other business with licensed casinos on a regular or continuing basis. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution, testing or repair of slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be considered a casino service industry for the purposes of this act regardless of the nature of its business relationship, if any, with licensed casinos in this State.

For the purposes of this section, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82) who has applied to the commission for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

L.1977,c.110,s.12; amended 1982,57,s.1; 1987,c.355,s.2; 1991,c.182,s.8; 1992,c.9,s.3; 1992,c.19,s.25; 1995,c.18,s.7.

### **5:12-13. "Chairman" and "commissioner" or "member"**

"Chairman" and "commissioner" or "member" --The chairman and any member of the Casino Control Commission, respectively.

L.1977, c. 110, s. 13, eff. June 2, 1977.

### **5:12-14. "Commission"**

"Commission" --The New Jersey Casino Control Commission.

L.1977, c. 110, s. 14, eff. June 2, 1977.

### **5:12-14a. "Complimentary service or item"**

"Complimentary service or item" --A service or item provided at no cost or at a reduced price. The furnishing of a complimentary service or item by a casino licensee shall be deemed to constitute the indirect payment for the service or item by the casino licensee, and shall be valued in an amount based upon the retail price normally charged by the casino licensee for the service or item. The value of a complimentary service or item not normally offered for sale by a casino licensee or provided by a third party on behalf of a casino licensee shall be the cost to the casino licensee of providing the service or item, as determined in accordance with the rules of the commission.

L.1983, c. 41, s. 2, eff. Jan. 27, 1983.

### **5:12-14.1. "Conservator"**

"Conservator" --A fiduciary appointed pursuant to the Article concerning Casino License Conservatorship in the Casino Control Act.

L.1978, c. 7, s. 8, eff. March 17, 1978.

### **5:12-14.2. "Conservatorship action"**

"Conservatorship action" --An action brought pursuant to the Article concerning Casino License Conservatorship in the Casino Control Act for the appointment of a conservator.

L.1978, c. 7, s. 9, eff. March 17, 1978.

### **5:12-14.3. "Creditor"**

"Creditor" --The holder of any claim, of whatever character, against a person, whether secured or unsecured, matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

L.1978, c. 7, s. 3, eff. March 17, 1978.

#### **5:12-14.4. "Debt"**

"Debt" --Any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

L.1978, c. 7, s. 4, eff. March 17, 1978.

#### **5:12-15. "Director"**

"Director" --The Director of the Division of Gaming Enforcement.

L.1977, c. 110, s. 15, eff. June 2, 1977.

#### **5:12-16. "Division"**

"Division" --The Division of Gaming Enforcement.

L.1977, c. 110, s. 16, eff. June 2, 1977.

#### **5:12-16.1. "Encumbrance"**

"Encumbrance" --A mortgage, security interest, lien or charge of any nature in or upon property.

L.1978, c. 7, s. 5, eff. March 17, 1978.

#### **5:12-17. "Equal employment opportunity"**

"Equal employment opportunity" --Equality in opportunity for employment by any person licensed pursuant to the provisions of this act.

L.1977, c. 110, s. 17, eff. June 2, 1977.

#### **5:12-18. "Equity security"**

"Equity security" --(a) Any voting stock of a corporation, or similar security; (b) any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; (c) any such warrant or right; or (d) any security having a direct or indirect participation in the profits of the issuer.

L.1977, c. 110, s. 18, eff. June 2, 1977.

### **5:12-19. "Establishment"**

19. "Establishment" or "casino hotel" or "casino hotel facility" -- A single building, or two or more buildings which are physically connected in a manner deemed appropriate by the commission, containing an approved hotel, a casino and, if applicable, a casino simulcasting facility.

L.1977,c.110,s.19; amended 1996, c.84, s.2.

### **5:12-20. "Family"**

"Family" --Spouse, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, daughters-in-law, sons-in-law, brothers-in-law and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship.

L.1977, c. 110, s. 20, eff. June 2, 1977.

### **5:12-21. "Game" or "gambling game"**

21. "Game" or "gambling game" -- Any banking or percentage game located within the casino or simulcasting facility played with cards, dice, tiles, dominoes, or any electronic, electrical, or mechanical device or machine for money, property, or any representative of value.

L.1977,c.110,s.21; amended 1979,c.282,s.3; 1991,c.182,s.9; 1992,c.19,s.26.

### **5:12-22. "Gaming" or "gambling"**

"Gaming" or "gambling" --The dealing, operating, carrying on, conducting, maintaining or exposing for pay of any game.

L.1977, c. 110, s. 22, eff. June 2, 1977.

### **5:12-23. "Gaming device" or "gaming equipment"**

"Gaming device" or "gaming equipment" --Any electronic, electrical, or mechanical contrivance or machine used in connection with gaming or any game.

L.1977, c. 110, s. 23, eff. June 2, 1977. Amended by L.1979, c. 282, s. 4, eff. Jan. 9, 1980.

### **5:12-24. "Gross revenue"**

24. "Gross Revenue"--The total of all sums, including checks received by a casino licensee pursuant to section 101 of this act, whether collected or not, actually received by a casino licensee from gaming operations, less only the total of all sums paid out as winnings to patrons and a deduction for uncollectible gaming receivables not to exceed the lesser of a reasonable provision for uncollectible patron checks received from gaming operations or 4% of the total of all sums including checks, whether collected or not, less the amount paid out as winnings to patrons. "Gross Revenue" shall not include any amount received by

a casino from casino simulcasting pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.).

For the purposes of this section, any check which is invalid and unenforceable pursuant to subsection f. of section 101 of P.L.1977, c.110 (C.5:12-101) shall be treated as cash received by the casino licensee from gaming operations.

L.1977,c.110,s.24; amended 1979,c.282,s.5; 1987,c.426,s.2; 1992,c.19,s.27.

### **5:12-25. "Hearing examiner"**

"Hearing examiner" --A commissioner or other person authorized by the commission to conduct hearings.

L.1977, c. 110, s. 25, eff. June 2, 1977.

### **5:12-26. "Holding company"**

"Holding company" --Any corporation, association, firm, partnership, trust or other form of business organization not a natural person which, directly or indirectly, owns, has the power or right to control, or has the power to vote any significant part of the outstanding voting securities of a corporation which holds or applies for a casino license. For the purpose of this section, in addition to any other reasonable meaning of the words used, a "holding company" indirectly has, holds or owns any such power, right or security if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the corporate licensee or applicant.

L.1977, c. 110, s. 26, eff. June 2, 1977. Amended by L.1979, c. 282, s. 6, eff. Jan. 9, 1980.

### **5:12-27. "Hotel" or "approved hotel"**

27. "Hotel" or "approved hotel" -- A single building, or two or more buildings which are physically connected in a manner deemed appropriate by the commission and which are operated as one casino-hotel facility under the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), located within the limits of the city of Atlantic City as said limits were defined as of November 2, 1976, and containing not fewer than the number of sleeping units required by section 83 of P.L.1977, c.110 (C.5:12-83), each of which sleeping units shall: a. be at least 325 square feet measured to the center of perimeter walls, including bathroom and closet space and excluding hallways, balconies and lounges; b. contain private bathroom facilities; and c. be held available and used regularly for the lodging of tourists and convention guests. In no event shall the main entrance or only access to an approved hotel be through a casino or simulcasting facility.

L.1993,c.110,s.27; amended 1979,c.282,s.7; 1991,c.182,s.10; 1993,c.292,s.3.

#### **5:12-27.1. "Institutional investor"**

"Institutional investor" -- Any retirement fund administered by a public agency for the exclusive benefit of federal, State, or local public employees; investment company registered under the Investment Company Act of 1940 (15 U.S.C. s.80a-1 et seq.); collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency; closed end investment trust; chartered or licensed life

insurance company or property and casualty insurance company; banking and other chartered or licensed lending institution; investment advisor registered under The Investment Advisors Act of 1940 (15 U.S.C. s.80b-1 et seq.); and such other persons as the commission may determine for reasons consistent with the policies of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.).

L.1991,c.182,s.11.

### **5:12-28. "Intermediary company"**

"Intermediary company" --Any corporation, association, firm, partnership, trust or any other form of business organization other than a natural person which:

- a. Is a holding company with respect to a corporation which holds or applies for a casino license, and
- b. Is a subsidiary with respect to any holding company.

L.1977, c. 110, s. 28, eff. June 2, 1977.

### **5:12-29. Junket**

"Junket"--An arrangement the purpose of which is to induce any person, selected or approved for participation therein on the basis of his ability to satisfy a financial qualification obligation related to his ability or willingness to gamble or on any other basis related to his propensity to gamble, to come to a licensed casino hotel for the purpose of gambling and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a casino licensee or employee or agent thereof.

L. 1977, c. 110, s. 29; amended 1979,c.282,s.8; 1983,c.41,s.1; 1987,c.426,s.1.

#### **5:12-29.1. "Junket enterprise"**

3. "Junket enterprise" -- Any person, other than the holder of or an applicant for a casino license, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed casino, regardless of whether or not those activities occur within the State of New Jersey.

L.1983,c.41,s.3; amended 1992,c.9,s.4.

#### **5:12-29.2. "Junket representative"**

4. "Junket representative"--Any natural person who negotiates the terms of, or engages in the referral, procurement or selection of persons who may participate in, any junket to a licensed casino, regardless of whether or not those activities occur within the State of New Jersey.

L.1983,c.41,s.4; amended 1987,c.426,s.3; 1995,c.18,s.8.

### **5:12-30. "License"**

"License" --Any license required by this act.

L.1977, c. 110, s. 30, eff. June 2, 1977.

### **5:12-31. "License or Registration Fee"**

"License or Registration Fee" --Any moneys required by law to be paid for the issuance or renewal of a casino license, or any other license or registration required by this act.

L.1977, c. 110, s. 31, eff. June 2, 1977. Amended by L.1981, c. 503, s. 2, eff. Feb. 15, 1982.

### **5:12-32. "Licensed casino operation"**

"Licensed casino operation" --Any casino licensed pursuant to the provisions of this act.

L.1977, c. 110, s. 32, eff. June 2, 1977.

### **5:12-33. "Licensee"**

"Licensee" --Any person who is licensed under any of the provisions of this act.

L.1977, c. 110, s. 33, eff. June 2, 1977.

### **5:12-34. "Operation"**

"Operation" --The conduct of gaming as herein defined.

L.1977, c. 110, s. 34, eff. June 2, 1977.

### **5:12-35. "Operation certificate"**

35. "Operation certificate" -- A certificate issued by the commission which certifies that operation of a casino and, if applicable, a simulcasting facility conforms to the requirements of this act and applicable regulations.

L.1977,c.110,s.35; amended 1993,c.292,s.4.

### **5:12-36. "Party"**

"Party" --The commission, or any licensee, registrant, or applicant, or any person appearing of record for any licensee, registrant, or applicant in any proceeding before the commission or in any proceeding for

judicial review of any action, decision or order of the commission.

L.1977, c. 110, s. 36, eff. June 2, 1977. Amended by L.1981, c. 503, s. 3, eff. Feb. 15, 1982.

### **5:12-37. "Person"**

"Person" --Any corporation, association, operation, firm, partnership, trust or other form of business association, as well as a natural person.

L.1977, c. 110, s. 37, eff. June 2, 1977.

### **5:12-38. "Principal employee"**

"Principal employee" --Any employee who, by reason of remuneration or of a management, supervisory or policy-making position or such other criteria as may be established by the commission by regulation, holds or exercises such authority as shall in the judgment of the commission be sufficiently related to the operation of a licensee so as to require approval by the commission in the protection of the public interest.

L.1977, c. 110, s. 38, eff. June 2, 1977.

#### **5:12-38.1. "Property"**

"Property" --Real property, tangible and intangible personal property, and rights, claims and franchises of every nature.

L.1978, c. 7, s. 6, eff. March 17, 1978.

### **5:12-39. Publicly traded corporation"**

39. "Publicly traded corporation" --Any corporation or other legal entity, except a natural person, which:

a. Has one or more classes of security registered pursuant to section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. s. 781.), or

b. Is an issuer subject to section 15(d) of the Securities Exchange Act of 1934, as amended (15 U.S.C. s. 78o.), or

c. Has one or more classes of securities traded in any open market in any foreign jurisdiction or regulated pursuant to a statute of any foreign jurisdiction which the commission determines to be substantially similar to either or both of the aforementioned statutes.

L.1977,c.110,s.39; amended 1978,c.7,s.7; 1992,c.9,s.7.

### **5:12-40. "Registration"**

"Registration" --Any requirement other than one which requires a license as a prerequisite to conduct a

particular business as specified by this act.

L.1977, c. 110, s. 40, eff. June 2, 1977.

### **5:12-41. "Registrant"**

"Registrant" --Any person who is registered pursuant to the provisions of this act.

L.1977, c. 110, s. 41, eff. June 2, 1977.

### **5:12-42. "Regulated complimentary service account"**

"Regulated complimentary service account" --An account maintained by a casino licensee on a regular basis which itemizes complimentary services and includes, without limitation, a listing of the cost of junket activities and any other service provided at no cost or reduced price.

L.1977, c. 110, s. 42, eff. June 2, 1977.

### **5:12-42.1. "Resident"**

"Resident" --Any person who occupies a dwelling within the State, has a present intent to remain within the State for a period of time, and manifests the genuineness of that intent by establishing an ongoing physical presence within the State together with indicia that his presence within the State is something other than merely transitory in nature.

L.1978, c. 7, s. 10, eff. Oct. 1, 1978.

### **5:12-43. "Respondent"**

"Respondent" --Any person against whom a complaint has been filed or a written request for information served.

L.1977, c. 110, s. 43, eff. June 2, 1977.

### **5:12-43.1. "Restricted Casino Areas"**

"Restricted Casino Areas"--The cashier's cage, the soft count room, the hard count room, the slot cage booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the slot machine repair room and any other area specifically designated by the commission as restricted in a licensee's operation certificate.

L. 1987,c.353,s.3.

## **5:12-44. "Security"**

"Security" --Any instrument evidencing a direct or indirect beneficial ownership or creditor interest in a corporation, including but not limited to, stock, common and preferred; bonds; mortgages; debentures; security agreements; notes; warrants; options and rights.

L.1977, c. 110, s. 44, eff. June 2, 1977.

### **5:12-44.1. "Simulcasting facility"**

21. "Simulcasting facility"--A facility established in a casino hotel pursuant to section 4 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-194).

L.1992,c.19,s.21.

## **5:12-45. "Slot machine"**

45. "Slot machine"--Any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash, or to receive merchandise or any thing of value whatsoever, whether the payoff is made automatically from the machine or in any other manner whatsoever, except that the cash equivalent value of any merchandise or other thing of value shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenues as defined by section 24 of P.L.1977, c.110 (C.5:12-24) or be included in determining the payout percentage of any slot machine. The commission shall promulgate rules defining "cash equivalent value" in order to assure fairness, uniformity and comparability of valuation of slot machine payoffs.

L.1977,c.110,s.45; amended 1985,c.350,s.2; 1987,c.355,s.3; 1995,c.18,s.9.

## **5:12-46. "Statement of compliance"**

"Statement of compliance" --A statement by the commission which may be issued to an applicant indicating satisfactory completion of a particular stage or stages of the license consideration process, and which states that unless there is a change of any material circumstance pertaining to such particular stage or stages of license consideration involved in the statement, such applicant has complied with requirements mandated by this act and by the commission and is therefore approved for license qualification to the stage or stages for which the statement has been issued.

L.1977, c. 110, s. 46, eff. June 2, 1977.

## **5:12-47. "Subsidiary"**

"Subsidiary" --a. Any corporation, any significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company; or

b. A significant interest in any firm, association, partnership, trust or other form of business organization, not a natural person, which is owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company.

L.1977, c. 110, s. 47, eff. June 2, 1977. Amended by L.1979, c. 282, s. 9, eff. Jan. 9, 1980.

### **5:12-47.2. "Transfer"**

"Transfer" --The sale and every other method, direct or indirect, of disposing of or parting with property or with an interest therein, or with the possession thereof, or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, payment, pledge, mortgage, lien, encumbrance, gift, security or otherwise; the retention of a security interest in property delivered to a corporation shall be deemed a transfer suffered by such corporation.

L.1978, c. 7, s. 12, eff. March 17, 1978.

### **5:12-49. Words and terms: tense, number and gender**

49. Words and terms: tense, number and gender.

In constructing the provisions of this act, save when otherwise plainly declared or clearly apparent from the context:

- a. Words in the present tense shall include the future tense.
- b. Words in the masculine shall include feminine and neuter genders.
- c. Words in the singular shall include the plural and the plural shall include the singular.

L.1977,c.110,s.49.

### **5:12-50. Creation of Casino Control Commission; number of members**

50. Creation of Casino Control Commission; number of members. The New Jersey Casino Control Commission, consisting of five members, is hereby created in but not of the Department of the Treasury. The commission shall be principally located in Atlantic City.

L.1977,c.110,s.50; amended 1995,c.18,s.10.

### **5:12-51. Members of the commission; qualifications and eligibility**

- a. Each member of the commission shall be a citizen of the United States and a resident of the State of New Jersey.
- b. No member of the Legislature, or person holding any elective or appointive office in the federal, State or local government shall be eligible to serve as a member of the commission.

c. No more than three members of the commission may be of the same political affiliation.

L.1977, c. 110, s. 51, eff. June 2, 1977.

### **5:12-52. Appointment and terms of commission members**

a. Initial appointments to the commission made pursuant to this amendatory and supplementary act shall be for terms as follows:

(1) One member for 2 years;

(2) One member for 3 years;

(3) One member for 4 years; and

(4) One member for 5 years.

b. The term of each of the members first appointed pursuant to this amendatory and supplementary act shall be designated by the Governor.

c. After the initial appointments, all members shall be appointed for terms of 5 years; provided, however, that no member shall serve more than two terms of 5 years each.

d. Appointments to the commission and designation of the chairman shall be made by the Governor with the advice and consent of the Senate. Prior to nomination, the Governor shall cause an inquiry to be conducted by the Attorney General into the nominee's background, with particular regard to the nominee's financial stability, integrity, and responsibility and his reputation for good character, honesty, and integrity.

e. Appointments to fill vacancies on the commission shall be for the unexpired term of the member to be replaced.

f. The member designated by the Governor to serve as chairman shall serve in such capacity throughout such member's entire term and until his successor shall have been duly appointed and qualified. No such member, however, shall serve in such capacity for more than 10 years. The chairman shall be the chief executive officer of the commission. All members shall devote full time to their duties of office and shall not pursue or engage in any other business, occupation or other gainful employment.

g. A commissioner may be removed from office for misconduct in office, willful neglect of duty, or other conduct evidencing unfitness for his office, or for incompetence. A proceeding for removal may be instituted by the Attorney General in the Superior Court. Notwithstanding any provision of this or any other act, any commissioner or employee of the commission shall automatically forfeit his office or position upon conviction of any crime. Any commissioner or employee of the commission shall be subject to the duty to appear and testify and to removal from his office, position or employment in accordance with the provisions of P.L.1970, c.72 (C.2A:81-17.2a et seq.).

h. Each member of the commission shall serve for the duration of his term and until his successor shall be duly appointed and qualified, subject to the limitations in subsections c. and f. of this section; provided, however, that in the event that a successor is not duly appointed and qualified within 120 days after the expiration of the member's term, a vacancy shall be deemed to exist.

L.1977, c. 110, s. 52, eff. June 2, 1977. Amended by L.1980, c. 28, s. 1, e ff. May 20, 1980, operative May 14, 1981; L.1980, c.138, s.1, eff. November 12, 1980.

### **5:12-53. Compensation of members**

53. Compensation of members. Each member of the commission shall receive an annual salary of \$90,000. The chairman shall receive \$5,000.00 per annum in addition to his salary as a member of the commission.

L.1977,c.110,s.53; amended 1980,c.28,ss.2,10(s.10 amended 1980,c.159,s.2; 1981,c.142,s.5); 1984,c.82; 1993,c.292,s.5.

### **5:12-54. Organization and Employees**

Organization and Employees. a. The commission may establish, and from time to time alter, such plan of organization as it may deem expedient, and may incur expenses within the limits of funds available to it.

b. The commission shall elect annually by a majority of the full commission one of its members, other than the chairman, to serve as vice-chairman for the ensuing year. The vice-chairman shall be empowered to carry out all of the responsibilities of the chairman as prescribed in this act during his absence, disqualification, or inability to serve.

c. The commission shall appoint an executive secretary who shall serve at its pleasure and shall be responsible for the conduct of its administrative affairs. No person shall be eligible for such appointment unless he shall have at least 5 years of responsible experience in public or business administration or possesses broad management skills.

d. The commission may employ such other personnel as it deems necessary. All employees of the commission, except for secretarial and clerical personnel, shall be in the unclassified service of the Civil Service. All employees of the commission shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act" (P.L.1941, c. 100; C. 34:13A-1 et seq.), as amended. Notwithstanding the provisions of any other law to the contrary, the commission may employ legal counsel who shall represent the commission in any proceeding to which it is a party, and who shall render legal advice to the commission upon its request. The commission may contract for the services of other professional, technical and operational personnel and consultants as may be necessary to the performance of its responsibilities under this act. Members and employees of the commission shall be enrolled in the Public Employees' Retirement System of New Jersey (P.L.1954, c. 84; C. 43:15A-1 et seq.).

L. 1977, c. 110; amended by L. 1979,c.282,s.10; 1980,c.28,ss.3,10(s.10 amended 1980, c.159,s.2; 1981,c.142,s.5); 1981,c.238,s.1; 1987,c.354,s.1.

### **5:12-55. Division of gaming enforcement**

55. Division of gaming enforcement. There is hereby established in the Department of Law and Public Safety the Division of Gaming Enforcement. The division shall be under the immediate supervision of a director who shall also be sworn as an Assistant Attorney General and who shall administer the work of the division under the direction and supervision of the Attorney General. The director shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor, except that the first director shall be appointed for a term of 2 years. The director may be removed from office by the Attorney General for cause upon notice and opportunity to be heard.

The director and any employee or agent of the division shall be subject to the duty to appear and testify and to removal from his office, position or employment in accordance with the provisions of P.L.1970, c.72

(C.2A:81-17.2a et seq.). The Attorney General shall be responsible for the exercise of the duties and powers assigned to the division.

The division shall be principally located in Atlantic City.

L.1977,c.110,s.55; amended 1980,c.69,s.1; 1995,c.18,s.11.

### **5:12-56. Organization and employees**

a. The Attorney General shall organize the work of the division in such bureaus and other organizational units as he may determine to be necessary for efficient and effective operation and shall assign to the division such employees of the Department of Law and Public Safety as may be necessary to assist the director in the performance of his duties. Subject to the approval of the Attorney General, the Superintendent of State Police shall assign such supervisory and investigative personnel and other resources to the Division of Gaming Enforcement as may be necessary to fulfill its obligations under this act.

b. All employees of the division, except for secretarial and clerical personnel, shall be in the unclassified service of the Civil Service. All employees of the division shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act" (P.L.1941, c. 100; C. 34:13A-1 et seq.), as amended.

L.1977, c. 110, s. 56, eff. June 2, 1977.

### **5:12-57. Expenses; limits**

The division may incur expenses within the limits of funds available to it.

L.1977, c. 110, s. 57, eff. June 2, 1977.

### **5:12-58. Restrictions on pre-employment by commissioners, commission employees and division employees and agents**

Restrictions on Pre-Employment by Commissioners, Commission Employees and Division Employees and Agents.

a. Deleted by amendment.

b. No person shall be appointed to or employed by the commission or division if, during the period commencing three years prior to appointment or employment, said person held any direct or indirect interest in, or any employment by, any person which is licensed as a casino licensee pursuant to section 87 of P.L.1977, c.110 (C.5:12-87) or as a casino service industry pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) or has an application for such a license pending before the commission; provided, however, that notwithstanding any other provision of this act to the contrary, any such person may be appointed to or employed by the commission or division if his interest in any such casino licensee

or casino service industry which is publicly traded would not, in the opinion of the employing agency, interfere with the objective discharge of such person's employment obligations, but in no instance shall any person be appointed to or employed by the commission or division if his interest in such a casino licensee or casino service industry which is publicly traded constituted a controlling interest in that casino licensee or casino service industry; and provided further, however, that notwithstanding any other provision of this act to the contrary, any such person may be employed by the commission or division in a secretarial or clerical position if, in the opinion of the employing agency, his previous employment by, or interest in, any such casino licensee or casino service industry would not interfere with the objective discharge of such person's employment obligations.

c. Prior to appointment or employment, each member of the commission, each employee of the commission, the director of the Division of Gaming Enforcement and each employee and agent of the division shall swear or affirm that he possesses no interest in any business or organization licensed by or registered with the commission.

d. Each member of the commission and the director of the division shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said member or director and his spouse and shall provide to the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the parents, brothers, sisters, and children of said member or director. Such statement shall be under oath and shall be filed at the time of appointment and annually thereafter.

e. Each employee of the commission, except for secretarial and clerical personnel, and each employee and agent of the division, except for secretarial and clerical personnel, shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said employee or agent and his spouse. Such statement shall be under oath and shall be filed at the time of employment and annually thereafter.

L.1977,c.110,s.58; amended 1979,c.282,s.11; 1987,c.354,s.2; 1991,c.182,s.12.

### **5:12-59. Employment restrictions on commissioners, commission employees and division employees**

59. Employment Restrictions on Commissioners, Commission Employees and Division Employees.

a. The "New Jersey Conflicts of Interest Law," P.L.1971, c.182, (C.52:13D-12 et seq.) shall apply to members of the commission and to all employees of the commission and the division, except as herein specifically provided.

b. The commission shall, no later than January 1, 1981, promulgate a Code of Ethics that is modeled upon the Code of Judicial Conduct of the American Bar Association, as amended and adopted by the Supreme Court of New Jersey. This Code of Ethics shall include, but not be limited to, provisions that address the propriety of relationships and dealings between the commission and its staff, and licensees and applicants for licensure under this act.

c. The division shall promulgate a Code of Ethics governing its specific needs.

d. The Codes of Ethics promulgated by the commission and the division shall not be in conflict with the laws of this State, except, however, that said Codes of Ethics may be more restrictive than any law of this State.

e. The Codes of Ethics promulgated by the commission and the division shall be submitted to the Executive Commission on Ethical Standards for approval. The Codes of Ethics shall include, but not be limited to

provisions that:

(1) No commission member or employee or division employee or agent shall be permitted to gamble in any establishment licensed by the commission except in the course of his duties.

(2) No commission member or employee or division employee or agent shall solicit or accept employment from any person licensed by or registered with the commission or from any applicant for a period of four years after termination of service with the commission or division, except as otherwise provided in section 60 of this act.

(3) No commission member or employee or any division employee or agent shall act in his official capacity in any matter wherein he or his spouse, child, parent or sibling has a direct or indirect personal financial interest that might reasonably be expected to impair his objectivity or independence of judgment.

(4) No commission employee or any division employee or agent shall act in his official capacity in a matter concerning an applicant for licensure or a licensee who is the employer of a spouse, child, parent or sibling of said commission or division employee or agent when the fact of the employment of such spouse, child, parent or sibling might reasonably be expected to impair the objectivity and independence of judgment of said commission employee or division employee or agent.

(5) No spouse, child, parent or sibling of a commission member shall be employed in any capacity by an applicant for a casino license or a casino licensee nor by any holding, intermediary or subsidiary company thereof.

(6) No commission member shall meet with any person, except for any other member of the commission or employee of the commission, or discuss any issues involving any pending or proposed application or any matter whatsoever which may reasonably be expected to come before the commission, or any member thereof, for determination unless the meeting or discussion takes place on the business premises of the commission, provided, however, that commission members may meet to consider matters requiring the physical inspection of equipment or premises at the location of the equipment or premises. All meetings or discussions subject to this paragraph shall be noted in a log maintained for this purpose and available for inspection pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

f. No commission member or employee or division employee or agent shall have any interest, direct or indirect, in any applicant or in any person licensed by or registered with the commission during his term of office or employment.

g. Each commission member and employee of the commission, including legal counsel, and each employee and agent of the division shall devote his entire time and attention to his duties and shall not pursue any other business or occupation or other gainful employment; provided, however, that secretarial and clerical personnel may engage in such other gainful employment as shall not interfere with their duties to the commission or division, unless otherwise directed; and provided further, however, that other employees of the commission and division and agents of the division may engage in such other gainful employment as shall not interfere or be in conflict with their duties to the commission or division, upon approval by the commission or the director of the division, as the case may be.

h. No member of the commission, employee of the commission, or employee or agent of the division shall:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) Directly or indirectly coerce, attempt to coerce, command or advise any person to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

(3) Take any active part in political campaigns or the management thereof; provided, however, that nothing herein shall prohibit a person from voting as he chooses or from expressing his personal opinions on

political subjects and candidates.

i. For the purpose of applying the provisions of the "New Jersey Conflicts of Interest Law," any consultant or other person under contract for services to the commission and the division shall be deemed to be a special State employee, except that the restrictions of section 4 of P.L.1981, c.142 (C.52:13D-17.2) shall not apply to such person. Such person and any corporation, firm or partnership in which he has an interest or by which he is employed shall not represent any person or party other than the commission or the division before the commission.

L.1977,c.110,s.59; amended 1978,c.7,s.13; 1979,c.282,s.12; 1980,c.69,s.2; 1983,c.406; 1987,c.354,s.3; 1989,c.150; 1995,c.18,s.12.

## **5:12-60. Post-employment restrictions**

60. Post-employment restrictions.

a. No member of the commission shall hold any direct or indirect interest in, or be employed by, any applicant or by any person licensed by or registered with the commission for a period of 4 years commencing on the date his membership on the commission terminates.

b. (1) No employee of the commission or employee or agent of the division may acquire any direct or indirect interest in, or accept employment with, any applicant or any person licensed by or registered with the commission, for a period of two years commencing at the termination of employment with the commission or division, except that a secretarial or clerical employee of the commission or the division may accept such employment at any time after the termination of employment with the commission or division. At the end of two years and for a period of two years thereafter, a former employee or agent who held a policy-making management position at any time during the five years prior to termination of employment may acquire an interest in, or accept employment with, any applicant or person licensed by or registered with the commission upon application to and the approval of the commission upon a finding that the interest to be acquired or the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact.

(2) Notwithstanding the provisions of this subsection, if the employment of a commission employee or a division employee or agent, other than an employee or agent who held a policy-making management position at any time during the five years prior to termination of employment, is terminated as a result of a reduction in the workforce at the commission or division, the employee or agent may, at any time prior to the end of the two-year period, accept employment with any applicant or person licensed by or registered with the commission upon application to and the approval of the commission upon a finding that the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact. The decision of the commission shall be final, and the employee or agent shall not be subject to a determination by the Executive Commission on Ethical Standards under section 4 of P.L.1981, c.142 (C.52:13D-17.2).

c. No commission member or person employed by the commission or division shall represent any person or party other than the State before or against the commission for a period of two years from the termination of his office or employment with the commission or division.

d. No partnership, firm or corporation in which a former commission 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 said 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 subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

e. Notwithstanding any post-employment restriction imposed by this section, nothing herein shall prohibit a former commission member or employee or former division employee or agent, at any time after termination of such membership or employment, from acquiring an interest in, or soliciting or obtaining employment with, any person licensed as a casino service industry under subsection c. of section 92 of this act or any applicant for such licensure.

L.1977,c.110,s.60; amended 1979,c.282,s.13; 1995,c.18,s.13.

### **5:12-61. Applicant and licensee liability for violations**

a. No applicant or person or organization licensed by or registered with the commission shall employ or offer to employ, or provide, transfer or sell, or offer to provide, transfer or sell any interest, direct or indirect, in any person licensed by or registered with the commission to any person restricted from such transactions by the provisions of sections 58, 59, and 60 of this act.

b. The commission shall impose such sanctions upon an applicant or a licensed or registered person for violations of this section as authorized by Article 9 of this act.

L.1977, c. 110, s. 61, eff. June 2, 1977.

### **5:12-62. Enforcement**

a. The Executive Commission on Ethical Standards, established pursuant to the "New Jersey Conflicts of Interest Law" (P.L.1971, c. 182; C. 52:13D-12 et seq.) shall enforce the provisions of sections 58, 59, and 60 of this act.

b. Penalties for violation of sections 58, 59, and 60 shall be those set forth in P.L.1971, c. 182 (C. 52:13D-12 et seq.).

L.1977, c. 110, s. 62, eff. June 2, 1977.

### **5:12-63. Duties of the commission**

63. Duties of the Commission. The Casino Control Commission shall have general responsibility for the implementation of this act, as hereinafter provided, including, without limitation, the responsibility:

a. To hear and decide promptly and in reasonable order all license, registration, certificate, and permit applications and causes affecting the granting, suspension, revocation, or renewal thereof;

b. To conduct all hearings pertaining to civil violations of this act or regulations promulgated hereunder;

c. To promulgate such regulations as in its judgment may be necessary to fulfill the policies of this act;

d. To collect all license and registration fees and taxes imposed by this act and the regulations issued pursuant hereto;

e. To levy and collect penalties for the violation of provisions of this act and the regulations promulgated hereunder;

f. To be present through its inspectors and agents at all times during the operation of any casino or

simulcasting facility for the purpose of certifying the revenue thereof, receiving complaints from the public relating to the conduct of gaming and simulcast wagering operations, examining records of revenues and procedures, and conducting periodic reviews of operations and facilities for the purpose of evaluating current or suggested provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder;

g. To refer to the division for investigation and prosecution any evidence of a violation of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder;

h. To review and rule upon any complaint by a casino licensee regarding any investigative procedures of the division which are unnecessarily disruptive of casino or simulcasting facility operations. The need to inspect and investigate shall be presumed at all times. The disruption of a licensee's operations shall be proved by clear and convincing evidence, which evidence shall establish that: (1) the procedures had no reasonable law enforcement purpose, and (2) the procedures were so disruptive as to inhibit unreasonably casino or simulcasting facility operations; and

i. To ensure that there is no duplication of duties and responsibilities between it and the division.

L.1977,c.110,s.63; amended 1981,c.503,s.4; 1985,c.539,s.3; 1987,c.137,s.2; 1991,c.182,s.13; 1993,c.292,s.6; 1995,c.18,s.14.

### **5:12-64. Commission Powers -- Denials and Sanctions**

Commission Powers--Denials and Sanctions. The commission shall assure, to the extent required by this act, that licenses, approvals, certificates, or permits shall not be issued to nor held by, nor shall there be any material involvement, directly or indirectly, with the licensed casino operation or the ownership thereof by, unqualified or disqualified persons or persons whose operations are conducted in a manner not conforming with the provisions of this act. For the purposes of this section, "unqualified person" shall mean any person who is found by the commission to be unqualified pursuant to criteria set forth in section 84 or 89, and "disqualified person" shall mean any person found by the commission to be disqualified pursuant to the criteria set forth in section 86. In enforcing the provisions of this act, the commission shall have the power and authority to deny any application; limit or restrict any license, registration, certificate, permit or approval; suspend or revoke any license, registration, certificate, permit or approval; and, impose a penalty on any person licensed, registered, or previously approved for any cause deemed reasonable by the commission pursuant to rules and regulations promulgated thereby, except that no such denial, limitation, suspension or revocation shall be issued solely by reason of the fact that an applicant, registrant, or licensee holds an interest in or is associated with any licensed casino enterprise in any other jurisdiction.

L. 1977, c. 110; amended 1981, c.503, s.5; 1987,c.354,s.4.

### **5:12-65. Subpenas; Oaths**

Subpenas; Oaths. The commission shall have the power and authority to issue subpenas and to compel the attendance of witnesses at any place within this State, to administer oaths and to require testimony under oath before the commission or division in the course of any investigation or hearing conducted under this act. The commission may serve or cause to be served its process or notices in a manner provided for the service of process and notice in civil actions in accordance with the rules of court. The commission and the division shall have the authority to propound written interrogatories and the commission may appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpenas, propound written interrogatories, and require testimony under oath.

L. 1977, c. 110; amended 1987,c.354,s.5.

### **5:12-66. Investigative hearings**

66. Investigative hearings. The commission shall have the authority to conduct investigative hearings concerning the conduct of gaming and gaming operations as well as the enforcement of the provisions of P.L.1977, c.110 (C.5:12-1 et seq.), as amended and supplemented.

L.1977,c.110,s.66; amended 1995,c.18,s.15.

### **5:12-67. Testimonial immunity**

The commission may order any person to answer a question or questions or produce evidence of any kind and confer immunity as provided in this section. If, in the course of any investigation or hearing conducted under this act, a person refuses to answer a question or produce evidence on the ground that he will be exposed to criminal prosecution thereby, then in addition to any other remedies or sanctions provided for by this act, the commission may, by resolution of four of its members and after the written approval of the Attorney General, issue an order to answer or to produce evidence with immunity.

If, upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him, or evidence derived therefrom, used to expose him to criminal prosecution, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or for contempt for failing to give an answer or produce evidence in accordance with the order of the commission; provided, however, that no period of incarceration for contempt shall exceed 18 months in duration pursuant to this section. Any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury; upon any investigation, proceeding or trial against him for such contempt; or in any manner consonant with State and constitutional provisions.

L.1977, c. 110, s. 67, eff. June 2, 1977.

### **5:12-68. Collection of fees, penalties or tax**

Collection of Fees, Penalties or Tax. At any time within five years after any amount of fees, interest, penalties or tax required to be collected pursuant to the provisions of this act shall become due and payable, the commission may bring a civil action in the courts of this State or any other state or of the United States, in the name of the State of New Jersey, 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 State, 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 State, the records of the commission 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 P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder, including any compensation authorized pursuant to section 33 of P.L.1978, c.7 (C.5:12-130.3), and each regulatory obligation imposed as a condition upon the issuance or renewal of a casino 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 State 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 R.S.54:5-9, such a lien shall be a first lien paramount to all prior or subsequent liens, claims, or

encumbrances on that property.

L.1977,c.110,s.68; amended 1987,c.354,s.6; 1991,c.182,s.14.

### **5:12-69. Regulations**

69. Regulations.

a. The commission shall be authorized to adopt, amend, or repeal such regulations, consistent with the policy and objectives of this act, as amended, as it may deem necessary to protect the public interest in carrying out the provisions of this act.

b. Such regulations shall be adopted, amended, and repealed in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. Any interested person may, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), file a petition with the commission requesting the adoption, amendment or repeal of a regulation.

d. The commission may, in emergency circumstances, summarily adopt, amend or repeal any regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. Notwithstanding any other provision of this act or the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commission may, after notice provided in accordance with this subsection, authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or simulcast wagering, or the use or design of gaming or simulcast wagering equipment, or the internal procedures and administrative and accounting controls required by section 99 of P.L.1977, c.110 (C.5:12-99) for a period not to exceed 270 days for the purpose of determining whether such rules should be adopted on a permanent basis in accordance with the requirements of this section. Any temporary rulemaking authorized by this subsection shall be subject to such terms and conditions as the commission may deem appropriate. Notice of any temporary rulemaking action taken by the commission pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the commission pursuant to subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), at least seven days prior to the implementation of the temporary rules. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the commission or notice of any modification of any temporary rulemaking initiated in accordance with this subsection. The text of any temporary rule adopted by the commission shall be posted in each casino or simulcasting facility participating in the temporary rulemaking and shall be available upon request from the commission.

L.1977,c.110,s.69; amended 1987,c.354,s.7; 1987,c.410,s.4; 1991,c.182,s.15; 1992,c.19,s.28; 1993,c.292,s.7; 1995,c.18,s.16.

### **5:12-70. Required regulations**

70. Required Regulations. The commission shall, without limitation on the powers conferred in the preceding section, include within its regulations the following specific provisions in accordance with the provisions of this act:

a. Prescribing the methods and forms of application which any applicant shall follow and complete prior to consideration of his application by the commission;

- b. Prescribing the methods, procedures and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs;
- c. Prescribing procedures for the fingerprinting of an applicant, employee of a licensee, or registrant, or other methods of identification which may be necessary in the judgment of the commission to accomplish effective enforcement of restrictions on access to the casino floor, the simulcasting facility, and other restricted areas of the casino hotel complex;
- d. Prescribing the manner and procedure of all hearings conducted by the commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof;
- e. Prescribing the manner and method of collection of payments of taxes, fees, and penalties;
- f. Defining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices;
- g. Regulating the practice and procedures for negotiable transactions involving patrons, including limitations on the circumstances and amounts of such transactions, and the establishment of forms and procedures for negotiable instrument transactions, redemptions, and consolidations;
- h. Prescribing grounds and procedures for the revocation or suspension of operating certificates and licenses;
- i. Governing the manufacture, distribution, sale, and servicing of gaming devices and equipment;
- j. Prescribing for gaming operations the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility, and minimum security standards, including security personnel structure, alarm and other electrical or visual security measures;
- k. Prescribing the qualifications of, and the conditions pursuant to which, engineers, accountants, and others shall be permitted to practice before the commission or to submit materials on behalf of any applicant or licensee; provided, however, that no member of the Legislature, nor any firm with which said member is associated, shall be permitted to appear or practice or act in any capacity whatsoever before the commission or division regarding any matter whatsoever, nor shall any member of the family of the Governor or of a member of the Legislature be permitted to so practice or appear in any capacity whatsoever before the commission or division regarding any matter whatsoever;
- l. Prescribing minimum procedures for the exercise of effective control over the internal fiscal affairs of a licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts, and reports of transactions, operations and events, including reports to the commission;
- m. Providing for a minimum uniform standard of accountancy methods, procedures and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures, including those controls listed in section 99a. hereof, as may be necessary to assure consistency, comparability, and effective disclosure of all financial information, including calculations of percentages of profit by games, tables, gaming devices and slot machines;
- n. Requiring quarterly financial reports and the form thereof, and an annual audit prepared by a certified public accountant licensed to do business in this State, attesting to the financial condition of a licensee and disclosing whether the accounts, records and control procedures examined are maintained by the licensee as required by this act and the regulations promulgated hereunder;
- o. Governing the gaming-related advertising of casino licensees, their employees and agents, with the view toward assuring that such advertisements are in no way deceptive; provided, however, that such

regulations: (1) shall not prohibit the advertisement of casino location, hours of operation, or types of games and other amenities offered; (2) shall prohibit the advertisement of information about odds, the number of games, and the size of the casino or simulcasting facility; and (3) shall require the words "Bet with your head, not over it," or some comparable language approved by the commission, to appear on all billboards, signs, and other on-site advertising of a casino operation and shall require the words "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER," or some comparable language approved by the commission, which language shall include the words "gambling problem" and "call 1-800 GAMBLER," to appear legibly on all print, billboard, and sign advertising of a casino operation; and

p. (Deleted by amendment, P.L.1991, c.182).

q. Concerning the distribution and consumption of alcoholic beverages on the premises of the licensee, which regulations shall be insofar as possible consistent with Title 33 of the Revised Statutes, and shall deviate only insofar as necessary because of the unique character of the hotel casino premises and operations;

r. (Deleted by amendment, P.L.1991, c.182).

L.1977,c.110,s.70; amended 1979,c.282,s.14; 1982,c.148,s.1; 1991,c.182,s.16; 1992,c.9,s.5; 1993,c.292,s.8; 1995,c.18,s.17.

### **5:12-71. Regulation requiring exclusion of certain persons**

71. Regulation Requiring Exclusion of Certain Persons. a. The commission shall, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any licensed casino establishment. Such provisions shall define the standards for exclusion, and shall include standards relating to persons:

- (1) Who are career or professional offenders as defined by regulations of the commission;
- (2) Who have been convicted of a criminal offense under the laws of any state or of the United States, which is punishable by more than six months in prison, or any crime or offense involving moral turpitude; or
- (3) Whose presence in a licensed casino hotel would, in the opinion of the commission, be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both.

The commission shall promulgate definitions establishing those categories of persons who shall be excluded pursuant to this section, including cheats and persons whose privileges for licensure or registration have been revoked.

b. Race, color, creed, national origin or ancestry, or sex shall not be a reason for placing the name of any person upon such list.

c. The commission may impose sanctions upon a licensed casino or individual licensee or registrant in accordance with the provisions of this act if such casino or individual licensee or registrant knowingly fails to exclude or eject from the premises of any licensed casino any person placed by the commission on the list of persons to be excluded or ejected.

d. Any list compiled by the commission of persons to be excluded or ejected shall not be deemed an all-inclusive list, and licensed casino establishments shall have a duty to keep from their premises persons known to them to be within the classifications declared in paragraphs (1) and (2) of subsection a. of this section and the regulations promulgated thereunder, or known to them to be persons whose presence in a licensed casino hotel would be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both, as defined in standards established by the commission.

e. Whenever the division petitions the commission to place the name of any person on a list pursuant to this section, the commission shall serve notice of such fact to such person by personal service, by certified mail at the last known address of such person, or by publication daily for one week in a newspaper of general circulation in Atlantic City.

f. Within 30 days after service of the petition in accordance with subsection e. of this section, the person named for exclusion or ejection may demand a hearing before the commission, at which hearing the division shall have the affirmative obligation to demonstrate by a preponderance of the evidence that the person named for exclusion or ejection satisfies the criteria for exclusion established by this section and the commission's regulations. Failure to demand such a hearing within 30 days after service shall be deemed an admission of all matters and facts alleged in the division's petition and shall preclude a person from having an administrative hearing, but shall in no way affect his or her right to judicial review as provided herein.

g. The division may file an application with the commission requesting preliminary placement on the list of a person named in a petition for exclusion or ejection pending completion of a hearing on the petition. The hearing on the application for preliminary placement shall be a limited proceeding at which the division shall have the affirmative obligation to demonstrate that there is a reasonable possibility that the person satisfies the criteria for exclusion established by this section and the commission's regulations. If a person has been placed on the list as a result of an application for preliminary placement, unless otherwise agreed by the commission and the named person, a hearing on the petition for exclusion or ejection shall be initiated within 30 days after the receipt of a demand for such hearing or the date of preliminary placement on the list, whichever is later.

h. If, upon completion of the hearing on the petition for exclusion or ejection, the commission determines that the person named therein does not satisfy the criteria for exclusion established by this section and the commission's regulations, the commission shall issue an order denying the petition. If the person named in the petition for exclusion or ejection had been placed on the list as a result of an application for preliminary placement, the commission shall notify all casino licensees of his or her removal from the list.

i. If, upon completion of a hearing on the petition for exclusion or ejection, the commission determines that placement of the name of the person on the exclusion list is appropriate, the commission shall make and enter an order to that effect, which order shall be served on all casino licensees. Such order shall be subject to review by the Superior Court in accordance with the rules of court.

L.1977,c.110,s.71; amended 1979,c.282,s.15; 1981,c.503,s.6; 1991,c.182,s.17; 1993,c.292,s.9.

### **5:12-71.1. Exclusion, ejection of certain persons**

40. A casino licensee may exclude or eject from its casino hotel any person who is known to it to have been convicted of a crime, disorderly persons offense, or petty disorderly persons offense committed in or on the premises of any casino hotel. Nothing in this section or in any other law of this State shall limit the right of a casino licensee to exercise its common law right to exclude or eject permanently from its casino hotel any person who disrupts the operations of its premises, threatens the security of its premises or its occupants, or is disorderly or intoxicated.

L.1993,c.292,s.40; amended 1995,c.18,s.18.

## **5:12-72. Commission reports and recommendations**

72. Commission reports and recommendations. The commission shall carry on a continuous study of the operation and administration of casino control laws which may be in effect in other jurisdictions, literature on this subject which may from time to time become available, federal laws which may affect the operation of casino gaming in this State, and the reaction of New Jersey citizens to existing and potential features of casino gaming under this act. It shall be responsible for ascertaining any defects in this act or in the rules and regulations issued thereunder, formulating recommendations for changes in this act to prevent abuses thereof, guarding against the use of this act as a cloak for the carrying on of illegal gambling or other criminal activities, and insuring that this act and the rules and regulations shall be in such form and be so administered as to serve the true purposes of this act. The commission shall make to the Governor and the Legislature an annual report of all revenues, expenses and disbursements, and shall include therein such recommendations for changes in this act as the commission deems necessary or desirable. The commission shall also report recommendations that promote more efficient operations of the commission. The commission shall report immediately to the Governor and the Legislature any matters which in its judgment require immediate changes in the laws of this State in order to prevent abuses and evasions of this act or of rules and regulations promulgated hereunder, or to rectify undesirable conditions in connection with the operation and regulation of casino gaming.

L.1977,c.110,s.72; amended 1995,c.18,s.19.

## **5:12-73. Meetings and quorum**

Meetings and Quorum. a. Meetings of the commission will be held at the discretion of the chairman at such times and places as he may deem necessary and convenient, or at the call of three members of the commission.

b. The commission shall in all respects comply with the provisions of the "Open Public Meetings Act" (P.L. 1975, c. 231; C. 10:4-6 et seq.).

c. Any other law, rule or regulation to the contrary notwithstanding, the commission shall take all necessary steps to ensure that all interested persons are given adequate notice of commission meetings, and the agenda of such meetings, through the utilization of all media engaged in the dissemination of information.

d. A majority of the full commission shall determine any action of the commission, except that no casino license or interim casino authorization may be issued without the approval of four members. In the event that a vacancy has existed in the commission for more than 60 days, a majority of the full commission may act with respect to any matter, including the issuance of a casino license or interim casino authorization.

L. 1977, c.110; amended 1980, c.28,ss.4,10(s.10 amended 1980, c.159,s.2; 1981, c.142, s.5); 1987,c.409,s.2.

## **5:12-74. Minutes and records**

74. Minutes and Records. a. The commission shall cause to be made and kept a record of all proceedings held at public meetings of the commission. A verbatim transcript of those proceedings shall be prepared by the commission upon the request of any commissioner or upon the request of any other person and the payment by that person of the costs of preparation. A copy of a transcript shall be made available to any person upon request and payment of the costs of preparing the copy.

A true copy of the minutes of every meeting of the commission and of any regulations finally adopted by the commission shall be forthwith delivered, by and under the certification of the executive secretary, to the Governor, the Secretary of the Senate, and the Clerk of the General Assembly.

b. The commission shall keep and maintain a list of all applicants for licenses and registrations under this act together with a record of all actions taken with respect to such applicants, which file and record shall be open to public inspection; provided, however, that the foregoing information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after five years from the date of such action.

c. The commission shall maintain such other files and records as may be deemed desirable.

d. Except as provided in subsection h. of this section, all information and data required by the commission to be furnished hereunder, or which may otherwise be obtained, relative to the internal controls specified in section 99a. of this act or to the earnings or revenue of any applicant, registrant, or licensee shall be considered to be confidential and shall not be revealed in whole or in part except in the course of the necessary administration of this act, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

e. All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the commission from any source shall be considered confidential and shall be withheld in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

f. Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsection d. or e. of this section, shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules and regulations adopted by the commission.

g. Files, records, reports and other information in the possession of the New Jersey Division of Taxation pertaining to licensees shall be made available to the commission and the division as may be necessary to the effective administration of this act.

h. The following information to be reported periodically to the commission by a casino licensee shall not be considered confidential and shall be made available for public inspection:

(1) A licensee's gross revenue from all authorized games as herein defined, and its gross revenue from simulcast wagering;

(2) (a) The dollar amount of patron checks initially accepted by a licensee, (b) the dollar amount of patron checks deposited to the licensee's bank account, (c) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as "uncollected," and (d) the dollar amount ultimately uncollected after all reasonable efforts;

(3) The amount of gross revenue tax or investment alternative tax actually paid and the amount of investment, if any, required and allowed, pursuant to section 144 of P.L.1977, c.110 (C.5:12-144) and section 3 of P.L.1984, c.218 (C.5:12-144.1);

(4) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements, which were the subject of an investment required and allowed pursuant to section 144 of P.L.1977, c.110 (C.5:12-144) and section 3 of P.L.1984, c.218 (C.5:12-144.1);

(5) The amount, if any, of tax in lieu of full local real property tax paid pursuant to section 146, and the amount of profits, if any, recaptured pursuant to section 147;

(6) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments by which a licensee has recaptured profits pursuant to section 147; and

(7) All quarterly and annual financial statements presenting historical data which are submitted to the commission, including all annual financial statements which have been audited by an independent certified public accountant licensed to practice in the State of New Jersey.

Nothing in this subsection shall be construed to limit access by the public to those forms and documents required to be filed pursuant to Article 11 of this act.

L.1977,c.110,s.74; amended 1981,c.503,s.7; 1984,c.218,s.1; 1987,c.354,s.8; 1987,c.410,s.5; 1991,c.182,s.18; 1993,c.292,s.10.

### **5:12-75. Powers not enumerated**

The commission may exercise any proper power or authority necessary to perform the duties assigned to it by law, and no specific enumeration of powers in this act shall be read to limit the authority of the commission to administer this act.

L.1977, c. 110, s. 75, eff. June 2, 1977.

### **5:12-76. General duties and powers**

76. General Duties and Powers.

a. The Division of Gaming Enforcement shall:

(1) promptly and in reasonable order investigate all applications, enforce the provisions of this act and any regulations promulgated hereunder, and prosecute before the commission all proceedings for violations of this act or any regulations promulgated hereunder;

(2) provide the commission with all information necessary for all action under Article 6 of this act and for all proceedings involving enforcement of the provisions of this act or any regulations promulgated hereunder; and

(3) ensure that there is no duplication of duties and responsibilities between it and the commission.

b. The division shall:

(1) Investigate the qualifications of each applicant before any license, certificate, or permit is issued pursuant to the provisions of this act;

(2) Investigate the circumstances surrounding any act or transaction for which commission approval is required;

(3) Investigate violations of this act and regulations promulgated hereunder;

- (4) Initiate, prosecute and defend such proceedings before the commission, or appeals therefrom, as the division may deem appropriate;
- (5) Provide assistance upon request by the commission in the consideration and promulgation of rules and regulations;
- (6) Conduct continuing reviews of casino operations through on-site observation and other reasonable means to assure compliance with this act and regulations promulgated hereunder, subject to subsection h. of section 63 of this act;
- (7) Receive and take appropriate action on any referral from the commission relating to any evidence of a violation of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder;
- (8) Exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation for use in considering applicants for any license or registration issued pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.);
- (9) 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;
- (10) 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 act; and
- (11) Report to the Attorney General recommendations that promote more efficient operations of the division.

L.1977,c.110,s.76; amended 1979,c.282,s.16; 1991,c.182,s.19; 1993,c.292,s.11; 1995,c.18,s.20.

### **5:12-77. Law enforcement powers, responsibilities**

77. The division is a law enforcement agency, and its employees and agents shall have such law enforcement powers as may be delegated to them by the Attorney General to effectuate the purposes of P.L.1977, c.110 (C.5:12-1 et seq.).

The division shall prosecute all criminal violations of this act except those it may refer to the Division of Criminal Justice. To effectuate this power, the division shall have access to the State Grand Jury.

L.1977,c.110,s.77; amended 1993,c.292,s.39.

### **5:12-78. Cooperation by licensees, registrants or applicants**

Each licensee or registrant, or applicant for a license or registration under this act shall cooperate with the division in the performance of its duties.

L.1977, c. 110, s. 78, eff. June 2, 1977.

## **5:12-79. Inspection, seizure and warrants**

79. a. The division and its employees and agents, upon approval of the director, shall have the authority, without notice and without warrant:

(1) To inspect and examine all premises wherein casino gaming or casino simulcasting, as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192), is conducted; or gaming devices or equipment are manufactured, sold, distributed, or serviced; or wherein any records of such activities are prepared or maintained;

(2) To inspect all equipment and supplies in, about, upon or around such premises;

(3) To seize summarily and remove from such premises and impound any such equipment or supplies for the purposes of examination and inspection;

(4) To inspect, examine and audit all books, records, and documents pertaining to a casino licensee's operation;

(5) To seize, impound or assume physical control of any book, record, ledger, game, device, cash box and its contents, counting room or its equipment, or casino operations; and

(6) To inspect the person, and personal effects present in a casino facility licensed under this act, of any holder of a license or registration issued pursuant to this act while that person is present in a licensed casino facility.

b. The provisions of subsection a. of this section shall in no way be deemed to limit warrantless inspections except in accordance with constitutional requirements.

c. To effectuate further the purposes of this act, the division and its employees and agents may obtain administrative warrants for the inspection and seizure of any property possessed, controlled, bailed or otherwise held by any applicant, licensee, registrant, intermediary company, or holding company.

d. Issuance and execution of warrants for administrative inspection shall be in accordance with the following:

(1) Any judge of a court having jurisdiction in the municipality where the inspection or seizure is to be conducted may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this act or regulations thereunder and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of the act or regulations sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of a person duly designated and having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected; the purpose of such inspection; and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours of the licensee. It shall designate the judge to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

e. The division is authorized to make administrative inspections to check for compliance by any applicant, licensee, registrant, intermediary company or holding company with the provisions of this act or regulations promulgated thereunder, and to investigate any violations thereof.

f. This section shall not be construed to prevent entries and administrative inspections, including seizures of property, without a warrant:

(1) With the consent of the owner, operator or agent in charge of the controlled premises;

(2) In situations presenting imminent danger to health or safety;

(3) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impractical to obtain a warrant or in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

(4) In accordance with the provisions of this act; or

(5) In all other situations where a warrant is not constitutionally required.

L.1977,c.110,s.79; amended 1981,c.503,s.8; 1992,c.19,s.29.

## **5:12-80. General provisions**

80. General Provisions. a. It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence his individual qualifications, and for a casino license the qualifications of each person who is required to be qualified under this act as well as the qualifications of the facility in which the casino is to be located.

b. Any applicant, licensee, registrant, or any other person who must be qualified pursuant to this act shall provide all information required by this act and satisfy all requests for information pertaining to qualification and in the form specified by the commission. All applicants, registrants, and licensees shall waive liability as to the State of New Jersey, and its instrumentalities and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication,

of any material or information acquired during inquiries, investigations or hearings.

c. All applicants, licensees, registrants, intermediary companies, and holding companies shall consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this act and regulations promulgated hereunder.

d. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this act shall have the continuing duty to provide any assistance or information required by the commission or division, and to cooperate in any inquiry or investigation conducted by the division and any inquiry, investigation, or hearing conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this act refuses to comply, the application, license, registration or qualification of such person may be denied or revoked by the commission.

e. No applicant or licensee shall give or provide, offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming or simulcast wagering activities, except as authorized by this act, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in gaming or simulcast wagering operations.

f. Each applicant or person who must be qualified under this act shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures established by the commission.

g. All licensees, all registrants, all persons required to be qualified under this act, and all persons employed by a casino service industry licensed pursuant to this act, shall have a duty to inform the commission or division of any action which they believe would constitute a violation of this act. No person who so informs the commission or the division shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.

h. (Deleted by amendment, P.L.1995, c.18.)

L.1977,c.110,s.80; amended 1979,c.282,s.17; 1981,c.503,s.9; 1991,c.182,s.20; 1993,c.292,s.12; 1995,c.18,s.21.

## **5:12-81. Statement of compliance**

81. Statement of compliance.

a. (1) The commission may, in its discretion, issue a statement of compliance to an applicant for any license or for qualification status under this act at any time the commission is satisfied that the applicant has established by clear and convincing evidence that one or more particular eligibility criteria have been satisfied by an applicant. A request for the issuance of a statement of compliance pursuant to this paragraph shall be initiated by the applicant filing a petition with the commission. Before the commission refers any such petition to the division for investigation, the commission may require the applicant to establish to the satisfaction of the commission that the applicant actually intends, if found qualified, to engage in the business or activity that would require the issuance of the license or the determination of qualification status.

(2) Any person who must be qualified pursuant to the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) in order to hold the securities of a casino licensee or any holding or intermediary company of a casino

licensee may, prior to the acquisition of any such securities, request the issuance of a statement of compliance by the commission that the person is qualified to hold such securities. Any request for the issuance of a statement of compliance pursuant to this paragraph shall be initiated by the person filing a petition with the commission in which the person shall be required to establish that there is a reasonable likelihood that, if qualified, the person will obtain and hold the securities of a casino licensee or any holding or intermediary company thereof to such extent as to require the qualification of the person. If the commission finds that this reasonable likelihood exists, and if the commission is satisfied, after an investigation by the division, that the qualifications of the person have been established by clear and convincing evidence, the commission may, in its discretion, issue a statement of compliance that the person is qualified to hold such securities. Any person who requests a statement of compliance pursuant to this paragraph shall be subject to the provisions of section 80 of P.L.1977, c.110 (C.5:12-80) and shall pay for the costs of all investigations and proceedings in relation to the request unless the person provides to the commission an agreement with one or more casino licensees which states that the licensee or licensees will pay those costs.

b. Any statement of compliance issued under P.L.1977, c.110 (C.5:12-1 et seq.) shall specify:

(1) the particular eligibility criterion satisfied by the applicant or person;

(2) the date as of which such satisfaction was determined by the commission;

(3) the continuing obligation of the applicant or person to file any information required by the commission or division as part of any application for a license or qualification status, including information related to the eligibility criterion for which the statement of compliance was issued; and

(4) the obligation of the applicant or person to reestablish its satisfaction of the eligibility criterion should there be a change in any material fact or circumstance that is relevant to the eligibility criterion for which the statement of compliance was issued.

c. A statement of compliance certifying satisfaction of all of the requirements of subsection e. of section 84 of this act with respect to a specific casino hotel proposal submitted by an eligible applicant may be accompanied by a written commitment from the commission that a casino license shall be reserved for a period not to exceed 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish and shall be issued to such eligible applicant with respect to such proposal provided that such applicant (1) complies in all respects with the provisions of this act, (2) qualifies for a casino license within a period not to exceed 30 months of the date of such commitment or within such additional time period as the commission may, upon a showing of good cause therefor, establish, and (3) complies with such other conditions as the commission shall impose. The commission may revoke such reservation at any time it finds that the applicant is disqualified from receiving or holding a casino license or has failed to comply with any conditions imposed by the commission. Such reservation shall be automatically revoked if the applicant does not qualify for a casino license within the period of such commitment. No license other than a casino license shall be reserved by the commission.

d. Any statement of compliance issued pursuant to this section shall be withdrawn by the commission if:

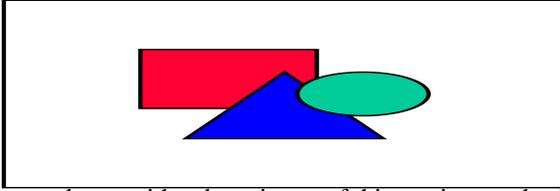
(1) the applicant or person otherwise fails to satisfy the standards for licensure or qualification;

(2) the applicant or person fails to comply with any condition imposed by the commission; or

(3) the commission finds cause to revoke the statement of compliance for any other reason.

L.1977,c.110,s.81; amended 1978,c.7,s.14; 1991,c.182,s.21; 1995,c.18,s.22.

## 5:12-82.Casino license -- applicant eligibility

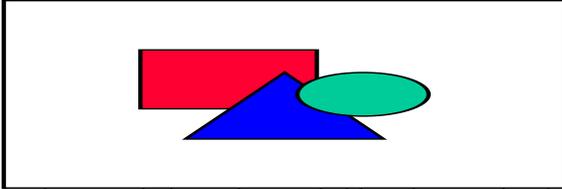


enses and approvals therefor have been obtained in  
l a casino license; and, unless otherwise determined by  
General which may not be unreasonably withheld in  
accordance with subsection c. of this section, each of the following persons shall be required to hold a  
casino license prior to the operation of a casino in the casino hotel with respect to which the casino license  
has been applied for:

- (1) Any person who either owns an approved casino hotel or owns or has a contract to purchase or construct a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;
- (2) Any person who, whether as lessor or lessee, either leases an approved casino hotel or leases or has an agreement to lease a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;
- (3) Any person who has a written agreement with a casino licensee or with an eligible applicant for a casino license for the complete management of a casino and, if applicable, any authorized games in a casino simulcasting facility; and
- (4) Any other person who has control over either an approved casino hotel or the land thereunder or the operation of a casino.

c. Prior to the operation of a casino and, if applicable, a casino simulcasting facility, every agreement to lease an approved casino hotel or the land thereunder and every agreement for the management of the casino and, if applicable, any authorized games in a casino simulcasting facility, shall be in writing and filed with the commission. No such agreement shall be effective unless expressly approved by the commission. The commission may require that any such agreement include within its terms any provision reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

- (1) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any person who does not have the ability to exercise any significant control over either the approved casino hotel or the operation of the casino contained therein shall not be eligible to hold or required to hold a casino license;
- (2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved casino hotel or the land thereunder who does not own or lease the entire approved casino hotel shall not be eligible to hold or required to hold a casino license;
- (3) The commission shall require that any person or persons eligible to apply for a casino license organize itself or themselves into such form or forms of business association as the commission shall deem necessary or desirable in the circumstances to carry out the policies of this act;
- (4) The commission may issue separate casino licenses to any persons eligible to apply therefor;
- (5) As to agreements to lease an approved casino hotel or the land thereunder, unless it expressly and by formal vote for good cause determines otherwise, the commission shall require that each party thereto hold



use and that such an agreement be for a durational term approved casino hotel or of the land upon which same is located, conferring upon the casino licensee-lessee who holds the absolute right to purchase for an expressly set forth period of time associated with the lessor in the approved casino hotel or said person associated with the lessor is found

by the commission to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved casino hotel or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino unless the party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease agreement holds either a casino license or casino service industry license and unless the agreement is for a durational term exceeding 30 years, concerns a significant portion of the entire approved casino hotel or of the land upon which same is located, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino gaming operations own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of all casino space in the casino hotel and, if applicable, all authorized games in a casino simulcasting facility, provide for the sole and unrestricted power to direct the casino gaming operations of the casino hotel which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino gaming operations;

(8) The commission may permit an agreement for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility to provide for the payment to the managing party of an interest, percentage or share of money gambled at all authorized games or derived from casino gaming activity or of revenues or profits of casino gaming operations;

(9) The commission may permit an agreement between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) for the conduct of casino simulcasting in a simulcasting facility to provide for the payment to the casino service industry of an interest, percentage or share of the money derived from the casino licensee's share of proceeds from simulcast wagering activity; and

(10) As to agreements to lease an approved casino hotel or the land thereunder, agreements to jointly own an approved casino hotel or the land thereunder and agreements for the management of casino gaming operations or for the conduct of casino simulcasting in a simulcasting facility, the commission shall require that each party thereto, except for a banking or other chartered or licensed lending institution or any subsidiary thereof, or any chartered or licensed life insurance company or property and casualty insurance company, or the State of New Jersey or any political subdivision thereof or any agency or instrumentality of the State or any political subdivision thereof, shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any provision in such agreement to the contrary.

d. No corporation shall be eligible to apply for a casino license unless:

(1) The corporation shall be incorporated in the State of New Jersey, although such corporation may be a wholly or partially owned subsidiary of a corporation which is organized pursuant to the laws of another state of the United States or of a foreign country;

(2) The corporation shall maintain an office of the corporation in the casino hotel licensed or to be licensed;

(3) The corporation shall comply with all the requirements of the laws of the State of New Jersey pertaining to corporations;

(4) The corporation shall maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the commission or the division and authorized agents of the commission and the division at all reasonable times without notice;

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey, except that a casino licensee may establish deposit-only accounts in any jurisdiction in order to obtain payment of any check described in section 101 of P.L.1977, c.110 (C.5:12-101);

(6) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by this act;

(7) The corporation, if it is not a publicly traded corporation, shall file with the commission such adopted corporate charter provisions as may be necessary to establish the right of prior approval by the commission with regard to transfers of securities, shares, and other interests in the applicant corporation; and, if it is a publicly traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the commission pursuant to the provisions of this act, such holder shall dispose of his interest in the corporation; provided, however, that, notwithstanding the provisions of N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

(8) The corporation, if it is not a publicly traded corporation, shall establish to the satisfaction of the commission that appropriate charter provisions create the absolute right of such non-publicly traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a transfer in accordance with the provisions of this act;

(9) Any publicly traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (7) for a publicly traded corporation to be eligible to apply for a casino license; and

(10) Any non-publicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those required under paragraphs (7) and (8) for a non-publicly traded corporation to be eligible to apply for a casino license.

Notwithstanding the foregoing, any corporation or company which had bylaw provisions approved by the commission prior to the effective date of this 1987 amendatory act shall have one year from the effective date of this 1987 amendatory act to adopt appropriate charter provisions in accordance with the requirements of this subsection.

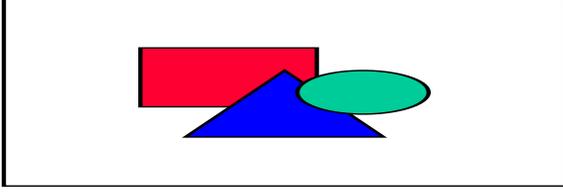
The provisions of this subsection shall apply with the same force and effect with regard to casino license applicants and casino licensees which have a legal existence that is other than corporate to the extent which is appropriate.

e. No person shall be issued or be the holder of a casino license if the issuance or the holding results in undue economic concentration in Atlantic City casino operations by that person. The commission shall, after conducting public hearings thereon, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) defining the criteria the commission will use in determining what constitutes undue economic concentration. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

L.1977,c.110,s.82; amended 1978, c.7, s.15; 1979, c.282, s.18; 1987, c.355, s.4; 1987, c.410, s.6; 1991, c.182, s.22; 1993, c.121, s.1; 1995, c.18, s.23; 1996, c.84, s.3.

L  
c  
g  
i-  
b  
i  
n  
/  
o  
m  
-  
i  
s  
a  
p  
i  
d  
l  
l  
?  
c  
l  
e  
n  
t  
D  
=  
4  
1  
9  
4  
8  
&  
d  
e  
p  
t  
h  
=  
2  
&  
e  
x  
p  
a  
n  
d  
h  
e  
a  
d  
i  
n  
g

s  
=  
o  
n  
&  
h  
e  
a  
d  
i  
n  
g  
s  
w  
i  
t  
h  
h  
i  
t  
s  
=  
o  
n  
&  
h  
i  
t  
s  
p  
e  
r  
h  
e  
a  
d  
i  
n  
g  
=  
o  
n  
&  
i  
n  
f  
o  
b  
a  
s  
e  
=  
S  
t  
a  
t  
u  
t  
e



### **5:12-83.Approved hotel**

83. a. An approved hotel for purposes of this act shall be a hotel providing facilities in accordance with this section. Nothing in this section shall be construed to limit the authority of the commission to determine the suitability of facilities as provided in this act, and nothing in this section shall be construed to require a casino to be smaller than the maximum size herein provided.

b. (1) In the case of a casino hotel in operation on June 29, 1991, a casino hotel shall include:

(a) an approved hotel containing at least the number of qualifying sleeping units, as defined in section 27 of P.L.1977, c.110 (C.5:12-27), which it had on that date, except that those units may be consolidated and reconfigured in order to form suites so long as there remain at least 500 qualifying sleeping units; and

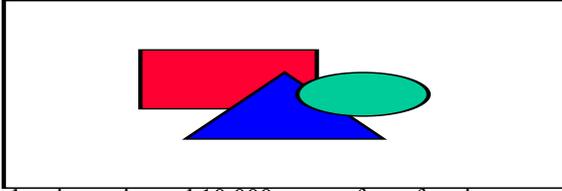
(b) a casino, the total square footage of which shall not exceed the amount of casino space authorized on the basis of the provisions of this section which were in effect on June 28, 1991 and applicable to that casino hotel at that time, unless the number of qualifying sleeping units under subparagraph (a) of this paragraph and the number of any qualifying sleeping units added after June 29, 1991 permit an increase on the following basis: 60,000 square feet of casino space for the first 500 qualifying sleeping units and 10,000 square feet of casino space for each additional 100 qualifying sleeping units above 500, up to a maximum of 200,000 square feet of casino space. No casino hotel in operation on June 29, 1991 shall be required to reduce the amount of its casino space below the amount authorized as of June 28, 1991 unless the number of qualifying sleeping units is reduced below the number required in subparagraph (a) of this paragraph.

For the purpose of increasing casino space, an agreement approved by the commission for the addition of qualifying sleeping units within two years after the commencement of gaming operations in the additional casino space shall be deemed an addition of those rooms, but if the agreement is not fulfilled due to conditions within the control of the casino licensee, the casino licensee shall close the additional casino space or any portion thereof as directed by the commission.

The calculation of the number of qualifying sleeping units added with respect to any such casino hotel shall not include any qualifying sleeping unit or other hotel or motel room in existence in Atlantic City on June 29, 1991, whether or not that unit or room was offered or usable for occupancy on that date, or any replacement for such a unit or room which results from construction or renovation after that date, except that any hotel room in existence in Atlantic City on June 29, 1991 which was not used or available for use on that date and for at least 10 years prior to that date and which is reconstructed or replaced after the effective date of this amendatory and supplementary act, P.L.1993, c.159, and meets the specifications of a sleeping unit prescribed in section 27 of P.L.1977, c.110 (C.5:12-27) may be included in such calculation; any hotel room in existence in Atlantic City on June 29, 1991 which, for at least 10 years prior thereto, had been used as part of an annexed facility of a casino hotel, which facility was determined by the commission to be part of an approved hotel subsequent thereto and prior to the effective date of this amendatory and supplementary act, P.L.1995, c.18 (C.5:12-2.1 et al.), and meets, or was or is reconstructed or replaced to meet, the specifications of a sleeping unit prescribed in section 27 of P.L.1977, c.110 (C.5:12-27), may be included in such calculation; and any replacement which, in the judgment of the commission, is an integral element of a program of neighborhood rehabilitation undertaken by the casino licensee with the approval of the city of Atlantic City may also be included in such calculation.

(2) In the case of a hotel in operation on June 29, 1991 which was part of a casino hotel prior to, but not as of, that date, and which is reestablished as part of a casino hotel after that date, a casino hotel shall include:

(a) an approved hotel containing at least the number of qualifying sleeping units, as defined in section 27 of P.L.1977, c.110 (C.5:12-27), which it had on the date the casino ceased operations prior to June 29, 1991, except that those units may be consolidated and reconfigured in order to form suites so long as there remain



not exceed the amount of casino space the casino had unless the number of qualifying sleeping units under any qualifying sleeping units added after that date are feet of casino space for the first 500 qualifying sleeping units and 10,000 square feet of casino space for each additional 100 qualifying sleeping units above 500, up to a maximum of 200,000 square feet of casino space. No casino hotel which operates pursuant to this paragraph shall be required to reduce the amount of its casino space below the amount it had on the date it ceased operations unless the number of qualifying sleeping units is reduced below the number required in subparagraph (a) of this paragraph.

For the purpose of increasing casino space, an agreement approved by the commission for the addition of qualifying sleeping units within two years after the commencement of gaming operations in the additional casino space shall be deemed an addition of those rooms, but if the agreement is not fulfilled due to conditions within the control of the casino licensee, the casino licensee shall close the additional casino space or any portion thereof as directed by the commission.

The calculation of the number of qualifying sleeping units added with respect to any such hotel shall not include any qualifying sleeping unit or other hotel or motel room in existence in Atlantic City on June 29, 1991, whether or not that unit or room was offered or usable for occupancy on the effective date, or any replacement for such a unit or room which results from construction or renovation after that date, except that any hotel room in existence in Atlantic City on June 29, 1991 which was not used or available for use on that date and for at least 10 years prior to that date and which is reconstructed or replaced after the effective date of this amendatory and supplementary act, P.L.1993, c.159, and meets the specifications of a sleeping unit prescribed in section 27 of P.L.1977, c.110 (C.5:12-27) may be included in such calculation, and any replacement which, in the judgment of the commission, is an integral element of a program of neighborhood rehabilitation undertaken by the casino licensee with the approval of the city of Atlantic City may also be included in such calculation.

c. In the case of a casino hotel not in operation prior to or on June 29, 1991, a casino hotel shall include an approved hotel containing at least 500 qualifying sleeping units, as defined in section 27 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-27), and a casino, the total square footage of which shall not exceed 60,000 square feet, except that for each additional 100 qualifying sleeping units above 500, the maximum amount of the casino space may be increased by 10,000 square feet, up to a maximum of 200,000 square feet of casino space. The calculation of the number of qualifying sleeping units with respect to any such casino hotel shall not include any qualifying sleeping unit or other hotel or motel room in existence in Atlantic City on June 29, 1991, whether or not that unit or room was offered or usable for occupancy on that date, or any replacement for such a unit or room which results from construction or renovation after that date, except that any hotel room in existence in Atlantic City on June 29, 1991 which was not used or available for use on that date and for at least 10 years prior to that date and which is reconstructed or replaced after the effective date of this amendatory and supplementary act, P.L.1993, c.159, and meets the specifications of a sleeping unit prescribed in section 27 of P.L.1977, c.110 (C.5:12-27) may be included in such calculation, and any replacement which, in the judgment of the commission, is an integral element of a program of neighborhood rehabilitation undertaken by the casino licensee with the approval of the city of Atlantic City may also be included in such calculation.

d. Once a hotel is initially approved, the commission shall thereafter rely on the certification of the casino licensee with regard to the number of qualifying sleeping units and shall permit rehabilitation, renovation and alteration of any part of the approved hotel even if the rehabilitation, renovation, or alteration will mean that the casino licensee does not temporarily meet the requirements of subsection c. so long as the licensee certifies that the rehabilitation, renovation, or alteration shall be completed within one year.

e. (Deleted by amendment, P.L.1987, c.352).

f. (Deleted by amendment, P.L.1991, c.182).

g. (Deleted by amendment, P.L.1991, c.182).

h. (Deleted by amendment, P.L.1991, c.182).

i. The commission shall not impose any criteria or requirements regarding the contents of the approved hotel in addition to the criteria and requirements expressly specified in the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.); provided, however, that the commission shall be authorized to require each casino licensee to establish and maintain an approved hotel which is in all respects a superior, first-class facility of exceptional quality which will help restore Atlantic City as a resort, tourist and convention destination.

L.1977,c.110,s.83; amended 1979, c.282, s.19; 1987, c.352, s.1; 1991, c.182, s.23; 1992, c.9, s.6; 1993, c.159, s.11; 1993, c.292, s.13; 1995, c.18, s.24; 1996, c.84, s.4.

## **5:12-84. Casino license--applicant requirements**

84. Casino License--Applicant Requirements. Any applicant for a casino license must produce information, documentation and assurances concerning the following qualification criteria:

a. Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

b. Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the casino proposal submitted by the applicant or applicants; provided, however, that this section shall not apply to banking or other licensed lending institutions exempted from the qualification requirements of subsections c. and d. of section 85 of P.L.1977, c.110 (C.5:12-85) and institutional investors waived from the qualification requirements of those subsections pursuant to the provisions of subsection f. of section 85 of P.L.1977, c.110 (C.5:12-85). Any such banking or licensed lending institution or institutional investor shall, however, produce for the commission or the division upon request any document or information which bears any relation to the casino proposal submitted by the applicant or applicants. The integrity of financial sources shall be judged upon the same standards as the applicant. In addition, the applicant shall produce whatever information, documentation or assurances as may be required to establish by clear and convincing evidence the adequacy of financial resources both as to the completion of the casino proposal and the operation of the casino.

c. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against any such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what the information is. If the applicant has conducted gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from

the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and his gaming operation; provided, however, that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

d. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the likelihood of creation and maintenance of a successful, efficient casino operation. The applicant shall produce the names of all proposed casino key employees as they become known and a description of their respective or proposed responsibilities, and a full description of security systems and management controls proposed for the casino and related facilities.

e. Each applicant shall produce such information, documentation and assurances to establish to the satisfaction of the commission the suitability of the casino and related facilities subject to subsection i. of section 83 of P.L.1977, c.110 (C.5:12-83) and its proposed location will not adversely affect casino operations. Each applicant shall submit an impact statement which shall include, without limitation, architectural and site plans which establish that the proposed facilities comply in all respects with the requirements of this act and the requirements of the master plan and zoning and planning ordinances of Atlantic City, without any use variance from the provisions thereof; a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under this act; and an analysis of the effect of the proposal on the overall economic and competitive conditions of Atlantic City and the State of New Jersey.

L.1977,c.110,s.84; amended 1979,c.282,s.20; 1987,c.352,s.2; 1987,c.410,s.7; 1991,c.182,s.25; 1995,c.18,s.25.

### **5:12-85. Additional requirements**

Additional Requirements. a. In addition to other information required by this act, a corporation applying for a casino license shall provide the following information:

(1) The organization, financial structure and nature of all businesses operated by the corporation; the names and personal employment and criminal histories of all officers, directors and principal employees of the corporation; the names of all holding, intermediary and subsidiary companies of the corporation; and the organization, financial structure and nature of all businesses operated by such of its holding, intermediary and subsidiary companies as the commission may require, including names and personal employment and criminal histories of such officers, directors and principal employees of such corporations and companies as the commission may require;

(2) The rights and privileges acquired by the holders of different classes of authorized securities of such corporations and companies as the commission may require, including the names, addresses and amounts held by all holders of such securities;

(3) The terms upon which securities have been or are to be offered;

(4) The terms and conditions of all outstanding loans, mortgages, trust deeds, pledges or any other indebtedness or security devices utilized by the corporation;

(5) The extent of the equity security holding in the corporation of all officers, directors and underwriters, and their remuneration in the form of salary, wages, fees or otherwise;

(6) Names of persons other than directors and officers who occupy positions specified by the commission or whose compensation exceeds an amount determined by the commission, and the amount of their compensation;

(7) A description of all bonus and profit-sharing arrangements;

(8) Copies of all management and service contracts; and

(9) A listing of stock options existing or to be created.

b. If a corporation applying for a casino license is, or if a corporation holding a casino license is to become, a subsidiary, each holding company and each intermediary company with respect thereto must, as a condition of the said subsidiary acquiring or retaining such license, as the case may be:

(1) Qualify to do business in the State of New Jersey; and

(2) If it is a corporation, register with the commission and furnish the commission with all the information required of a corporate licensee as specified in subsection a. (1), (2) and (3) of this section and such other information as the commission may require; or

(3) If it is not a corporation, register with the commission and furnish the commission with such information as the commission may prescribe.

c. No corporation shall be eligible to hold a casino license unless each officer; each director; each person who directly or indirectly holds any beneficial interest or ownership of the securities issued by the corporation; any person who in the opinion of the commission has the ability to control the corporation or elect a majority of the board of directors of that corporation, other than a banking or other licensed lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; each principal employee; and any lender, underwriter, agent, employee of the corporation, or other person whom the commission may consider appropriate for approval or qualification would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

d. No corporation which is a subsidiary shall be eligible to receive or hold a casino license unless each holding and intermediary company with respect thereto:

(1) If it is a corporation, shall comply with the provisions of subsection c. of this section as if said holding or intermediary company were itself applying for a casino license; provided, however, that the commission with the concurrence of the director may waive compliance with the provisions of subsection c. hereof on the part of a publicly-traded corporation which is a holding company as to any officer, director, lender, underwriter, agent or employee thereof, or person directly or indirectly holding a beneficial interest or ownership of the securities of such corporation, where the commission and the director are satisfied that such officer, director, lender, underwriter, agent or employee is not significantly involved in the activities of the corporate licensee, and in the case of security holders, does not have the ability to control the publicly-traded corporation or elect one or more directors thereof; or

(2) If it is not a corporation, shall comply with the provisions of subsection e. of this section as if said company were itself applying for a casino license.

e. Any noncorporate applicant for a casino license shall provide the information required in subsection a. of this section in such form as may be required by the commission. No such applicant shall be eligible to hold a casino license unless each person who directly or indirectly holds any beneficial interest or ownership in the applicant, or who in the opinion of the commission has the ability to control the applicant, or whom the commission may consider appropriate for approval or qualification, would, but for residence, individually be qualified for approval as a casino key employee pursuant to the provisions of this act.

f. Notwithstanding the provisions of subsections c. and d. of this section, and in the absence of a prima facie showing by the director that there is any cause to believe that the institutional investor may be found unqualified, an institutional investor holding either (1) under 10% of the equity securities of a casino licensee's holding or intermediary companies, or (2) debt securities of a casino licensee's holding or intermediary companies, or another subsidiary company of a casino licensee's holding or intermediary companies which is related in any way to the financing of the casino licensee, where the securities represent a percentage of the outstanding debt of the company not exceeding 20%, or a percentage of any issue of the outstanding debt of the company not exceeding 50%, shall be granted a waiver of qualification if such securities are those of a publicly traded corporation and its holdings of such securities were purchased for investment purposes only and upon request by the commission it files with the commission a certified statement to the effect that it has no intention of influencing or affecting the affairs of the issuer, the casino licensee or its holding or intermediary companies; provided, however, that it shall be permitted to vote on matters put to the vote of the outstanding security holders. The commission may grant a waiver of qualification to an institutional investor holding a higher percentage of such securities upon a showing of good cause and if the conditions specified above are met. Any institutional investor granted a waiver under this subsection which subsequently determines to influence or affect the affairs of the issuer shall provide not less than 30 days' notice of such intent and shall file with the commission an application for qualification before taking any action that may influence or affect the affairs of the issuer; provided, however, that it shall be permitted to vote on matters put to the vote of the outstanding security holders. If an institutional investor changes its investment intent, or if the commission finds reasonable cause to believe that the institutional investor may be found unqualified, no action other than divestiture shall be taken by such investor with respect to its security holdings until there has been compliance with the provisions of P.L.1987, c.409 (C.5:12-95.12 et seq.), including the execution of a trust agreement. The casino licensee and its relevant holding, intermediary or subsidiary company shall immediately notify the commission and the division of any information about, or actions of, an institutional investor holding its equity or debt securities where such information or action may impact upon the eligibility of such institutional investor for a waiver pursuant to this subsection.

g. If at any time the commission finds that an institutional investor holding any security of a holding or intermediary company of a casino licensee, or, where relevant, of another subsidiary company of a holding or intermediary company of a casino licensee which is related in any way to the financing of the casino licensee, fails to comply with the terms of subsection f. of this section, or if at any time the commission finds that, by reason of the extent or nature of its holdings, an institutional investor is in a position to exercise such a substantial impact upon the controlling interests of a licensee that qualification of the institutional investor is necessary to protect the public interest, the commission may, in accordance with the provisions of subsections a. through e. of this section or subsections d. and e. of section 105 of P.L.1977, c.110 (C.5:12-105), take any necessary action to protect the public interest, including requiring such an institutional investor to be qualified pursuant to the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.).

L.1977,c.110,s.85; amended 1979,c.282,s.21; 1985,c.350,s.3; 1987,c.354,s.9; 1991,c.182,s.26.

## **5:12-86. Casino license - disqualification criteria**

Casino License--Disqualification Criteria. The commission shall deny a casino license to any applicant who is disqualified on the basis of any of the following criteria:

- a. Failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this act;
- b. Failure of the applicant to provide information, documentation and assurances required by the act or requested by the commission, or failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;
- c. The conviction of the applicant, or of any person required to be qualified under this act as a condition of a casino license, of any offense in any jurisdiction which would be:

(1) Any of the following offenses under the "New Jersey Code of Criminal Justice," P.L.1978, c.95 (Title 2C of the New Jersey Statutes) as amended and supplemented:

all crimes of the first degree;

N.J.S.2C:5-1 (attempt to commit an offense which is listed in this subsection);

N.J.S.2C:5-2 (conspiracy to commit an offense which is listed in this subsection);

Subsection b. of N.J.S.2C:11-4 (manslaughter);

Subsection b. of N.J.S.2C:12-1 (aggravated assault which constitutes a crime of the second or third degree);

N.J.S.2C:13-1 (kidnapping);

N.J.S.2C:14-1 et seq. (sexual offenses which constitute crimes of the second or third degree);

N.J.S.2C:15-1 (robberies);

Subsections a. and b. of N.J.S.2C:17-1 (crimes involving arson and related offenses);

Subsections a. and b. of N.J.S.2C:17-2 (causing or risking widespread injury or damage);

N.J.S.2C:18-2 (burglary which constitutes a crime of the second degree);

N.J.S.2C:20-1 et seq. (theft and related offenses which constitute crimes of the second or third degree);

N.J.S.2C:21-1 et seq. (forgery and fraudulent practices which constitute crimes of the second or third degree);

N.J.S.2C:27-1 et seq. (bribery and corrupt influence);

N.J.S.2C:28-1 et seq. (perjury and other falsification in official matters which constitute crimes of the second, third or fourth degree);

N.J.S.2C:30-2 and N.J.S.2C:30-3 (misconduct in office and abuse in office which constitutes a crime of the second degree);

N.J.S.2C:35-5 (manufacturing, distributing or dispensing a controlled dangerous substance or a controlled dangerous substance analog which constitutes a crime of the second or third degree);

N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme);

N.J.S.2C:35-7 (distributing, dispensing or possessing a controlled dangerous substance or a controlled substance analog on or within 1,000 feet of school property or bus);

N.J.S.2C:35-11 (distribution, possession or manufacture of imitation controlled dangerous substances);

N.J.S.2C:35-13 (acquisition of controlled dangerous substances by fraud);

N.J.S.2C:37-1 et seq. (gambling offenses which constitute crimes of the third or fourth degree);

N.J.S.2C:37-7 (possession of a gambling device); or

(2) Any other offense under present New Jersey or federal law which indicates that licensure of the applicant would be inimical to the policy of this act and to casino operations; provided, however, that the automatic disqualification provisions of this subsection shall not apply with regard to any conviction which did not occur within the 10-year period immediately preceding application for licensure and which the applicant demonstrates by clear and convincing evidence does not justify automatic disqualification pursuant to this subsection and any conviction which has been the subject of a judicial order of expungement or sealing;

d. Current prosecution or pending charges in any jurisdiction of the applicant or of any person who is required to be qualified under this act as a condition of a casino license, for any of the offenses enumerated in subsection c. of this section; provided, however, that at the request of the applicant or the person charged, the commission shall defer decision upon such application during the pendency of such charge;

e. The pursuit by the applicant or any person who is required to be qualified under this act as a condition of a casino license of economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, if such pursuit creates a reasonable belief that the participation of such person in casino operations would be inimical to the policies of this act or to legalized gaming in this State. For purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management, or execution of an activity for financial gain;

f. The identification of the applicant or any person who is required to be qualified under this act as a condition of a casino license as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of this act and to gaming operations. For purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

g. The commission by the applicant or any person who is required to be qualified under this act as a condition of a casino license of any act or acts which would constitute any offense under subsection c. of this section, even if such conduct has not been or may not be prosecuted under the criminal laws of this State or any other jurisdiction or has been prosecuted under the criminal laws of this State or any other jurisdiction and such prosecution has been terminated in a manner other than with a conviction; and

h. Contumacious defiance by the applicant or any person who is required to be qualified under this act of any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity.

L.1977,c.110,s.86; amended 1979,c.282,s.22; 1987,c.354,s.10; 1991,c.182,s.27.

### **5:12-87. Investigation of applicants for casino licenses; order approving or denying license**

a. Upon the filing of an application for a casino license and such supplemental information as the commission may require, the commission shall request the division to conduct such investigation into the qualification of the applicant, and the commission shall conduct a hearing thereon concerning the qualification of the applicant in accordance with its regulations.

b. After such investigation and hearing, the commission may either deny the application or grant a casino license to an applicant whom it determines to be qualified to hold such license.

c. The commission shall have the authority to deny any application pursuant to the provisions of this act. When an application is denied, the commission shall prepare and file an order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of facts.

d. After an application is submitted to the commission, final action of the commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the commission.

e. If satisfied that an applicant is qualified to receive a casino license, and upon tender of all license fees and taxes as required by law and regulations of the commission, and such bonds as the commission may require for the faithful performance of all requirements imposed by law or regulations, the commission shall issue a casino license for the term of 1 year.

f. The commission shall fix the amount of the bond or bonds to be required under this section in such amounts as it may deem appropriate, by rules of uniform application. The bonds so furnished may be applied by the commission to the payment of any unpaid liability of the licensee under this act. The bond shall be furnished in cash or negotiable securities, by a surety bond guaranteed by a satisfactory guarantor, or by an irrevocable letter of credit issued by a banking institution of this State acceptable to the commission. If furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the commission, but any income shall inure to the benefit of the licensee.

L.1977, c. 110, s. 87, eff. June 2, 1977. Amended by L.1978, c. 7, s. 16, eff. March 17, 1978; L.1979, c. 282, s. 23, eff. Jan. 9, 1980.

## **5:12-88. Renewal of casino licenses**

### **88. Renewal of Casino Licenses.**

a. Subject to the power of the commission to deny, revoke, or suspend licenses, any casino license in force shall be renewed by the commission for the next succeeding license period upon proper application for renewal and payment of license fees and taxes as required by law and the regulations of the commission. The license period for a renewed casino license shall be up to one year for each of the first two renewal periods succeeding the initial issuance of a casino license pursuant to section 87 of P.L.1977, c.110 (C.5:12-87). Thereafter, the renewal periods shall be up to four years each, but the commission may reopen licensing hearings at any time. In addition, the commission shall reopen licensing hearings at any time at the request of the division. Notwithstanding the foregoing, the commission may, for the purpose of facilitating its administration of this act, renew the casino license of the holders of licenses initially opening after January 1, 1981 for a period of one year; provided, however, the renewal period for those particular casino licenses may not be adjusted more than once pursuant to this provision. The commission shall act upon any such application prior to the date of expiration of the current license.

b. Application for renewal shall be filed with the commission no later than 90 days prior to the expiration of the current license, and all license fees and taxes as required by law shall be paid to the commission on or before the date of expiration of the current license.

c. Upon renewal of any license the commission shall issue an appropriate renewal certificate or validating device or sticker which shall be attached to each casino license.

L.1977,c.110,s.88; amended 1987,c.348,s.1; 1987,c.354,s.11; 1991,c.182,s.28; 1995,c.18,s.26.

## **5:12-89. Licensing of casino key employees**

### **89. Licensing of Casino Key Employees.**

**a. No person may be employed as a casino key employee unless he is the holder of a valid casino key employee license issued by the commission.**

**b. Each applicant must, prior to the issuance of any casino key employee license, produce information, documentation and assurances concerning the following qualification criteria:**

**(1) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or**

the division.

**(2) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, data pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall, upon request of the commission or the division, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is. If the applicant has been associated with gaming or casino operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the commission or division, produce letters of reference from the gaming or casino enforcement or control agency, which shall specify the experience of such agency with the applicant, his associates and his participation in the gaming operations of that jurisdiction; provided, however, that if no such letters are received from the appropriate law enforcement agencies within 60 days of the applicant's request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.**

**(3) (Deleted by amendment, P.L.1995, c.18.)**

**(4) Each applicant shall be a resident of the State of New Jersey prior to the issuance of a casino key employee license; provided, however, that upon petition by the holder of a casino license, the commission may waive this residency requirement for any applicant whose particular position will require him to be employed outside the State.**

**The commission may also, by regulation, require that all applicants for casino key employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.**

**c. (Deleted by amendment, P.L.1995, c.18.)**

**d. The commission shall deny a casino key employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.**

**e. Upon petition by the holder of a casino license, the commission may issue a temporary license to an applicant for a casino key employee license, provided that:**

**(1) The applicant for the casino key employee license has filed a complete application as required by the commission;**

**(2) The division either certifies to the commission that the completed casino key employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 15 days or agrees to allow the commission to consider the application in some lesser time;**

**(3) (Deleted by amendment, P.L.1995, c.18.)**

**(4) The petition for a temporary casino key employee license certifies, and the commission finds, that an existing casino key employee position of the petitioner is vacant or will become vacant within 60 days of the date of the petition and that the issuance of a temporary key employee license is necessary to fill the said vacancy on an emergency basis to continue the efficient operation of the casino, and that such circumstances are extraordinary and not designed to circumvent the normal licensing procedures of this act;**

**(5) The division does not object to the issuance of the temporary casino key employee license.**

**In the event that an applicant for a casino key employee license is the holder of a valid casino employee license issued pursuant to section 90 of this act, and if the provisions of paragraphs (1), (2), and (5) of this subsection are satisfied, the commission may issue a temporary casino key employee license upon petition by the holder of a casino license, if the commission finds the issuance of a casino key employee license will be delayed by necessary investigations and the said temporary casino key employee license is necessary for the operation of the casino.**

**Unless otherwise terminated pursuant to this act, any temporary casino key employee license issued pursuant to this subsection shall expire nine months from the date of its issuance.**

**L.1977,c.110,s.89; amended 1978,c.7,s.17; 1979,c.282,s.24; 1981,c.195,s.1; 1981,c.503,s.10; 1983,c.41,s.5; 1987,c.354,s.12; 1987,c.410,s.8; 1993,c.292,s.14; 1995,c.18,s.27.**

## **NEW JERSEY, PART II**

### **5:12-90. Licensing of casino employees**

90. Licensing of Casino Employees.

- a. No person may commence employment as a casino employee unless he is the holder of a valid casino employee license.
- b. Any applicant for a casino employee license must, prior to the issuance of any such license, produce sufficient information, documentation and assurances to meet the qualification criteria, including New Jersey residency, contained in subsection b. of section 89 of this act and any additional residency requirement imposed under subsection c. of this section.
- c. The commission may, by regulation, require that all applicants for casino employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.
- d. (Deleted by amendment, P.L.1995, c.18.)
- e. The commission shall deny a casino employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.
- f. For the purposes of this section, casino security employees shall be considered casino employees and must, in addition to any requirements under other laws, be licensed in accordance with the provisions of this act.
- g. Upon petition by the holder of a casino license, a temporary license may be issued by the commission to an applicant for a casino employee license provided that:
  - (1) the applicant for the casino employee license has filed a complete application as required by the commission;
  - (2) the division either certifies to the commission that the completed casino employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 15 days or agrees to allow the commission to consider the application in some lesser time;
  - (3) the petition for a temporary casino employee license certifies, and the commission finds, that the issuance of a plenary license will be restricted by necessary investigations, and the temporary licensing of the applicant is necessary for the operation of the casino and is not designed to circumvent the normal licensing procedures of the "Casino Control Act"; and
  - (4) the division does not object to the issuance of the temporary casino employee license.

Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire six months from the date of its issuance and be renewable, at the discretion of the commission, for one additional six-month period.

h. Notwithstanding the provisions of subsection e. of this section, no applicant shall be denied a casino employee license on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.1977, c.110 (C.5:12-86), as specified in subsection g. of that section; provided that the applicant has affirmatively demonstrated his rehabilitation. In determining whether the applicant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

- (1) The nature and duties of the position applied for;
- (2) The nature and seriousness of the offense or conduct;
- (3) The circumstances under which the offense or conduct occurred;
- (4) The date of the offense or conduct;
- (5) The age of the applicant when the offense or conduct was committed;
- (6) Whether the offense or conduct was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense or conduct;
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

L.1977,c.110,s.90; amended 1978,c.7,s.18; 1979,c.282,s.25; 1980,c.28,ss.5,10(s.10.amended 1980,c.159,s.2; 1981,c.142,s.5); 1981,c.195,s.2; 1981,c.503,s.11; 1987,c.354,s.13; 1991,c.182,s.29; 1993,c.292,s.15; 1995,c.18,s.28.

## **5:12-91. Registration of casino service employees**

### 91. Registration of Casino Service Employees.

a. No person may commence employment as a casino service employee unless the person has been

registered with the commission, which registration shall be in accordance with subsection f. of this section.

b. Any applicant for casino service employee registration shall produce such information as the commission may require. Subsequent to the registration of a casino service employee, the commission may revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section 86 of P.L.1977, c.110 (C.5:12-86).

c. The commission may, by regulation, require that all applicants for casino service employee registration be residents of this State for a period not to exceed three months immediately prior to such registration, but application may be made prior to the expiration of the required period of residency. The commission shall waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. Notwithstanding the provisions of subsection b. of this section, no casino service employee registration shall be revoked on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.1977, c.110 (C.5:12-86), as specified in subsection g. of that section, provided that the registrant has affirmatively demonstrated the registrant's rehabilitation. In determining whether the registrant has affirmatively demonstrated the registrant's rehabilitation the commission shall consider the following factors:

- (1) The nature and duties of the registrant's position;
- (2) The nature and seriousness of the offense or conduct;
- (3) The circumstances under which the offense or conduct occurred;
- (4) The date of the offense or conduct;
- (5) The age of the registrant when the offense or conduct was committed;
- (6) Whether the offense or conduct was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense or conduct;
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the registrant under their supervision.

e. The commission may waive any disqualification criterion for a casino service employee consistent with the public policy of this act and upon a finding that the interests of justice so require.

f. Upon petition by the holder of a casino license, casino service employee registration shall be granted to each applicant for such registration named therein, provided that the petition certifies that each such applicant has filed a completed application for casino service employee registration as required by the commission.

Any person who, on the effective date of P.L.1995, c.18 (C.5:12-2.1 et al.), possesses a current and valid casino hotel employee registration shall be considered registered in accordance with the provisions of this section.

L.1977,c.110,s.91; amended 1978,c.7,s.19; 1979,c.282,s.26; 1980,c.28,s.6; 1980,c.161; 1981,c.503,s.12; 1987,c.354,s.14; 1991,c.182,s.30; 1995,c.18,s.29.

## **5:12-92. Licensing and registration of casino service industries**

### 92. Licensing and Registration of Casino Service Industries.

a. (1) All casino service industries offering goods or services which directly relate to casino or gaming activity, including gaming equipment and simulcast wagering equipment manufacturers, suppliers, repairers and independent testing laboratories, schools teaching gaming and either playing or dealing techniques, and casino security services, shall be licensed in accordance with the provisions of this act prior to conducting any business whatsoever with a casino applicant or licensee, its employees or agents, and in the case of a school, prior to enrollment of any students or offering of any courses to the public whether for compensation or not; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with such casino applicant or licensee prior to the licensure of that service industry applicant under this subsection.

(2) In addition to the requirements of paragraph (1) of this subsection, any casino service industry intending to manufacture, sell, distribute, test or repair slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be licensed in accordance with the provisions of this act prior to engaging in any such activities; provided, however, that upon a showing of good cause by a casino applicant or licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with the casino applicant or licensee prior to the licensure of that service industry applicant under this subsection; and provided further, however, that upon a showing of good cause by an applicant required to be licensed as a casino service industry pursuant to this paragraph, the commission may permit the service industry applicant to initiate the manufacture of slot machines or engage in the sale, distribution, testing or repair of slot machines with any person other than a casino applicant or licensee, its employees or agents, prior to the licensure of that service industry applicant under this subsection.

b. Each casino service industry in subsection a. of this section, as well as its owners; management and supervisory personnel; and principal employees if such principal employees have responsibility for services to a casino licensee, must qualify under the standards, except residency, established for qualification of a casino key employee under this act.

c. All casino service industries not included in subsection a. of this section shall be licensed in accordance with rules of the commission prior to commencement or continuation of any business with a casino applicant or licensee or its employees or agents. Such casino service industries, whether or not directly related to gaming operations, shall include junket enterprises; suppliers of alcoholic beverages, food and nonalcoholic beverages; in-State and out-of-State sending tracks as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192); garbage handlers; vending machine providers; linen suppliers; maintenance companies; shopkeepers located within the approved hotels; limousine services; and

construction companies contracting with casino applicants or licensees or their employees or agents. The commission may exempt any person or field of commerce from the licensing requirements of this subsection if the person or field of commerce demonstrates (1) that it is regulated by a public agency or that it will provide goods or services in insubstantial or insignificant amounts or quantities, and (2) that licensing is not deemed necessary in order to protect the public interest or to accomplish the policies established by this act.

Upon granting an exemption or at any time thereafter, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest, and shall require the exempted person to cooperate with the commission and the division and, upon request, to provide information in the same manner as required of a casino service industry licensed pursuant to this subsection; provided, however, that no exemption be granted unless the casino service industry complies with the requirements of sections 134 and 135 of this act.

d. Licensure pursuant to subsection c. of this section of any casino service industry may be denied to any applicant disqualified in accordance with the criteria contained in section 86 of this act.

L.1977,c.110,s.92; amended 1978,c.7,s.20; 1979,c.282,s.27; 1980,c.28,ss.7,10(s.10 amended 1980,c.159,s.2; 1981,c.142,s.5); 1981,c.195,s.3; 1981,c.503,s.13; 1982,c.57,s.2; 1987,c.355,s.5; 1992,c.9,s.8; 1992,c.19,s.30; 1995,c.18,s.30.

## **5:12-93. Registration of labor organizations**

93. Registration of Labor Organizations.

a. Each labor organization, union or affiliate seeking to represent employees who are employed in a casino hotel, casino or casino simulcasting facility by a casino licensee shall register with the commission annually, and shall disclose such information to the commission as the commission may require, including the names of all affiliated organizations, pension and welfare systems and all officers and agents of such organizations and systems; provided, however, that no labor organization, union, or affiliate shall be required to furnish such information to the extent such information is included in a report filed by any labor organization, union, or affiliate with the Secretary of Labor pursuant to 29 U.S.C. s. 431 et seq. or s. 1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the commission pursuant to the aforesaid federal provisions. The commission may in its discretion exempt any labor organization, union, or affiliate from the registration requirements of this subsection where the commission finds that such organization, union or affiliate is not the certified bargaining representative of any employee who is employed in a casino hotel, casino or casino simulcasting facility by a casino licensee, is not involved actively, directly or substantially in the control or direction of the representation of any such employee, and is not seeking to do so.

b. No person may act as an officer, agent or principal employee of a labor organization, union or affiliate registered or required to be registered pursuant to this section if the person has been found disqualified by the commission in accordance with the criteria contained in section 86 of that act. The commission may, for purposes of this subsection, waive any disqualification criterion consistent with the public policy of this act and upon a finding that the interests of justice so require.

c. Neither a labor organization, union or affiliate nor its officers and agents not otherwise individually licensed or registered under this act and employed by a casino licensee may hold any financial interest whatsoever in the casino hotel, casino, casino simulcasting facility or casino licensee whose employees they represent.

d. Any person, including any labor organization, union or affiliate, who shall violate, aid and abet the

violation, or conspire or attempt to violate this section is guilty of a crime of the fourth degree.

e. The commission or the division may maintain a civil action and proceed in a summary manner, without posting bond, against any person, including any labor organization, union or affiliate, to compel compliance with this section, or to prevent any violations, the aiding and abetting thereof, or any attempt or conspiracy to violate this section.

f. In addition to any other remedies provided in this section, a labor organization, union or affiliate registered or required to be registered pursuant to this section may be prohibited by the commission from receiving any dues from any employee licensed or registered under that act and employed by a casino licensee or its agent, if any officer, agent or principal employee of the labor organization, union or affiliate has been found disqualified and if such disqualification has not been waived by the commission in accordance with subsection b. of this section. The commission or the division may proceed in the manner provided by subsection e. of this section to enforce an order of the commission prohibiting the receipt of dues.

g. Nothing contained in this section shall limit the power of the commission to proceed in accordance with subsection c. of section 107 of P.L.1977, c.110 (C.5:12-107).

L.1977,c.110,s.93; amended 1981,c.503,s.14; 1987,c.355,s.6; 1995,c.18,s.31.

## **5:12-94. Approval and denial of registrations and licenses other than casino licenses**

### 94. Approval and Denial of Registrations and Licenses Other Than Casino Licenses.

a. Upon the filing of an application for any license or registration required by this act, other than a casino license, and after submission of such supplemental information as the commission may require, the commission shall request the division to conduct such investigation into the qualification of the applicant, and the commission shall conduct such hearings concerning the qualification of the applicant, in accordance with its regulations, as may be necessary to determine qualification for such license or registration.

b. After such investigation, the commission may either deny the application or grant a license to or accept the registration of an applicant whom it determines to be qualified to hold such license or registration.

c. The commission shall have the authority to deny any application pursuant to the provisions of this act. When an application is denied, the commission shall prepare and file its order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of fact.

d. When the commission grants an application, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest. Casino service employee registration shall, upon issuance, remain in effect unless revoked, suspended, limited, or otherwise restricted by the commission. Licenses may be granted and renewed as follows:

(1) All casino employee licenses, casino service industry licenses issued pursuant to subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92), and junket representative and junket enterprise licenses issued pursuant to section 102 of P.L.1977, c.110 (C.5:12-102) shall be issued for an initial term of three years, and may be renewed for subsequent terms of four years each; and

(2) All casino key employee licenses and casino service industry licenses required pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) shall be issued for an initial term of two years, and may be renewed for subsequent terms of four years each.

Notwithstanding the foregoing, the commission shall reconsider the granting of any license or the approval of any registration at any time at the request of the division.

e. After an application is submitted to the commission, final action of the commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the commission.

L.1977,c.110,s.94; amended 1979,c.282,s.28; 1980,c.28,s.8,10(s.10 amended 1980,c.159,s.2; 1981,c.142,s.5); 1981,c.503,s.15; 1983,c.41,s.6; 1987,c.354,s.15; 1991,c.182,s.31; 1993,c.292,s.16; 1995,c.18,s.32.

## **5:12-95. Renewal of licenses and registrations**

95. Renewal of Licenses and Registrations. Subject to the power of the commission to deny, revoke or suspend any license or registration, any license other than a casino license or any registration may be renewed upon proper application for renewal and the payment of fees in accordance with the rules of the commission, but in no event later than the date of expiration of the current license or registration.

L.1977,c.110,s.95; amended 1979, c.282, s.29; 1987, c.354, s.16.

### **5:12-95.12. Applicability and requirements**

Applicability and Requirements.

a. Except as provided in subsection b. of this section, whenever any person contracts to transfer any property relating to an ongoing casino operation, including a security holding in a casino licensee or holding or intermediary company, under circumstances which require that the transferee obtain casino licensure under section 82 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-82), or qualification under section 84 or 85 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-84 or 5:12-85), the contract shall not specify a closing or settlement date which is earlier than the 121st day after the submission of a completed application for licensure or qualification, which application shall include a fully executed and approved trust agreement in accordance with section 5 of this 1987 amendatory and supplementary act. Any contract provision which specifies an earlier closing or settlement date shall be void for all purposes. Subsequent to the earlier of the report of the division on interim authorization or the 90th day after the timely submission of the completed application, but no later than the closing or settlement date, the commission shall hold a hearing and render a decision on the interim authorization of the applicant. If the commission grants interim authorization, then, subject to the provisions of sections 3 through 7 of this 1987 amendatory and supplementary act, the closing or settlement may occur without interruption of casino operations. If the commission denies interim authorization, there shall be no closing or settlement until the commission makes a determination on the qualification of the applicant, and if the commission then denies qualification the contract shall thereby be terminated for all purposes without liability on the part of the transferor.

b. Whenever any person, as a result of a transfer of publicly-traded securities of a casino licensee or a holding or intermediary company or a financing entity of a casino licensee, is required to qualify under section 84 or 85 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-84 or 5:12-85), the person shall, within 30 days after the commission determines that qualification is required or declines to waive qualification under section 84, under paragraph (1) of subsection d. of section 85, or under subsection f. of section 85, or within such additional time as the commission may for good cause allow, file a completed application for such licensure or qualification, which application shall include a fully executed and approved trust agreement in accordance with section 5 of P.L.1987, c.409 (C.5:12-95.14), or in the

alternative, such person, within 120 days after the commission determines that qualification is required or a waiver of qualification is denied, shall divest such securities as the commission may require in order to remove the need for qualification. If such person determines to divest such securities, notice of such determination shall be filed with the commission within 30 days after the commission determines that qualification is required or that a waiver of qualification is denied. No extension of the time for filing a completed application shall be granted unless the person submits a written acknowledgement of the jurisdiction of the commission and the obligations imposed by the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.). If a person required by this section to file an application fails to do so in a timely manner, such failure shall constitute a per se disqualification to continue to act as a security holder, and the commission shall take appropriate action under the "Casino Control Act." If a person required by this section to file an application does so in a timely manner, then, subsequent to the earlier of the report of the division on interim authorization or the 90th day after submission of the completed application, but not later than the 120th day after such submission, the commission shall hold a hearing and render a decision on the interim authorization of such person. The pendency of proceedings under this subsection shall not prevent the renewal of a casino license under section 88 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-88), so long as any person required by this subsection to file an application has complied with this subsection and has otherwise complied with the "Casino Control Act."

L.1987,c.409,s.3; amended 1991,c.182,s.32.

### **5:12-95.13. Commission consideration of request for interim casino authorization**

#### 4. Commission Consideration of Request for Interim Casino Authorization.

a. The commission may grant interim authorization where it finds by clear and convincing evidence (1) that statements of compliance have been issued pursuant to sections 81, 82c., 82d., 82e., 84e., and 134 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-81, 5:12-82, 5:12-84, and 5:12-134); (2) that the casino hotel facility is an approved hotel in accordance with the requirements of section 83 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-83); (3) that the trustee or trustees required by section 5 of this 1987 amendatory and supplementary act have satisfied the qualification criteria applicable to a casino key employee, except for residency; and (4) that interim operation will best serve the interests of the public with particular reference to the policies and purposes enumerated in section 1 of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1).

b. The commission's consideration of a request for interim authorization shall include, but not be limited to, consideration of such relevant information as may be presented to it by the division. In responding to the request and in determining whether to concur, the division shall not be required to disclose any information the disclosure of which, in its judgment, may prejudice or otherwise compromise any continuing investigation.

L.1987,c.409,s.4; amended 1995,c.18,s.33.

### **5:12-95.14. Provisions and application of trust agreement**

#### Provisions and Application of Trust Agreement.

a. (1) Where the applicant is not required to obtain a casino license, the trust agreement filed pursuant to section 3 of this 1987 amendatory and supplementary act shall transfer and convey all of the applicant's present and future right, title and interest in the property described in section 3, including all voting rights in securities, to the trustee.

(2) Where the applicant is required to obtain a casino license, the trust agreement filed pursuant to section 3

of this 1987 amendatory and supplementary act shall transfer and convey to the trustee, if the applicant is a corporation, all outstanding equity securities of the corporation, and, if the applicant is other than a corporation, all outstanding interest in the applicant.

(3) The compensation for the service, costs and expenses of the trustee or trustees shall be stated in the trust agreement and shall be approved by the commission.

(4) The trust agreement filed pursuant to section 3 of this 1987 amendatory and supplementary act shall, in all instances, contain such provisions as the commission may deem necessary and desirable.

b. With respect to applicants described in subsection b. of section 3 of this 1987 amendatory and supplementary act, if the commission denies interim authorization, it shall order that the trust agreement become operative, or take such other action as may be appropriate in accordance with this 1987 amendatory and supplementary act. With respect to all applicants under section 3, if the commission grants interim authorization, it shall thereafter order that the trust agreement become operative at such time as it finds reasonable cause to believe that the applicant or any person required to be qualified in connection with the application may be found unqualified.

c. While the trust agreement remains operative, the trustee shall exercise all rights incident to the ownership of the property subject to the trust, and shall be vested with all powers, authority and duties necessary to the unencumbered exercise of such rights, as provided in sections 31 through 40 of P.L.1978, c.7 (C.5:12-130.1 through 5:12-130.11), except that the applicant shall have no right to participate in the earnings of the casino hotel or receive any return on its investment or debt security holdings during the time the trust is operative.

d. The trust agreement, once operative, shall remain operative until the commission finds the applicant qualified, or the commission finds the applicant unqualified and the property subject to the trust is disposed of in accordance with subsection e. of section 5 of this 1987 amendatory and supplementary act, except that the applicant may request the commission to direct the trustee to dispose of the property subject to the trust, in accordance with that subsection e., prior to a finding with respect to qualification.

e. If the commission denies qualification to a person subject to sections 3 through 7 of this 1987 amendatory and supplementary act, the trustee shall endeavor and be authorized to sell, assign, convey or otherwise dispose of all property subject to the trust to such persons as shall be appropriately licensed or qualified or shall obtain interim authorization in accordance with those sections. The disposition of trust property by the trustee shall be completed within 120 days of the denial of qualification, or within such additional time as the commission may for good cause allow, and shall be conducted in accordance with sections 31 through 40 of P.L.1978, c.7 (C.5:12-130.1 through 5:12-130.11), except that the proceeds of such disposition shall be distributed to the unqualified applicant only in an amount not to exceed the lower of the actual cost of the assets to such unqualified applicant or the value of such assets calculated as if the investment had been made on the date the trust becomes operative, and any excess remaining proceeds shall be paid to the casino revenue fund.

L.1987,c.409,s.5; amended 1991,c.182,s.33.

### **5:12-95.15. Obligations and responsibilities**

Obligations and Responsibilities. During the period of interim authorization, the commission and the division shall continue such procedures as are provided by the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.) and the regulations promulgated thereunder as may be necessary for a determination of the qualification of the person granted interim authorization. The obligations and responsibilities incumbent upon an applicant, licensee or person required to be qualified are in no way relieved by the granting of interim authorization.

L. 1987, c. 409, s. 6.

### **5:12-95.16. Time for determining qualification**

Time for Determining Qualification. Within nine months after a grant or denial of interim authorization, which period may be extended by the commission for one three-month period, the commission shall hold a hearing and render a decision on the qualification of the applicant.

L. 1987, c. 409, s. 7.

### **5:12-96. Operation certificate**

96. Operation Certificate.

a. Notwithstanding the issuance of a license therefor, no casino or simulcasting facility may be opened or remain open to the public, and no gaming or simulcast wagering activity, except for test purposes, may be conducted therein, unless and until a valid operation certificate has been issued to the casino licensee by the commission. Such certificate shall be issued by the commission upon a finding that a casino and, if applicable, a simulcasting facility each complies in all respects with the requirements of this act and regulations promulgated hereunder, that the casino licensee has implemented necessary management controls and security precautions for the efficient operation of the casino and, if applicable, the simulcasting facility, that casino and simulcasting facility personnel are licensed for the performance of their respective responsibilities, and that the casino and any applicable simulcasting facility are prepared in all respects to receive and entertain the public.

b. The operation certificate shall include an itemized list by category and number of the authorized games permitted in the particular casino establishment and any applicable simulcasting facility.

c. A casino licensee shall, in accordance with regulations promulgated by the commission, file any changes in the number of authorized games to be played in its casino or simulcasting facility, and any changes in the configuration of the casino or simulcasting facility, with the commission and the division, which shall review the changes for compliance with the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) or regulations promulgated thereunder.

d. An operation certificate shall remain in force and effect unless altered in accordance with subsection c. of this section, or revoked, suspended, limited, or otherwise altered by the commission in accordance with this act.

e. It shall be an express condition of continued operation under this act that a casino licensee shall maintain all books, records, and documents pertaining to the licensee's operations, including casino simulcasting, and approved hotel in a manner and location within this State approved by the commission. All such books, records and documents shall be immediately available for inspection during all hours of operation in accordance with the rules of the commission and shall be maintained for such period of time as the commission shall require.

L.1977,c.110,s.96; amended 1983,c.452; 1987,c.354,s.17; 1991,c.182,s.34; 1993,c.292,s.17; 1995,c.18,s.34.

## **5:12-97. Hours of operation**

97. Hours of Operation. a. No casino licensed pursuant to this act shall operate between the hours of 6 a.m. and 10 a.m. on Saturdays, Sundays and State and federal holidays, or between the hours of 4 a.m. and 10 a.m. on all other days, except that the commission may extend the hours of operation, up to and including 24 hours of operation, on any Saturday, Sunday, or State or federal holiday, or on any day that an extension of operating hours would, in the judgment of the commission, have an economic impact on the casino industry and on Atlantic City which would justify the extension of those hours. In making this finding, the commission shall consider, among other factors: (1) the anticipated volume of visitor, convention, or tourist traffic in Atlantic City as a result of any scheduled meetings or events; (2) any special promotions or market expansion programs undertaken by the casino industry or others to increase such traffic; or (3) any other basis for the conclusion that an extension of operating hours would, under the circumstances, effect a significant impact on the volume of casino business and thereby on the State revenues dependent thereupon. Any resolution approving an extension of operating hours shall be considered at a regularly scheduled meeting of the commission held pursuant to the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

b. A casino licensee shall file with the commission a schedule of hours prior to the issuance of an initial operation certificate. If the casino licensee proposes any change in scheduled hours, such change may not be effected until such licensee files a notice of the new schedule of hours with the commission. Such filing must be made 30 days prior to the effective date of the proposed change in hours.

c. Nothing herein shall be construed to limit a casino licensee in opening its casino later than, or closing its casino earlier than, the times stated in its schedule of operating hours; provided, however, that any such alterations in its hours shall comply with the provisions of subsection a. of this section and with regulations of the commission pertaining to such alterations.

L.1977,c.110,s.97; amended 1991,c.182,s.35; 1992,c.9,s.9; 1992,c.36.

## **5:12-99. Internal controls**

99. Internal Controls.

a. Each casino licensee shall submit to the commission a description of its system of internal procedures and administrative and accounting controls for gaming and simulcast wagering operations and a description of any changes thereof. Such submission shall be made at least 30 days before such operations are to commence or at least 30 days before any change in those procedures or controls is to take effect, unless otherwise directed by the commission. Notwithstanding the foregoing, the internal controls described in paragraph (3) of this subsection may be implemented by a casino licensee upon the filing of such internal controls with the commission. Each internal control submission shall contain both narrative and diagrammatic representations of the internal control system to be utilized by the casino, including, but not limited to:

(1) Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming and simulcast wagering operations;

(2) Procedures, forms, and, where appropriate, formulas covering the calculation of hold percentages; revenue drop; expense and overhead schedules; complimentary services, except as provided in paragraph (3) of subsection m. of section 102 of P.L.1977, c.110 (C.5:12-102); junkets; and cash equivalent transactions;

(3) Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in casino or simulcasting facility operations and identifying

primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor; salary structure; and personnel practices;

(4) Procedures within the cashier's cage and simulcast facility for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in gaming and simulcast wagering; the cashing of checks; the redemption of chips and other cash equivalents used in gaming and simulcast wagering; the pay-off of jackpots and simulcast wagers; and the recording of transactions pertaining to gaming and simulcast wagering operations;

(5) Procedures for the collection and security of moneys at the gaming tables and in the simulcasting facility;

(6) Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage and the transfer and recordation of moneys within the simulcasting facility;

(7) Procedures for the transfer of moneys from the gaming tables to the counting process and the transfer of moneys within the simulcasting facility for the counting process;

(8) Procedures and security for the counting and recordation of revenue;

(9) Procedures for the security, storage and recordation of cash, chips and other cash equivalents utilized in the gaming and simulcast wagering operations;

(10) Procedures for the transfer of moneys or chips from and to the slot machines;

(11) Procedures and standards for the opening and security of slot machines;

(12) Procedures for the payment and recordation of slot machine jackpots;

(13) Procedures for the cashing and recordation of checks exchanged by casino and simulcasting facility patrons;

(14) Procedures governing the utilization of the private security force within the casino and simulcasting facility;

(15) Procedures and security standards for the handling and storage of gaming apparatus including cards, dice, machines, wheels and all other gaming equipment;

(16) Procedures and rules governing the conduct of particular games and simulcast wagering and the responsibility of casino personnel in respect thereto; and

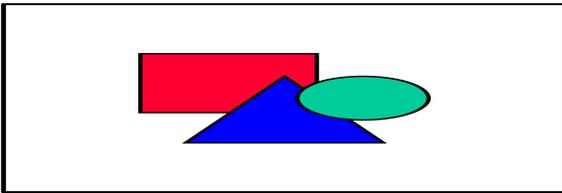
(17) Procedures for separately recording all transactions pursuant to section 101 of this act involving the Governor, any State officer or employee, or any special State officer or employee, any member of the Judiciary, any member of the Legislature, any officer of a municipality or county in which casino gaming is authorized, or any gaming related casino employee, and for the quarterly filing with the Attorney General of a list reporting all such transactions.

If required by regulation of the commission, each casino licensee shall also submit a description of its system of internal procedures and administrative and accounting controls for non-gaming operations and a description of any changes thereto no later than five days after those operations commence or after any change in those procedures or controls takes effect.

b. The commission shall review each submission required by subsection a. hereof, and shall determine whether it conforms to the requirements of this act and to the regulations promulgated thereunder and whether the system submitted provides adequate and effective controls for the operations of the particular casino hotel submitting it. If the commission finds any insufficiencies, it shall specify same in writing to the casino licensee, who shall make appropriate alterations. When the commission determines a submission to be adequate in all respects, it shall notify the casino licensee of same. Except as otherwise provided in subsection a. of this section, no casino licensee shall commence or alter gaming operations unless and until such system of controls is approved by the commission.

L.1977,c.110,s.99; amended 1979,c.282,s.32; 1980,c.69,s.3; 1987,c.354,s.18; 1991,c.182,s.37; 1992,c.18,s.2; 1992,c.19,s.31; 1993,c.292,s.19; 1995,c.18,s.36.

## **5:12-100 Games and gaming equipment.**



### **100. Games and Gaming Equipment.**

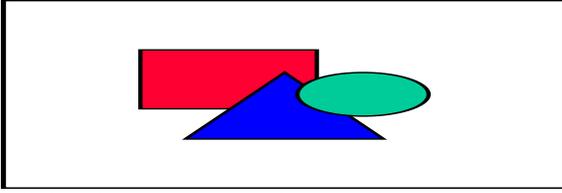
a. This act shall not be construed to permit any gaming except the conduct of authorized games in a casino room in accordance with this act and the regulations promulgated hereunder and in a simulcasting facility to the extent provided by the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.).

Notwithstanding the foregoing, if the commission approves the game of keno as an authorized game pursuant to section 5 of P.L.1977, c.110 (C.5:12-5), as amended, keno tickets may be sold or redeemed in accordance with commission regulations at any location in a casino hotel approved by the commission for such activity.

b. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a casino hotel except in a casino room, in the simulcasting facility, or in restricted casino areas used for the inspection, repair or storage of such equipment and specifically designated for that purpose by the casino licensee with the approval of the commission. Gaming equipment which supports the conduct of gaming in a casino or simulcasting facility but does not permit or require patron access, such as computers, may be possessed and maintained by a casino licensee in restricted casino areas specifically designated for that purpose by the casino licensee with the approval of the commission. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a casino room or simulcasting facility by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the commission, is under the exclusive control of a casino licensee or his employees, and is brought into or removed from the casino room or simulcasting facility following 24-hour prior notice given to an authorized agent of the commission.

Notwithstanding the foregoing, a person may, with the prior approval of the commission and under such terms and conditions as may be required by the commission, possess, maintain or exhibit gaming equipment in any other area of the casino hotel; provided such equipment is used for nongaming purposes.

c. Each casino hotel shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens and checks received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value.



All drop boxes and other devices wherein cash, coins, or tokens are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, shall be equipped with two locking devices, one key to which shall be under the exclusive control of the commission and the other under the exclusive control of the casino licensee, and said drop boxes and other devices shall not be brought into or removed from a casino room or simulcasting facility, or locked or unlocked, except at such times, in such places, and according to such procedures as the commission may require.

d. All chips used in gaming shall be of such size and uniform color by denomination as the commission shall require by regulation.

e. All gaming shall be conducted according to rules promulgated by the commission. All wagers and pay-offs of winning wagers shall be made according to rules promulgated by the commission, which shall establish such limitations as may be necessary to assure the vitality of casino operations and fair odds to patrons. Each slot machine shall have a minimum payout of 83%.

f. Each casino licensee shall make available in printed form to any patron upon request the complete text of the rules of the commission regarding games and the conduct of gaming, pay-offs of winning wagers, an approximation of the odds of winning for each wager, and such other advice to the player as the commission shall require. Each casino licensee shall prominently post within a casino room and simulcasting facility, as appropriate, according to regulations of the commission such information about gaming rules, pay-offs of winning wagers, the odds of winning for each wager, and such other advice to the player as the commission shall require.

g. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a casino licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a casino licensee prior to the commencement of play shall be treated as a valid wager.

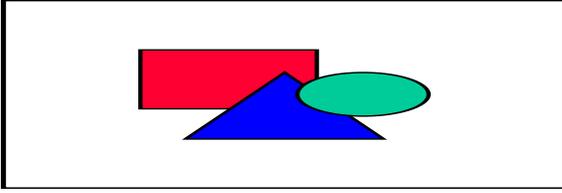
h. (1) No slot machine shall be used to conduct gaming unless it is identical in all electrical, mechanical and other aspects to a model thereof which has been specifically tested by the division and licensed for use by the commission. The division may, in its discretion, and for the purpose of expediting the approval process, refer testing to any testing laboratory with a plenary license as a casino service industry pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92). The division shall give priority to the testing of slot machines which a casino licensee has certified it will use in its casino in this State. The commission shall, by regulation, establish such technical standards for licensure of slot machines, including mechanical and electrical reliability, security against tampering, the comprehensibility of wagering, and noise and light levels, as it may deem necessary to protect the player from fraud or deception and to insure the integrity of gaming. The denominations of such machines shall be set by the licensee; the licensee shall simultaneously notify the commission of the settings.

(2) The commission shall, by regulation, determine the permissible number and density of slot machines in a licensed casino so as to:

(a) promote optimum security for casino operations;

(b) avoid deception or frequent distraction to players at gaming tables;

(c) promote the comfort of patrons;



(d)create and maintain a gracious playing environment in the casino; and

(e)encourage and preserve competition in casino operations by assuring that a variety of gaming opportunities is offered to the public.

Any such regulation promulgated by the commission which determines the permissible number and density of slot machines in a licensed casino shall provide that all casino floor space and all space within a casino licensee's casino simulcasting facility shall be included in any calculation of the permissible number and density of slot machines in a licensed casino.

i.(Deleted by amendment, P.L.1991, c.182).

j. (Deleted by amendment, P.L.1991, c.182).

k.It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except for currency, negotiable personal checks, negotiable counter checks, other chips, coupons or complimentary vouchers distributed by the casino licensee, or, if authorized by regulation of the commission, a valid charge to a credit or debit card account. A casino licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over \$100 with a check drawn upon the licensee's account at any banking institution in this State and made payable to that person.

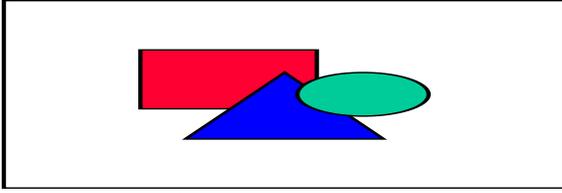
l.It shall be unlawful for any casino licensee or its agents or employees to employ, contract with, or use any skill or barker to induce any person to enter a casino or simulcasting facility or play at any game or for any purpose whatsoever.

m.It shall be unlawful for a dealer in any authorized game in which cards are dealt to deal cards by hand or other than from a device specifically designed for that purpose, unless otherwise permitted by the rules of the commission.

n.It shall be unlawful for any casino key employee or any person who is required to hold a casino key employee license as a condition of employment or qualification to wager in any casino or simulcasting facility in this State, or any casino employee, other than a junket representative, bartender, waiter, waitress, or other casino employee who, in the judgment of the commission, is not directly involved with the conduct of gaming operations, to wager in a casino or simulcasting facility in the casino hotel in which the employee is employed or in any other casino or simulcasting facility in this State which is owned or operated by the same casino licensee. Any casino employee, other than a junket representative, bartender, waiter, waitress, or other casino employee who, in the judgment of the commission, is not directly involved with the conduct of gaming operations, must wait at least 30 days following the date that the employee either leaves employment with a casino licensee or is terminated from employment with a casino licensee before the employee may gamble in a casino or simulcasting facility in the casino hotel in which the employee was formerly employed or in any other casino or simulcasting facility in this State which is owned or operated by the same casino licensee.

o. (1) It shall be unlawful for any casino key employee or boxman, floorman, or any other casino employee who shall serve in a supervisory position to solicit or accept, and for any other casino employee to solicit, any tip or gratuity from any player or patron at the casino hotel or simulcasting facility where he is employed.

(2)A dealer may accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this subsection. All such tips or gratuities shall be immediately deposited in a



lockbox reserved for that purpose, accounted for, and placed in a pool for distribution pro rata among the dealers, with the distribution based upon the number of hours each dealer has worked, except that the commission may permit a separate pool to be established for dealers in the game of poker, or may permit tips or gratuities to be retained by individual dealers in the game of poker.

L.1977,c.110,s.100; amended 1979, c.282, s.33; 1985, c.350, s.4; 1987, c.355, s.7; 1991, c.182, s.38; 1992, c.9, s.10; 1992, c.18, s.1; 1992, c.19, s.32; 1993, c.292, s.20; 1995, c.18, s.37; 1996, c.84, s.6; 1997, c.83; 1998, c.141.

### **5:12-101. Credit**

101. Credit.

a. Except as otherwise provided in this section, no casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall:

(1) Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming or simulcast wagering activity as a player; or

(2) Release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming or simulcast wagering activity, without maintaining a written record thereof in accordance with the rules of the commission.

b. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, may accept a check, other than a recognized traveler's check or other cash equivalent from any person to enable such person to take part in gaming or simulcast wagering activity as a player, or may give cash or cash equivalents in exchange for such check unless:

(1) The check is made payable to the casino licensee;

(2) The check is dated, but not postdated;

(3) The check is presented to the cashier or the cashier's representative at a location in the casino approved by the commission and is exchanged for cash or slot tokens which total an amount equal to the amount for which the check is drawn, or the check is presented to the cashier's representative at a gaming table in exchange for chips which total an amount equal to the amount for which the check is drawn; and

(4) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

Nothing in this subsection shall be deemed to preclude the establishment of an account by any person with a casino licensee by a deposit of cash, recognized traveler's check or other cash equivalent, or a check which meets the requirements of subsection g. of this section, or to preclude the withdrawal, either in whole or in part, of any amount contained in such account.

c. When a casino licensee or other person licensed under this act, or any person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, cashes a check in conformity with the requirements of subsection b. of this section, the casino licensee shall cause the deposit of such check in a bank for collection or payment, or shall require an attorney or casino key employee with no incompatible functions to present such check to the drawer's bank for payment, within (1) seven calendar days of the date of the transaction for a check in an amount of \$1,000.00 or less; (2) 14 calendar days of the date of the transaction for a check in an amount greater than \$1,000.00 but less than or equal to \$5,000.00; or (3) 45 calendar days of the date of the transaction for a check in an amount greater than \$5,000.00. Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section in an amount equal to the amount for which the check is drawn; or he may redeem the check in part by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subsection g. of this section and another check which meets the requirements of subsection b. of this section for the difference between the original check and the cash, cash equivalents, chips, or check tendered; or he may issue one check which meets the requirements of subsection b. of this section in an amount sufficient to redeem two or more checks drawn to the order of the casino licensee. If there has been a partial redemption or a consolidation in conformity with the provisions of this subsection, the newly issued check shall be delivered to a bank for collection or payment or presented to the drawer's bank for payment by an attorney or casino key employee with no incompatible functions within the period herein specified. No casino licensee or any person licensed under this act, and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall accept any check or series of checks in redemption or consolidation of another check or checks in accordance with this subsection for the purpose of avoiding or delaying the deposit of a check in a bank for collection or payment or the presentment of the check to the drawer's bank within the time period prescribed by this subsection.

In computing a time period prescribed by this subsection, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or federal holiday, in which event the time period shall run until the next business day.

d. No casino licensee or any other person licensed under this act, or any other person acting on behalf of or under any arrangement with a casino licensee or other person licensed under this act, shall transfer, convey, or give, with or without consideration, a check cashed in conformity with the requirements of this section to any person other than:

(1) The drawer of the check upon redemption or consolidation in accordance with subsection c. of this section;

(2) A bank for collection or payment of the check;

(3) A purchaser of the casino license as approved by the commission; or

(4) An attorney or casino key employee with no incompatible functions for presentment to the drawer's bank.

The limitation on transferability of checks imposed herein shall apply to checks returned by any bank to the casino licensee without full and final payment.

e. No person other than one licensed as a casino key employee or as a casino employee may engage in efforts to collect upon checks that have been returned by banks without full and final payment, except that an attorney-at-law representing a casino licensee may bring action for such collection.

f. Notwithstanding the provisions of any law to the contrary, checks cashed in conformity with the requirements of this act shall be valid instruments, enforceable at law in the courts of this State. Any check cashed, transferred, conveyed or given in violation of this act shall be invalid and unenforceable for the purposes of collection but shall be included in the calculation of gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).

g. Notwithstanding the provisions of subsection b. of this section to the contrary, a casino licensee may accept a check from a person to enable the person to take part in gaming or simulcast wagering activity as a player, may give cash or cash equivalents in exchange for such a check, or may accept a check in redemption or partial redemption of a check issued in accordance with subsection b., provided that:

(1) (a) The check is drawn by a casino licensee pursuant to the provisions of subsection k. of section 100 of P.L.1977, c.110 (C.5:12-100) or upon a withdrawal of funds from an account established in accordance with the provisions of subsection b. of this section or is drawn by a casino licensee as payment for winnings from an authorized game or simulcast wagers;

(b) The check is issued by a banking institution which is chartered in a country other than the United States on its account at a federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(c) The check is issued by a banking institution which is chartered in the United States on its account at another federally chartered or state-chartered bank and is made payable to "cash," "bearer," a casino licensee, or the person presenting the check;

(d) The check is issued by an annuity jackpot trust as payment for winnings from an annuity jackpot; or

(e) The check is issued by an affiliate of a casino licensee that holds a gaming license in any jurisdiction;

(2) The check is identifiable in a manner approved by the commission as a check issued for a purpose listed in paragraph (1) of this subsection;

(3) The check is dated, but not postdated;

(4) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph (a) of paragraph (1) of this subsection, or the check is verified in accordance with regulations promulgated by the commission in the case of a check issued pursuant to subparagraph (b), (c), (d) or (e) of paragraph (1) of this subsection; and

(5) The regulations concerning check cashing procedures are observed by the casino licensee and its employees and agents.

No casino licensee shall issue a check for the purpose of making a loan or otherwise providing or allowing any advance or credit to a person to enable the person to take part in gaming or simulcast wagering activity as a player.

h. (1) Notwithstanding the provisions of subsection b. and subsection c. of this section to the contrary, a casino licensee may, at a location outside the casino, accept a personal check or checks from a person for up to \$1,500 in exchange for cash or cash equivalents, and may, at such locations within the casino as may be permitted by the commission, accept a personal check or checks for up to \$1,500 in exchange for cash,

cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming or simulcast wagering activity as a player, provided that:

- (a) The check is drawn on the patron's bank or brokerage cash management account;
  - (b) The check is for a specific amount;
  - (c) The check is made payable to the casino licensee;
  - (d) The check is dated but not post-dated;
  - (e) The patron's identity is established by examination of one of the following: valid credit card, driver's license, passport, or other form of identification credential which contains, at a minimum, the patron's signature;
  - (f) The check is restrictively endorsed "For Deposit Only" to the casino licensee's bank account and deposited on the next banking day following the date of the transaction; and
  - (g) The total amount of personal checks accepted by any one licensee pursuant to this subsection that are outstanding at any time, including the current check being submitted, does not exceed \$1,500.
- (2) Nothing in paragraph (1) of this subsection shall be construed to limit the authority of a casino licensee to accept, and exchange for cash or cash equivalents other than tokens, chips, or plaques, a check from a patron that is not offered or exchanged in order to enable the patron or anyone else to take part in gaming or simulcast wagering activity as a player, provided that:
- (a) The patron so certifies;
  - (b) The casino licensee has no reason to believe that the cash or cash equivalents will be used to enable the patron or anyone else to take part in gaming or simulcast wagering activity as a player;
  - (c) The check is not accepted or exchanged in the casino or simulcasting facility; and
  - (d) The casino licensee maintains full documentation of the transaction in accordance with regulations established by the commission.
- i. Checks cashed pursuant to the provisions of paragraph (1) of subsection h. of this section which are subsequently uncollectable may not be deducted from the total of all sums received in calculating gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24).
- j. A person may request the commission to put that person's name on a list of persons to whom the extension of credit by a casino as provided in this section would be prohibited by submitting to the commission the person's name, address, and date of birth. The person does not need to provide a reason for this request. The commission shall provide this list to the credit department of each casino; neither the commission nor the credit department of a casino shall divulge the names on this list to any person or entity other than those provided for in this subsection. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the commission, which shall so inform the credit departments of casinos no later than three days after the submission of the request.

k. Notwithstanding the provisions of paragraph (4) of subsection b. of this section to the contrary, a casino licensee may, prior to the completion of the verifications that are otherwise required by the rules of the commission for a casino licensee to issue credit, accept a check from a person to enable such person to take part in gaming or simulcast wagering as a player, or may give cash or cash equivalents in exchange for such check, provided that:

(1) the casino licensee records in the credit file of the person:

(a) the efforts that were made to complete the required verifications and the reasons why the verifications could not be completed; and

(b) a description of the criteria that were relied upon in determining to issue credit to the person prior to the completion of the required verifications;

(2) the check otherwise complies with the requirements of subsection b. of this section and is processed by the casino licensee in accordance with all other provisions of this section and the regulations of the commission; and

(3) any check accepted by a casino licensee pursuant to the provisions of this subsection:

(a) is clearly marked as such in a manner approved by the commission; and

(b) may not be deducted from the total of all sums received in calculating gross revenue pursuant to section 24 of P.L.1977, c.110 (C.5:12-24), even if such check should subsequently prove uncollectible or the casino licensee completes all of the required verifications prior to its deposit or presentment.

L.1977,c.110,s.101; amended 1985,c.245; 1987,c.426,s.4; 1991,c.182,s.39; 1992,c.9,s.11; 1992,c.19,s.33; 1993,c.292,s.21; 1995,c.18,s.38.

### **5:12-101.1. Accounts established, limitations**

No casino licensee or any person licensed under P.L. 1977, c. 110 (C. 5:12-1 et seq.), and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under P.L. 1977, c. 110, shall, in a single transaction during a gaming day, accept cash from a person offered for the purposes of establishing an account, when the amount offered totals \$10,000.00 or more, unless the person presents proof of his identity and passport identification number if he is not a United States citizen.

Multiple currency transactions shall be treated as a single transaction if the casino licensee, person licensed under P.L. 1977, c. 110 or person acting on behalf of or under any arrangement with a casino licensee or other person licensed under P.L. 1977, c. 110 has knowledge that the transactions are by or on behalf of one person and result in either cash in or cash out totalling more than \$10,000.00 during a gaming day.

L. 1987, c. 419, s. 1.

### **5:12-101.2. Cash redemption, limited**

No casino licensee or any person licensed under P.L. 1977, c. 110 (C. 5:12-1 et seq.), and no person acting on behalf of or under any arrangement with a casino licensee or other person licensed under P.L. 1977, c. 110, shall, in a single transaction during a gaming day, redeem for cash or credit any chips or markers in an

amount of \$10,000.00 or more or exchange chips for cash in an amount of \$10,000.00 or more, from any one person, unless the person seeking to redeem the chips or markers presents proof of his identity and passport identification number if he is not a United States citizen.

Multiple currency transactions shall be treated as a single transaction if the casino licensee, person licensed under P.L. 1977, c. 110 or person acting on behalf of or under any arrangement with a casino licensee or other person licensed under P.L. 1977, c. 110 has knowledge that the transactions are by or on behalf of one person and result in either cash in or cash out totalling more than \$10,000.00 during a gaming day.

L. 1987, c. 419, s. 2.

### **5:12-101.3. Report of cash transactions**

Casino licensees, persons licensed under P.L. 1977, c. 110 (C. 5:12-1 et seq.) and persons acting on behalf of or under any arrangement with casino licensees or other persons licensed under P.L. 1977, c. 110, who accept cash or redeem chips or markers totalling \$10,000.00 or more in a gaming day for which identification is required pursuant to sections 1 and 2 of this 1987 supplementary act, shall at least once every 30 days report the identities and passport numbers of the persons offering the cash, chips or markers, to the Division of Gaming Enforcement.

L. 1987, c. 419, s. 3.

### **5:12-102. Junkets and complimentary services**

102. Junkets and Complimentary Services.

a. No junkets may be organized or permitted except in accordance with the provisions of this act. No person may act as a junket representative or junket enterprise except in accordance with this section.

b. A junket representative employed by a casino licensee, an applicant for a casino license or an affiliate of a casino licensee shall be licensed as a casino employee in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.); provided, however, that said licensee need not be a resident of this State. Any person who holds a current and valid casino employee license may act as a junket representative while employed by a casino licensee or an affiliate. No casino licensee or applicant for a casino license may employ or otherwise engage a junket representative who is not so licensed.

c. Junket enterprises which, and junket representatives not employed by a casino licensee or an applicant for a casino license or by a junket enterprise who, are engaged in activities governed by this section shall be subject to the provisions of subsection c. of section 92 and subsection b. of section 104 of P.L.1977, c.110 (C.5:12-92 and 5:12-104) with regard to those activities, unless otherwise directed by the commission pursuant to subsection k. of this section. Such of the owners, management and supervisory personnel, and other principal employees of a junket enterprise as the commission may consider appropriate for qualification shall qualify under the standards, except for residency, established for qualification of a casino key employee under P.L.1977, c.110 (C.5:12-1 et seq.).

d. Prior to the issuance of any license required by this section, an applicant for licensure shall submit to the jurisdiction of the State of New Jersey and shall demonstrate to the satisfaction of the commission that he is amenable to service of process within this State. Failure to establish or maintain compliance with the requirements of this subsection shall constitute sufficient cause for the denial, suspension or revocation of any license issued pursuant to this section.

e. Upon petition by the holder of a casino license, an applicant for junket representative licensure may be issued a temporary license by the commission, provided that:

(1) the applicant for licensure is employed by a casino licensee;

(2) the applicant for licensure has filed a completed application as required by the commission;

(3) the division either certifies to the commission that the completed application for licensure as specified in paragraph (2) of this subsection has been in the possession of the division for at least 60 days or agrees to allow the commission to consider the application in some lesser time; and

(4) the division does not object to the temporary licensure of the applicant; provided, however, that failure of the division to object prior to the temporary licensure of the applicant shall not be construed to reflect in any manner upon the qualifications of the applicant for licensure.

In addition to any other authority granted by P.L.1977, c.110 (C.5:12-1 et seq.), the commission shall have the authority, upon receipt of a representation by the division that it possesses information which raises a reasonable possibility that a junket representative does not qualify for licensure, to immediately suspend, limit or condition any temporary license issued pursuant to this subsection, pending a hearing on the qualifications of the junket representative, in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.).

Unless otherwise terminated pursuant to P.L.1977, c.110 (C.5:12-1 et seq.), any temporary license issued pursuant to this subsection shall expire 12 months from the date of its issuance, and shall be renewable by the commission, in the absence of an objection by the division, as specified in paragraph (4) of this subsection, for one additional six-month period.

f. Every agreement concerning junkets entered into by a casino licensee and a junket representative or junket enterprise shall be deemed to include a provision for its termination without liability on the part of the casino licensee, if the commission orders the termination upon the suspension, limitation, conditioning, denial or revocation of the licensure of the junket representative or junket enterprise, in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.). Failure to expressly include such a condition in the agreement shall not constitute a defense in any action brought to terminate the agreement.

g. A casino licensee shall be responsible for the conduct of any junket representative or junket enterprise associated with it and for the terms and conditions of any junket engaged in on its premises, regardless of the fact that the junket may involve persons not employed by such a casino licensee.

h. A casino licensee shall be responsible for any violation or deviation from the terms of a junket. Notwithstanding any other provisions of this act, the commission may, after hearings in accordance with this act, order restitution to junket participants, assess penalties for such violations or deviations, prohibit future junkets by the casino licensee, junket enterprise or junket representative, and order such further relief as it deems appropriate.

i. The commission shall, by regulation, prescribe methods, procedures and forms for the delivery and retention of information concerning the conduct of junkets by casino licensees. Without limitation of the foregoing, each casino licensee, in accordance with the rules of the commission, shall:

(1) Maintain on file a report describing the operation of any junket engaged in on its premises;

(2) (Deleted by amendment, P.L.1995, c.18.); and

(3) Submit to the commission and division a list of all its employees who are acting as junket representatives.

j. Each casino licensee, junket representative or junket enterprise shall, in accordance with the rules of the commission, file a report with the division with respect to each list of junket patrons or potential junket patrons purchased directly or indirectly by the casino licensee, junket representative or enterprise.

k. The commission shall have the authority to determine, either by regulation, or upon petition by the holder of a casino license, that a type of arrangement otherwise included within the definition of "junket" established by section 29 of P.L.1977, c.110 (C.5:12-29) shall not require compliance with any or all of the requirements of this section. The commission shall seek the opinion of the division prior to granting any exemption. In granting exemptions, the commission shall consider such factors as the nature, volume and significance of the particular type of arrangement, and whether the exemption would be consistent with the public policies established by this act. In applying the provisions of this subsection, the commission may condition, limit, or restrict any exemption as the commission may deem appropriate.

l. No junket enterprise or junket representative or person acting as a junket representative may:

(1) Engage in efforts to collect upon checks that have been returned by banks without full and final payment;

(2) Exercise approval authority with regard to the authorization or issuance of credit pursuant to section 101 of P.L.1977, c.110 (C.5:12-101);

(3) Act on behalf of or under any arrangement with a casino licensee or a gaming patron with regard to the redemption, consolidation, or substitution of the gaming patron's checks awaiting deposit pursuant to subsection c. of section 101 of P.L.1977, c.110 (C.5:12-101);

(4) Individually receive or retain any fee from a patron for the privilege of participating in a junket;

(5) Pay for any services, including transportation, or other items of value provided to, or for the benefit of, any patron participating in a junket.

m. No casino licensee shall offer or provide any complimentary services, gifts, cash or other items of value to any person unless:

(1) The complimentary consists of room, food, beverage or entertainment expenses provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party; or

(2) The complimentary consists of documented transportation expenses provided directly to the patron and his guests by the licensee or indirectly to the patron and his guests on behalf of a licensee by a third party, provided that the licensee complies with regulations promulgated by the commission to ensure that a patron's and his guests' documented transportation expenses are paid for or reimbursed only once; or

(3) The complimentary consists of coins, tokens, cash or other complimentary items or services provided through a bus coupon or other complimentary distribution program which, notwithstanding the requirements of section 99 of P.L.1977, c.110 (C.5:12-99), shall be filed with the commission upon the implementation of the program or maintained pursuant to commission regulation.

Notwithstanding the foregoing, a casino licensee may offer and provide complimentary cash or noncash gifts which are not otherwise included in paragraphs (1) through (3) of this subsection to any person, provided that any such gifts in excess of \$2,000.00 per trip, or such greater amount as the commission may establish by regulation, are supported by documentation regarding the reason the gift was provided to the patron and his guests, including where applicable, a patron's player rating, which documentation shall be

maintained by the casino licensee. For the purposes of this paragraph, all gifts presented to a patron and the patron's guests directly by the licensee or indirectly on behalf of the licensee by a third party within any five-day period shall be considered to have been made during a single trip. In the case of cash gifts, the commission shall establish by regulation the total amount of such gifts that a licensee may provide to a patron each year.

Each casino licensee shall maintain a regulated complimentary service account, for those complimentaries which are permitted pursuant to this section, and shall submit a quarterly report to the commission based upon such account and covering all complimentary services offered or engaged in by the licensee during the immediately preceding quarter. Such reports shall include identification of the regulated complimentary services and their respective costs, the number of persons by category of service who received the same, and such other information as the commission may require.

n. As used in this subsection, "person" means any State officer or employee subject to financial disclosure by law or executive order and any other State officer or employee with responsibility for matters affecting casino activity; any special State officer or employee with responsibility for matters affecting casino activity; the Governor; any member of the Legislature or full-time member of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a principal department; any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of a municipality wherein a casino is located, or any professional planner or consultant regularly employed or retained by such planning board or zoning board of adjustment.

No casino applicant or licensee shall provide directly or indirectly to any person any complimentary service or discount which is other than such service or discount that is offered to members of the general public in like circumstance.

o. Any person who, on the effective date of this 1992 amendatory act, P.L.1992, c.9, holds a current and valid plenary junket representative license, a junket representative license with a sole owner-operator endorsement, or a junket enterprise license authorizing the conduct of junket activities, shall be considered licensed in accordance with the provisions of this section and subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92) for the remaining term of his current license.

L.1977,c.110,s.102; amended 1980,c.69,s.4; 1980,c.159,s.1; 1981,c.142,s.1; 1983,c.41,s.7; 1984,c.218,s.37; 1987,c.426,s.5; 1991,c.182,s.40; 1992,c.9,s.12; 1995,c.18,s.39.

## **5:12-103. Alcoholic beverages in casino hotel facilities**

### 103. Alcoholic Beverages in Casino Hotel Facilities.

a. Notwithstanding any law to the contrary, the authority to grant any license for, or to permit or prohibit the presence of, alcoholic beverages in, on, or about any premises licensed as part of a casino hotel shall exclusively be vested in the commission.

b. Unless otherwise stated, and except where inconsistent with the purpose or intent of this act or the common understanding of usage thereof, definitions contained in Title 33 of the Revised Statutes shall apply to this section. Any definition contained therein shall apply to the same word in any form.

c. Notwithstanding any provision of Title 33 of the Revised Statutes, the rules, regulations and bulletins promulgated by the director of the Division of Alcoholic Beverage Control, or any provision promulgated

by any local authority, the authority to issue, renew, transfer, revoke or suspend a Casino Hotel Alcoholic Beverage License or any portion, location, privilege or condition thereof; to fine or penalize a Casino Hotel Alcoholic Beverage Licensee; to enforce all statutes, laws, rulings, or regulations relating to such license; and to collect license fees and establish application standards therefor, shall be, consistent with this act, exclusively vested in the commission or the division.

d. Except as otherwise provided in this section, the provisions of Title 33 of the Revised Statutes and the rules, regulations and bulletins promulgated by the Director of the Division of Alcoholic Beverage Control shall apply to a Casino Hotel and Casino Hotel Alcoholic Beverage Licensee licensed under this act.

e. Notwithstanding any provision to the contrary, the commission may promulgate any regulations and special rulings and findings as may be necessary for the proper enforcement, regulation, and control of alcoholic beverages in casino hotels when the commission finds that the uniqueness of casino operations and the public interest require that such regulations, rulings, and findings are appropriate. Regulations of the commission may include but are not limited to: designation and duties of enforcement personnel; all forms necessary or convenient in the administration of this section; inspections, investigations, searches, seizures; licensing and disciplinary standards; requirements and standards for any hearings or disciplinary or other proceedings that may be required from time to time; the assessment of fines or penalties for violations; hours of sale; sales in original containers; sales on credit; out-of-door sales; limitations on sales; gifts and promotional materials; locations or places for sale; control of signs and other displays; identification of licensees and their employees; employment of aliens and minors; storage, transportation and sanitary requirements; records to be kept by the Casino Hotel Alcoholic Beverage Licensees and availability thereof; practices unduly designed to increase consumption of alcoholic beverages; and such other matters whatsoever as are or may become necessary and consistent with the administration of this act.

f. (1) It shall be unlawful for any person, including any casino licensee or any of its lessees, agents or employees, to expose for sale, solicit or promote the sale of, possess with intent to sell, sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about any portion of the premises of a casino hotel, unless said person possesses a Casino Hotel Alcoholic Beverage License.

(2) It shall be unlawful for any person issued a Casino Hotel Alcoholic Beverage License to expose, possess, sell, give, dispense, transfer, or otherwise dispose of alcoholic beverages, other than within the terms and conditions of the Casino Hotel Alcoholic Beverage License issued, the provisions of Title 33 of the Revised Statutes, the rules and regulations promulgated by the Director of the Division of Alcoholic Beverage Control, and, when applicable, the regulations promulgated pursuant to this act.

g. In issuing a Casino Hotel Alcoholic Beverage License the commission shall describe the scope of the particular license and the restrictions and limitations thereon as it deems necessary and reasonable. The commission may, in a single Casino Hotel Alcoholic Beverage License, permit the holder of such a license to perform any or all of the following activities, subject to applicable laws, rules and regulations:

(1) To sell any alcoholic beverage by the glass or other open receptacle, but not in an original container, for on-premise consumption within a casino or simulcasting facility; provided, however, that no alcoholic beverage shall be sold, given or be available for consumption; offered, delivered or otherwise brought to a patron; or consumed at a gaming table unless so requested by the patron.

(2) To sell any alcoholic beverage by the glass or other open receptacle for on-premise consumption within a casino hotel, but not in a casino or simulcasting facility, or from a fixed location outside a building or structure containing a casino but on a casino hotel premises.

(3) To sell any alcoholic beverage in original containers for consumption outside the licensed area from an enclosed package room not in a casino or simulcasting facility.

(4) To sell any alcoholic beverage by the glass or other open receptacle or in original containers from a room service location within an enclosed room not in a casino or simulcasting facility; provided, however, that any sale of alcoholic beverages is delivered only to a guest room or to any other room in the casino

hotel authorized by the commission, other than any room authorized by the commission pursuant to paragraph (1), (3), or (5) of this subsection.

(5) To possess or to store alcoholic beverages in original containers intended but not actually exposed for sale at a fixed location on a casino hotel premises, not in a casino or simulcasting facility; and to transfer or deliver such alcoholic beverages only to a location approved pursuant to this section; provided, however, that no access to or from a storage location shall be permitted except during the normal course of business by employees or agents of the licensee, or by licensed employees or agents of wholesalers or distributors licensed pursuant to Title 33 of the Revised Statutes and any applicable rules and regulations; and provided further, however, that no provision of this section shall be construed to prohibit a Casino Hotel Alcoholic Beverage Licensee from obtaining an off-site storage license from the Division of Alcoholic Beverage Control.

h. (1) No Casino Hotel Alcoholic Beverage License which authorizes the sale of alcoholic beverages within a casino pursuant to subsection g.(1) of this section shall issue to any applicant who does not hold a casino license issued pursuant to this act.

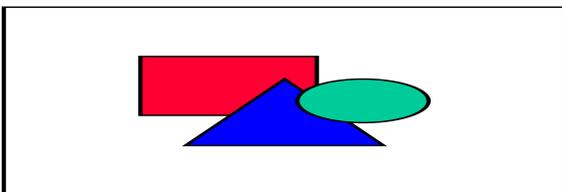
(2) No Casino Hotel Alcoholic Beverage License which authorizes the possession, sale or storage of alcoholic beverages pursuant to subsection g.(2), (3), (4), or (5) of this section shall issue to any applicant who would not qualify under the standards for licensure of a casino service industry pursuant to subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

(3) No Casino Hotel Alcoholic Beverage License which authorizes the possession or storage of alcoholic beverages pursuant to subsection g. of this section shall issue to any applicant who does not hold a Casino Hotel Alcoholic Beverage License, permitting any activity pursuant to subsection g.(1), (2), (3), or (4) of this section.

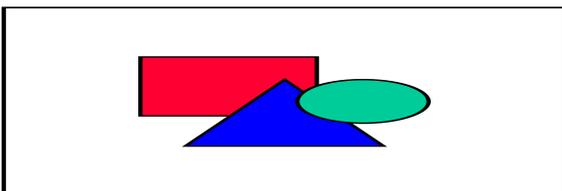
i. The commission may revoke, suspend, refuse to renew or refuse to transfer any Casino Hotel Alcoholic Beverage License, or fine or penalize any Casino Hotel Alcoholic Beverage Licensee for violations of any provision of Title 33 of the Revised Statutes, the rules and regulations promulgated by the Director of the Division of Alcoholic Beverage Control, and the regulations promulgated by the commission.

j. Jurisdiction over all alcoholic beverage licenses previously issued with respect to the casino hotel facility is hereby vested in the commission, which in its discretion may by regulation provide for the conversion thereof into a Casino Hotel Alcoholic Beverage License as provided in this section.

L.1977,c.110,s.103; amended 1982,c.148,s.2; 1991,c.182,s.41; 1992,c.19,s.34; 1993,c.292,s.22.

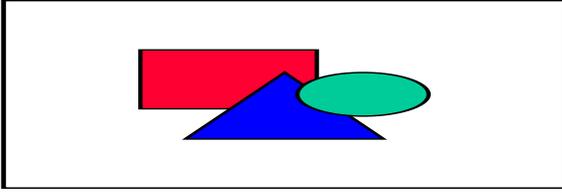


### 5:12-104.Casino licensee -- leases and contracts



on, no agreement which provides for the payment, percentage or share of any money or property gambled in casino gaming activity or wagering at a simulcasting facility, or any revenues, profits or earnings of a casino or

(2) Agreements which provide only for the payment of a fixed sum which is in no way affected by the



amount of any such money, property, revenues, profits or earnings shall not be subject to the provisions of this subsection; and receipts, rentals or charges for real property, personal property or services shall not lose their character as payments of a fixed sum because of contract, lease, or license provisions for adjustments in charges, rentals or fees on account of changes in taxes or assessments, cost-of-living index escalations, expansion or improvement of facilities, or changes in services supplied.

(3) Agreements between a casino licensee and its employees which provide for casino employee or casino key employee profit sharing and which are in writing and have been filed with the commission shall be lawful and effective only if expressly approved as to their terms by the commission.

(4) Agreements to lease an approved casino hotel or the land thereunder and agreements for the complete management of all casino gaming operations in a casino hotel shall not be subject to the provisions of this subsection but shall rather be subject to the provisions of subsections b. and c. of section 82 of this act.

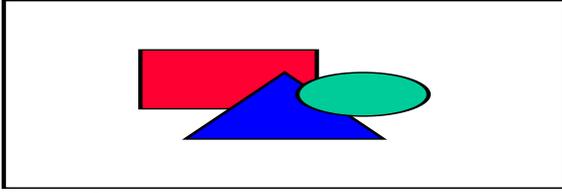
(5) Agreements which provide for percentage charges between the casino licensee and a holding company or intermediary company of the casino licensee shall be in writing and filed with the commission but shall not be subject to the provisions of this subsection.

(6) Agreements relating to simulcast racing and wagering between a casino licensee and an in-State or out-of-State sending track licensed or exempt from licensure in accordance with subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92) shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the parimutuel pool wagered at a simulcasting facility to be paid to the sending track shall not be subject to the provisions of paragraph (1) of this subsection.

(7) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) as a hub facility, as defined in joint regulations of the Casino Control Commission and the New Jersey Racing Commission, shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the hub facility shall not be subject to the provisions of paragraph (1) of this subsection.

(8) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) to conduct casino simulcasting in a simulcasting facility shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the casino service industry shall not be subject to the provisions of paragraph (1) of this subsection.

b. Each casino applicant or licensee shall maintain, in accordance with the rules of the commission, a record of each written or unwritten agreement regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility. The foregoing obligation shall apply regardless of whether the casino applicant or licensee is a party to the agreement. Any such agreement may be reviewed by the commission on the basis of the reasonableness of its terms, including the terms of compensation, and of the qualifications of the owners, officers, employees, and directors of any enterprise involved in the agreement, which qualifications shall be reviewed according to the standards enumerated in section 86 of



this act. If the commission disapproves such an agreement or the owners, officers, employees, or directors of any enterprise involved therein, the commission may require its termination.

Every agreement required to be maintained, and every related agreement the performance of which is dependent upon the performance of any such agreement, shall be deemed to include a provision to the effect that, if the commission shall require termination of an agreement pursuant to this subsection, such termination shall occur without liability on the part of the casino applicant or licensee or any qualified party to the agreement or any related agreement. Failure expressly to include such a provision in the agreement shall not constitute a defense in any action brought to terminate the agreement. If the agreement is not maintained or presented to the commission in accordance with commission regulations, or the disapproved agreement is not terminated, the commission may pursue any remedy or combination of remedies provided in this act.

For the purposes of this subsection, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82) who has applied to the commission for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

c. Nothing in this act shall be deemed to permit the transfer of any license, or any interest in any license, or any certificate of compliance or any commitment or reservation.

L.1977,c.110,s.104; amended 1979, c.282, s.34; 1987, c.355, s.8; 1992, c.19, s.35; 1993, c.121, s.2;1993, c.292, s.23; 1996, c.84, s.7.

### **5:12-105. Disposition of securities by corporate licensee**

Disposition of Securities by Corporate Licensee. a. The sale, assignment, transfer, pledge or other disposition of any security issued by a corporation which holds a casino license is conditional and shall be ineffective if disapproved by the commission.

b. Every security issued by a corporation which holds a casino license shall bear, on both sides of the certificate evidencing such security, a statement of the restrictions imposed by this section, except that in the case of a publicly traded corporation incorporated prior to the effective date of this act, a statement of restriction shall be necessary only insofar as certificates are issued by such corporation after the effective date of this act.

c. The Secretary of State shall not accept for filing any articles of incorporation of any corporation which includes as a stated purpose the conduct of casino gaming, or any amendment which adds such purpose to articles of incorporation already filed, unless such articles or amendments have been approved by the commission and a copy of such approval is annexed thereto upon presentation for filing with the Secretary of State.

d. If at any time the commission finds that an individual owner or holder of any security of a corporate licensee or of a holding or intermediary company with respect thereto is not qualified under this act, and if as a result the corporate licensee is no longer qualified to continue as a casino licensee in this State, the commission shall, pursuant to the provisions of this act, take any necessary action to protect the public interest, including the suspension or revocation of the casino license of the corporation; provided, however, that if the holding or intermediary company is a publicly traded corporation and the commission finds disqualified any holder of any security thereof who is required to be qualified under section 85d. of this act,

and the commission also finds that: (1) the holding or intermediary company has complied with the provisions of section 82d.(7) of this act; (2) the holding or intermediary company has made a good faith effort, including the prosecution of all legal remedies, to comply with any order of the commission requiring the divestiture of the security interest held by the disqualified holder; and (3) such disqualified holder does not have the ability to control the corporate licensee or any holding or intermediary company with respect thereto, or to elect one or more members of the board of directors of such corporation or company, the commission shall not take action against the casino licensee or the holding or intermediary company with respect to the continued ownership of the security interest by the disqualified holder. For purposes of this act, a security holder shall be presumed to have the ability to control a publicly traded corporation, or to elect one or more members of its board of directors, if such holder owns or beneficially holds 5% or more of the equity securities of such corporation, unless such presumption of control or ability to elect is rebutted by clear and convincing evidence.

e. Commencing on the date the commission serves notice upon a corporation of the determination of disqualification under subsection d. of this section, it shall be unlawful for the named individual:

- (1) To receive any dividends or interest upon any such securities;
- (2) To exercise, directly or through any trustee or nominee, any right conferred by such securities; or
- (3) To receive any remuneration in any form from the corporate licensee for services rendered or otherwise.

f. After a nonpublicly traded corporation has been issued a casino license pursuant to the provisions of this act, but prior to the issuance or transfer of any security to any person required to be but not yet qualified in accordance with the provisions of this act, such corporation shall file a report of its proposed action with the commission, and shall request the approval of the commission for the transaction. If the commission shall deny the request, the corporation shall not issue or transfer such security. After a publicly traded corporation has been issued a casino license, such corporation shall file a report quarterly with the commission, which report shall list all owners and holders of any security issued by such corporate casino licensee.

g. Each corporation which has been issued a casino license pursuant to the provisions of this act shall file a report of any change of its corporate officers or members of its board of directors with the commission. No officer or director shall be entitled to exercise any powers of the office to which he was so elected or appointed until qualified by the commission in accordance with the provisions of this act.

L.1977,c.110,s.105; amended 1979,c.282,s.35; 1987,c.355,s.9; 1991,c.182,s.42.

## **5:12-106. Casino employment**

### 106. Casino Employment.

a. A casino licensee shall not appoint or employ in a position requiring a casino key employee license, a casino employee license, or a casino service employee registration any person not possessing a current and valid license or registration permitting such appointment or employment.

b. A casino licensee shall, within 24 hours of receipt of written or electronically transferred notice thereof, terminate the appointment or employment of any person whose license or registration has been revoked or has expired. A casino licensee shall comply in all respects with any order of the commission imposing limitations or restrictions upon the terms of employment or appointment in the course of any investigation

or hearing.

c. An applicant for or a holder of a casino key employee license or a casino employee license whose application is denied or whose licensure is revoked, as the case may be, shall not, in addition to any restrictions imposed by the regulations of the commission on a reapplication for licensure, be employed by a casino licensee in a position that does not require a license until five years have elapsed from the date of the denial or revocation, except that the commission may permit such employment upon good cause shown.

L.1977,c.110,s.106; amended 1981,c.503,s.16; 1987,c.410,s.9; 1991,c.182,s.43; 1993,c.292,s.24; 1995,c.18,s.40.

### **5:12-107. Conduct of hearings; rules of evidence; punishment of contempts; rehearing**

107. Conduct of Hearings; Rules of Evidence; Punishment of Contempts; Rehearing. a. At all hearings of the commission in contested cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2):

(1) Unless the commission hears the matter directly, the chairman shall refer the matter to the Office of Administrative Law in accordance with P.L.1978, c.67 (C.52:14F-1 et al.); provided, however, that the chairman may, in his discretion, designate a member of the commission, or other qualified person other than an employee of the commission, to serve as hearing examiner in a particular matter;

(2) The proceedings at the hearing shall be recorded or transcribed;

(3) Oral evidence shall be taken only upon oath or affirmation;

(4) Each party to a hearing shall have the right to call and examine witnesses; to introduce exhibits relevant to the issues of the case, including the transcript of testimony at any investigative hearing conducted by or on behalf of the commission; to cross-examine opposing witnesses in any matters relevant to the issue of the case; to impeach any witness, regardless of which party called him to testify; and to offer rebuttal evidence;

(5) If an applicant, licensee, registrant or person who shall be qualified pursuant to this act is a party and if such party shall not testify in his own behalf, he may be called and examined as if under cross-examination;

(6) The hearing shall not be conducted according to rules relating to the admissibility of evidence in courts of law. Any relevant evidence may be admitted and shall be sufficient in itself to support a finding if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action; and

(7) The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, although such evidence may be otherwise subject to objection.

b. The commission may take official notice of any generally accepted information or technical or scientific matter in the field of gaming and of any other fact which may be judicially noticed by the courts of this State. The parties shall be informed of any information, matters or facts so noticed and shall be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities, the manner of such refutation to be determined by the commission. The commission may, in its discretion, before rendering its decision, permit the filing of amended or

supplemental pleadings and shall notify all parties thereof and provide a reasonable opportunity for objections thereto.

c. If any person in proceedings before the commission disobeys or resists any lawful order, refuses to respond to a subpoena, refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or is guilty of misconduct at the hearing or so near the place thereof as to obstruct the proceeding, the person may be punished for contempt in accordance with the Rules of Court if the commission certifies the facts underlying the contumacious behavior to the Superior Court. Thereafter, the courts shall have jurisdiction in the matter, and the same proceeding shall be had, the same penalties may be imposed, and the person charged may purge himself of the contempt in the same way as in the case of a person who has committed contempt in the trial of a civil action before the Superior Court.

d. (1) The commission may, upon motion therefor made within 10 days after the service of the decision and order, order a rehearing before the commission upon such terms and conditions as it may deem just and proper when the commission finds cause to believe that the decision and order should be reconsidered in view of the legal, policy or factual matters advanced by the moving party or raised by the commission on its own motion.

(2) Upon motion made within a reasonable time, but in no event later than one year from the service of the decision and order, the commission may relieve a party from the decision and order upon a showing that there is additional evidence which is material and necessary and which would be reasonably likely to change the decision of the commission, and that sufficient reason existed for failure to present such evidence at the hearing of the commission or on a motion under paragraph (1) of this subsection. The motion shall be supported by an affidavit of the moving party or his counsel showing with particularity the materiality and necessity of the additional evidence and the reason why it was not presented at the hearing or on a motion under paragraph (1) of this subsection. Upon rehearing, rebuttal evidence to the additional evidence shall be admitted. After rehearing, the commission may modify its decision and order as the additional evidence may warrant.

(3) A motion for relief from a decision and order which is based on any ground other than the presentation of newly discovered evidence shall be governed as to both timeliness and sufficiency by the regulations of the commission which shall be modeled, to the extent practical, upon the rules then governing similar motions before the courts of this State.

L.1977,c.110,s.107; amended 1979,c.282,s.36; 1987,c.354,s.19; 1993,c.292,s.25.

### **5:12-108. Proceedings against licensees**

a. Any proceeding against a licensee or registrant shall be brought on by written complaint, which shall include a statement setting forth in ordinary and concise language the charges and the acts or omissions supporting such charges.

b. Upon filing of the complaint the commission shall serve a copy upon the licensee or registrant either personally or by certified mail to his address on file with the commission.

c. Within 15 days after service upon him of the complaint, the licensee or registrant may file with the commission a notice of defense, in which he may:

- (1) Request a hearing;
- (2) Admit the accusation in whole or in part;
- (3) Present new matters or explanations by way of defense; or

(4) State any legal objections to the complaint.

Within the time specified, the licensee or registrant may file one or more notices of defense upon any or all of the above grounds.

d. The licensee or registrant shall be entitled to a hearing on the merits if he files the required notice of defense within the time allowed by subsection c. of this section, and any such notice shall be deemed a specific denial of all parts of the complaint not expressly admitted. Failure to timely file the required notice of defense or to appear at the hearing shall constitute an admission of all matters and facts contained in the complaint and a waiver of the licensee's or registrant's rights to a hearing, but the commission, in its discretion, may nevertheless order a hearing. All affirmative defenses shall be specifically stated, and unless objection is taken as provided in paragraph (4) of subsection c. of this section, all objections to the form of the complaint shall be deemed waived.

e. The commission shall determine the time and place of the hearing as soon as is reasonably practical after receiving the licensee's or registrant's notice of defense. The commission shall deliver or send by certified mail a notice to all parties at least 10 days prior to the hearing. Unless the licensee or registrant consents, the hearing shall not be held prior to the expiration time within which the licensee or registrant is entitled to file the notice of defense.

f. Prior to a hearing before the commission, and during a hearing upon reasonable cause shown, the commission shall issue subpoenas and subpoenas duces tecum at the request of a licensee, a registrant, or the division.

L.1977, c. 110, s. 108, eff. June 2, 1977. Amended by L.1979, c. 282, s. 37, eff. Jan. 9, 1980; L.1981, c. 503, s. 17, eff. Feb. 15, 1982.

### **5:12-109. Emergency orders**

Notwithstanding any provisions of this article, the commission may issue an emergency order for the suspension, limitation or conditioning of any operation certificate or any license, other than a casino license, or any registration, or may issue an emergency order requiring the licensed casino to keep an individual from the premises of such licensed casino or not to pay such individual any remuneration for services or any profits, income or accruals on his investment in such casino, in the following manner:

a. An emergency order shall be issued only when the commission finds that:

(1) There has been charged a violation of any of the criminal laws of this State by a licensee or registrant, or

(2) Such action is necessary to prevent a violation of any such provision, or

(3) Such action is necessary immediately for the preservation of the public peace, health, safety, morals, good order and general welfare or to preserve the public policies declared by this act.

b. An emergency order shall set forth the grounds upon which it is issued, including the statement of facts constituting the alleged emergency necessitating such action.

c. The emergency order shall be effective immediately upon issuance and service upon the licensee, registrant, or resident agent of the licensee. The emergency order may suspend, limit, condition or take other action in relation to the approval of one or more individuals who were required to be approved in any operation, without necessarily affecting any other individuals or the licensed casino establishment. The emergency order shall remain effective until further order of the commission or final disposition of the case.

d. Within 5 days after issuance of an emergency order, the commission shall cause a complaint to be filed and served upon the person or entity involved in accordance with the provisions of this act.

e. Thereafter, the person or entity against whom the emergency order has been issued and served shall be entitled to a hearing before the commission in accordance with the provisions of this act.

L.1977, c. 110, s. 109, eff. June 2, 1977. Amended by L.1981, c. 503, s. 18, eff. Feb. 15, 1982.

### **5:12-110. Judicial review**

a. The division or any person aggrieved by a final decision or order of the commission made after hearing or rehearing by the commission, whether or not a petition for hearing was filed, may obtain judicial review thereof by appeal to the Superior Court in accordance with the Rules of Court.

b. Filing of an appeal shall not stay enforcement of the decision or order of the commission unless the stay is obtained from the court upon application in accordance with the Rules of Court or from the commission upon such terms and conditions as it deems proper.

c. The reviewing court may affirm the decision and order of the commission, may remand the case for further proceedings, or may reverse the decision if the substantive rights of the petitioner have been prejudiced because the decision is:

(1) In violation of constitutional provisions;

(2) In excess of the statutory authority and jurisdiction of the commission; or

(3) Arbitrary or capricious or otherwise not in accordance with law.

d. In order to protect the public interest and the regulatory authority of the commission, any action by the commission taken pursuant to the provisions of sections 64, 69 d. or 71 of this act shall not be subject to the injunctive authority of the Superior Court prior to the exhaustion of the administrative procedures herein specified, unless it shall appear evident to the court, by clear and convincing evidence, that a manifest denial of justice would be effectuated by the refusal to enjoin the contemplated action of the commission.

L.1977, c. 110, s. 110, eff. June 2, 1977.

### **5:12-111. Penalties for willful evasion of payment of license fees, other acts and omissions**

Penalties for Willful Evasion of Payment 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 act, or willfully attempts in any manner to evade or defeat any such license fee, tax, or payment thereof is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00, and shall in addition be liable for a penalty of three times the amount of the license fee evaded and not paid, collected or paid over, which penalty shall be assessed by the commission and collected in accordance with the provisions of this act.

L.1977,c.110,s.111; amended 1991,c.182,s.44.

## **5:12-112. Unlicensed casino gambling games unlawful; penalties**

112. Unlicensed Casino Gambling Games Unlawful; Penalties.

a. Any person who violates the provisions of sections 80 or 82 or of Article 7 of this act, or permits any gambling game, slot machine or device to be conducted, operated, dealt or carried on in any casino or simulcasting facility by a person other than a person licensed for such purposes pursuant to this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

b. Any licensee who places games or slot machines into play or displays such games or slot machines in a casino or simulcasting facility without authority of the commission to do so is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

c. Any person who operates, carries on or exposes for play any gambling game, gaming device or slot machine after his license has expired and prior to the actual renewal thereof is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

L.1977,c.110,s.112; amended 1991,c.182,s.45; 1993,c.292,s.26.

## **5:12-113. Swindling and cheating; penalties**

113. Swindling and Cheating; Penalties. a. Except as provided in subsection b., any person who by any trick or sleight of hand performance, or by a fraud or fraudulent scheme, cards, dice or device, 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 with casino gaming or simulcast wagering is guilty of a crime of the fourth degree and notwithstanding the provisions of N.J.S.2C:43-3 shall be subject to a fine of not more than \$25,000.00, and in the case of a person other than a natural person, to a fine of not more than \$100,000.00 and any other appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

b. Any person who by any trick or sleight of hand performance, or by fraud or fraudulent scheme, cards, dice or device, 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 with casino gaming or simulcast wagering is guilty of a disorderly persons offense if the value of such money or property or representative of either is \$25.00 or under.

L.1977,c.110,s.113; amended 1979,c.282,s.38; 1993,c.292,s.27.

### **5:12-113.1. Use of certain devices in playing game, disorderly persons offense**

46. A person commits a disorderly persons offense if, in playing a game in a licensed casino or simulcasting facility, the person uses, or assists another in the use of, an electronic, electrical or mechanical device which is designed, constructed, or programmed specifically for use in obtaining an advantage at

playing any game in a licensed casino or simulcasting facility. A device used by any person in violation of this section shall be subject to forfeiture pursuant to the provisions of N.J.S.2C:64-1 et seq.

Each casino licensee shall post notice of this prohibition and the penalties of this section in a manner determined by the commission.

L.1991,c.182,s.46; amended 1993,c.292,s.28.

### **5:12-114. Unlawful use of bogus chips or gaming billets, marked cards, dice, cheating devices, unlawful coins; penalty**

114. Unlawful Use of Bogus Chips or Gaming Billets, Marked Cards, Dice, Cheating Devices, Unlawful Coins; Penalty. a. It shall be unlawful for any person playing any licensed gambling game:

(1) Knowingly to use bogus or counterfeit chips or gaming billets, or knowingly to substitute and use in any such game cards or dice that have been marked, loaded or tampered with; or

(2) Knowingly to use or possess any cheating device with intent to cheat or defraud.

b. It shall be unlawful for any person, playing or using any slot machine in a licensed casino:

(1) Knowingly to use other than a lawful coin or legal tender of the United States of America, or to use coin not of the same denomination as the coin intended to be used in such slot machine, except that in the playing of any slot machine or similar gaming device, it shall be lawful for any person to use gaming billets, tokens or similar objects therein which are approved by the commission; or

(2) To use any cheating or thieving device, including but not limited to tools, drills, wires, coins or tokens attached to strings or wires, or electronic or magnetic devices, to facilitate the alignment of any winning combination or removing from any slot machine any money or other contents thereof.

c. It shall be unlawful for any person knowingly to possess or use while on the premises of a licensed casino, any cheating or thieving device, including but not limited to tools, wires, drills, coins attached to strings or wires or electronic or magnetic devices to facilitate removing from any slot machine any money or contents thereof, except that a duly authorized employee of a licensed casino may possess and use any of the foregoing only in furtherance of his employment in the casino.

d. It shall be unlawful for any person knowingly to possess or use while on the premises of any licensed casino or simulcasting facility any key or device designed for the purpose of or suitable for opening or entering any slot machine or similar gaming device or drop box, except that a duly authorized employee of a licensed casino, of a company authorized to conduct casino simulcasting, or of the commission may possess and use any of the foregoing only in furtherance of his employment.

e. Any person who violates this section is guilty of a crime of the fourth degree and notwithstanding the provisions of N.J.S.2C:43-3 shall be subject to a fine of not more than \$25,000.00, and in the case of a person other than a natural person, to a fine of not more than \$100,000.00 and any other appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

L.1977,c.110,s.114; amended 1979,c.282,s.39; 1993,c.292,s.29.

### **5:12-115. Cheating games and devices in a licensed casino; penalty**

Cheating Games and Devices in a Licensed Casino; Penalty. a. It shall be unlawful:

(1) Knowingly to conduct, carry on, operate, deal or allow to be conducted, carried on, operated or dealt any cheating or thieving game or device; or

(2) Knowingly to deal, conduct, carry on, operate or expose for play any game or games played with cards, dice or any 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 which could determine or alter the result of the game.

b. It shall be unlawful knowingly to use or possess any marked cards, loaded dice, plugged or tampered with machines or devices.

c. Any person who violates this section is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

L.1977,c.110,s.115; amended 1991,c.182,s.47.

### **5:12-116. Unlawful possession of device, equipment or other material illegally manufactured, distributed, sold or serviced**

Unlawful possession of device, equipment or other material illegally manufactured, distributed, sold or serviced. Any person who possesses any device, equipment or material which he knows has been manufactured, distributed, sold, tampered with or serviced in violation of the provisions of this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$100,000.00.

L.1977,c.110,s.116; amended 1991,c.182,s.48.

### **5:12-117. Employment without license or registration; penalty**

Employment Without License or Registration; Penalty. a. Any person who, without obtaining the requisite license or registration as provided in this act, works or is employed in a position whose duties would require licensing or registration under the provisions of this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$10,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$50,000.00.

b. Any person who employs or continues to employ an individual not duly licensed or registered under the provisions of this act in a position whose duties require a license or registration under the provisions of this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$10,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$50,000.00.

c. (Deleted by amendment, P.L.1991, c.182).

d. Any person violating the provisions of subsection 101e. of this act shall be guilty of a crime of the third degree, and shall be subject to the penalties therefor, except that the amount of a fine may be up to \$25,000.00. Any licensee permitting or allowing such a violation shall also be punishable under this

subsection, in addition to any other sanctions the commission may impose.

L.1977,c.110,s.117; amended 1981,c.503,s.19; 1987,c.410,s.10; 1991,c.182,s.49.

### **5:12-117.1. Persons prohibited from accepting employment; violation; crime of fourth degree**

a. No applicant or person or organization licensed by or registered with the commission shall employ or offer to employ any person who is prohibited from accepting employment from a licensee or applicant or any holding or intermediary company under section 4 of P.L. 1981, c. 142 (C. 52:13D-17.2).

b. An applicant or person or organization who violates the provisions of this section is guilty of a crime of the fourth degree.

P.L. 1980, c. 69, s. 5; amended 1980,c.159,s.3; 1981,c.142,s.6; 1987,c.410, s.11.

### **5:12-118. Regulations requiring exclusion or rejection of certain persons from licensed casinos; unlawful entry by person whose name has been placed on list; penalty**

Regulations Requiring Exclusion or Rejection of Certain Persons from Licensed Casinos; Unlawful Entry by Person Whose Name Has Been Placed on List; Penalty. Any person whose name is on the list of persons promulgated by the commission pursuant to the provisions of section 71 of this act who knowingly enters the premises of a licensed casino is guilty of a disorderly persons offense, except that any person who has been convicted of this offense three times is guilty of a crime of the fourth degree for each subsequent offense.

L.1977,c.110,s.118; amended 1991,c.182,s.50.

### **5:12-119. Gaming by certain persons prohibited; penalties; defenses**

119. Gaming by Certain Persons Prohibited; Penalties; Defenses. a. No person under the age at which a person is authorized to purchase and consume alcoholic beverages shall enter, or wager in, a licensed casino or simulcasting facility; provided, however, that such a person may enter a casino or simulcasting facility by way of passage to another room, and provided further, however, that any such person who is licensed or registered under the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), may enter a casino or simulcasting facility in the regular course of the person's permitted activities.

b. Any licensee or employee of a casino who allows a person under the age at which a person is authorized to purchase and consume alcoholic beverages to remain in or wager in a casino or simulcasting facility is guilty of a disorderly persons offense; except that the establishment of all of the following facts by a licensee or employee allowing any such underage person to remain shall constitute a defense to any prosecution therefor:

(1) That the underage person falsely represented in writing that he or she was at or over the age at which a person is authorized to purchase and consume alcoholic beverages;

(2) That the appearance of the underage person was such that an ordinary prudent person would believe him or her to be at or over the age at which a person is authorized to purchase and consume alcoholic

beverages; and

(3) That the admission was made in good faith, relying upon such written representation and appearance, and in the reasonable belief that the underage person was actually at or over the age at which a person is authorized to purchase and consume alcoholic beverages.

L.1977,c.110,s.119; amended 1983,c.134,s.2; 1991,c.182,s.51; 1992,c.19,s.36; 1993,c.292,s.30.

### **5:12-120. Prohibited political contributions; penalty**

Prohibited Political Contributions; Penalty. Any person who makes or causes to be made a political contribution prohibited by the provisions of this act is guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$100,000.00, and in the case of a person other than a natural person, the amount of a fine may be up to \$250,000.00.

L.1977,c.110,s.120; amended 1987,c.410,s.12; 1991,c.182,s.52.

### **5:12-121. Authority of gaming licensee and agents to detain or question persons suspected of cheating; immunity from liability; posted notice required**

121. Authority of Gaming Licensee and Agents to Detain or Question Persons Suspected of Cheating; Immunity from Liability; Posted Notice Required.

a. Any licensee or its officers, employees or agents may question any individual in the casino or simulcasting facility reasonably suspected of violating any of the provisions of sections 113 through 116 of P.L.1977, c.110 (C.5:12-113 through 116) or of section 46 of P.L.1991, c.182 (C.5:12-113.1). No licensee or its officers, employees or agents shall be criminally or civilly liable by reason of any such questioning.

b. Any licensee or its officers, employees or agents who shall have probable cause for believing there has been a violation of sections 113 through 116 of P.L.1977, c.110 (C.5:12-113 through 116) or of section 46 of P.L.1991, c.182 (C.5:12-113.1) in the casino or simulcasting facility by any person may refuse to permit such person to continue gaming or wagering or may take such person into custody and detain him in the establishment in a reasonable manner for a reasonable length of time, for the purpose of notifying law enforcement or commission authorities. Such refusal or taking into custody and detention shall not render such licensee or its officers, employees or agents criminally or civilly liable for false arrest, false imprisonment, slander or unlawful detention, unless such refusal or such taking into custody or detention is unreasonable under all of the circumstances.

c. No licensee or his officers, employees or agents shall be entitled to any immunity from civil or criminal liability provided in this section unless there is displayed in a conspicuous manner in the casino and, if applicable, the simulcasting facility a notice in bold face type clearly legible and in substantially this form:

"Any gaming licensee or officer, employee or agent thereof who has probable cause for believing that any person is violating any of the provisions of the Casino Control Act prohibiting cheating or swindling in gaming or simulcast wagering may detain such person in the establishment for the purpose of notifying a police officer or Casino Control Commission authorities."

L.1977,c.110,s.121; amended 1991,c.182,s.53; 1993,c.292,s.31.

### **5:12-122. Other offenses; general penalty**

Any person who violates any provision of this act the penalty for which is not specifically fixed in this act is guilty of a disorderly persons offense.

L.1977, c. 110, s. 122, eff. June 2, 1977.

### **5:12-123. Continuing offenses**

Continuing Offenses. a. A violation of any of the provisions of this act which is an offense of a continuing nature shall be deemed to be a separate offense on each day during which it occurs. Nothing herein shall be deemed to preclude the commission of multiple violations within a day of those provisions of this act which establish offenses consisting of separate and distinct acts.

b. Any person who aids, abets, counsels, commands, induces, procures or causes another to violate a provision of this act is punishable as a principal and subject to all sanctions and penalties, both civil and criminal, provided by this act.

L. 1977, c. 110, s. 123; amended 1987,c.410,s.13.

### **5:12-124. Exemption from gambling statutes**

Exemption from Gambling Statutes. The provisions of N.J.S. 2A:40-1 shall not apply to any person who, as a licensee operating pursuant to the provisions of this act, or as a player in any game authorized pursuant to the provisions of this act, engages in gaming as authorized herein.

L. 1977, c. 110, s. 124; amended 1987,c.410,s.14.

### **5:12-125. Racketeer-influenced and corrupt organizations--definitions**

For purposes of this section and sections 126 through 129:

a. "Racketeering activity" means (1) any act or threat involving murder, kidnaping, gambling, arson, robbery, bribery, extortion, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than 1 year; (2) any act which is indictable under any of the following provisions of Title 18, United States Code: section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471 through 509 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), sections 2314 and 2315 (relating to interstate transportation of stolen property), sections 2421-2424 (relating to white slave traffic); (3) any act which is indictable under Title 29, United States Code, section 186 (relating to restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds); or (4) any offense involving bankruptcy

fraud, fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs, punishable under any law of the United States.

b. "Person" includes any individual or entity holding or capable of holding a legal or beneficial interest in property.

c. "Enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

d. "Pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this act and the last of which occurred within 10 years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity.

e. "Unlawful debt" means a debt (1) which was incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof; or (2) which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury; or (3) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof; or (4) which was incurred in connection with the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate.

f. "Documentary material" includes any book, paper, document, record, recording, or other material.

L.1977, c. 110, s. 125, eff. June 2, 1977.

### **5:12-126. Prohibited activities**

a. It shall be unlawful for any person who has received any income derived, directly or indirectly, from pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of N.J.S. 2A:85-14 to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in or the activities of which affect casino gaming operations or ancillary industries which do business with any casino licensee. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer or of assisting another to do so, shall not be unlawful under this subsection, provided that the sum total of the securities of the issuer held by the purchaser, the members of his family, and his or their accomplices in any pattern of racketeering activity or in the collection of an unlawful debt does not amount in the aggregate to one percent of the outstanding securities of any one class, or does not, either in law or in fact, empower the holders thereof to elect one or more directors of the issuer.

b. It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, casino gaming operations or ancillary industries which do business with any casino licensee.

c. It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, casino gaming operations or ancillary industries which do business with any casino licensee, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

d. It shall be unlawful for any person to conspire to violate any of the provisions of subsections a., b., or c. of this section.

e. Any person who violates any provision of this section shall be fined not more than \$50,000.00 or imprisoned not more than twenty years or both and shall forfeit to the State (1) any interest he has acquired or maintained in violation of this section and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise which he has established, operated, controlled, conducted, or participated in the conduct of, in violation of this section.

f. In any action brought by the Attorney General under this section, the Superior Court shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

g. Upon conviction of a person under this section, the court shall authorize the Attorney General to seize all property or other interest declared forfeited under this section upon such terms and conditions as the court shall deem proper. If a property right or other interest is not exercisable or transferable for value by the State, it shall expire and shall not revert to the convicted person.

L.1977, c. 110, s. 126, eff. June 2, 1977.

### **5:12-127. Civil remedies**

a. The Superior Court shall have jurisdiction to prevent and restrain violations of section 126 of this act by issuing appropriate orders, including, but not limited to, ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect casino gaming operations or ancillary industries which do business with any casino licensee; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

b. The Attorney General may institute proceedings in Superior Court for violations of section 126 of this act. In any action brought under this section, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

c. Any person injured in his business or property by reason of a violation of section 126 of this act may sue therefor in any appropriate court and shall recover threefold any damages he sustains and the cost of the suit, including a reasonable attorney's fee.

d. A final judgment or decree rendered in favor of the State in any criminal proceeding brought under this act shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the Attorney General.

L.1977, c. 110, s. 127, eff. June 2, 1977.

### **5:12-128. Civil investigative demand**

a. Whenever the Attorney General has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary materials relevant to an investigation under this act, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

b. Each such demand shall:

(1) State the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable thereto;

(2) Describe the class or classes of documentary material to be produced thereunder with such specificity and certainty as to permit such material to be fairly identified;

(3) Prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(4) Identify the custodian to whom such material shall be made available.

c. No such demand shall:

(1) Contain any requirement which would be held to be unreasonable if contained in a subpoena duces tecum issued in aid of a grand jury investigation; or

(2) Require the production of any documentary evidence which would be otherwise privileged from disclosure if demanded by a subpoena duces tecum issued in aid of a grand jury investigation.

d. Service of any such demand or any petition filed under this section may be made upon a person by:

(1) Delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, or upon any individual person;

(2) Delivering a duly executed copy thereof to the principal office or place of business of the person to be served; or

(3) Depositing such copy in the United States mail, by registered or certified mail duly addressed to such person at its principal office or place of business.

e. A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be prima facie proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

f. Any person upon whom any demand issued under this section has been duly served shall make such material available for inspection and copying or reproduction to the Attorney General at the principal place of business of such person, or at such other place as the Attorney General and such person thereafter may agree and prescribe in writing, on the return date specified in such demand or on such later date as the Attorney General may prescribe in writing. Upon written agreement between such person and the Attorney General, copies may be substituted for all or any part of such original materials. The Attorney General may cause the preparation of such copies of documentary material as may be required for official use by the Attorney General. While in the possession of the Attorney General, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than the Attorney General or his duly appointed representatives. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in his possession shall be available for examination by the person who produced such material or any duly authorized representatives of such person.

g. Upon completion of:

(1) The review and investigation for which any documentary material was produced under this action, and

(2) Any case or proceeding arising from such investigation, the Attorney General shall return to the person who produced such material all such material other than copies thereof made by the Attorney General

pursuant to this section which has not passed into the control of any court or grand jury through the introduction thereof into the record of such case or proceeding.

h. When any documentary material has been produced by any person under this section for use in any racketeering investigation, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary material other than copies thereof made pursuant to this section so produced by such person.

i. Whenever any person fails to comply with any civil investigative demand duly served upon him under this section or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file in the Superior Court a petition for an order of such court for the enforcement of this section.

j. The provisions of this section shall not apply to any situation covered by the provisions of section 79 of this act, and shall in no way limit the division's authority under that section.

L.1977, c. 110, s. 128, eff. June 2, 1977.

### **5:12-129. Supplemental sanctions**

129. Supplemental Sanctions. In addition to any penalty, fine or term of imprisonment authorized by law, the commission shall, after appropriate hearings and factual determinations, have the authority to impose the following sanctions upon any person licensed or registered pursuant to this act:

(1) Revoke the license or registration of any person for the conviction of any criminal offense under this act or for the commission of any other offense or violation of this act which would disqualify such person from holding his license or registration;

(2) Revoke the license or registration of any person for willfully and knowingly violating an order of the commission directed to such person;

(3) Suspend the license or registration of any person pending hearing and determination, in any case in which license or registration revocation could result;

(4) Suspend the operation certificate of any casino licensee for violation of any provisions of this act or regulations promulgated hereunder relating to the operation of its casino or, if applicable, its simulcasting facility, or both, including games, internal and accountancy controls and security;

(5) Assess such civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed \$10,000.00 in the case of any individual licensee or registrant, except that in the case of a casino licensee the penalty may not exceed \$50,000.00;

(6) Order restitution of any moneys or property unlawfully obtained or retained by a licensee or registrant;

(7) Enter a cease and desist order which specifies the conduct which is to be discontinued, altered or implemented by the licensee or registrant;

(8) Issue letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee or registrant so sanctioned; or

(9) Impose any or all of the foregoing sanctions in combination with each other.

L.1977,c.110,s.129; amended 1981,c.503,s.20; 1993,c.292,s.32.

### **5:12-130. Imposition of sanctions--standards**

In considering appropriate sanctions in a particular case, the commission shall consider:

- a. The risk to the public and to the integrity of gaming operations created by the conduct of the licensee or registrant;
- b. The seriousness of the conduct of the licensee or registrant, and whether the conduct was purposeful and with knowledge that it was in contravention of the provisions of this act or regulations promulgated hereunder;
- c. Any justification or excuse for such conduct by the licensee or registrant;
- d. The prior history of the particular license or registrant involved with respect to gaming activity;
- e. The corrective action taken by the licensee or registrant to prevent future misconduct of a like nature from occurring; and
- f. In the case of a monetary penalty, the amount of the penalty in relation to the severity of the misconduct and the financial means of the licensee or registrant. The commission may impose any schedule or terms of payment of such penalty as it may deem appropriate.
- g. It shall be no defense to disciplinary action before the commission that an applicant, licensee, registrant, intermediary company, or holding company inadvertently, unintentionally, or unknowingly violated a provision of this act. Such factors shall only go to the degree of the penalty to be imposed by the commission, and not to a finding of a violation itself.

L.1977, c. 110, s. 130, eff. June 2, 1977. Amended by L.1981, c. 503, s. 21, eff. Feb. 15, 1982.

#### **5:12-130.1. Institution of conservatorship and appointment of conservators**

Institution of Conservatorship and Appointment of Conservators.

- a. Notwithstanding any other provision of the Casino Control Act, (1) upon the revocation of a casino license, (2) upon, in the discretion of the commission, the suspension of a casino license or operation certificate for a period of in excess of 120 days, or (3) upon the failure or refusal to renew a casino license, and notwithstanding the pendency of any appeal therefrom, the commission may appoint and constitute a conservator to, among other things, take over and into his possession and control all the property and business of the licensee relating to the casino and the approved hotel; provided, however, that this subsection shall not apply in any instance in which the casino in the casino hotel facility for which the casino license had been issued has not been, in fact, in operation and open to the public, and provided further that no person shall be appointed as conservator unless the commission is satisfied that he is individually qualified according to the standard applicable to casino key employees, except that casino experience shall not be necessary for qualification.
- b. (Deleted by amendment, P.L.1987, c.410).

c. The commission may proceed in a conservatorship action in a summary manner or otherwise and shall have the power to appoint and remove one or more conservators and to enjoin the former or suspended licensee from exercising any of its privileges and franchises, from collecting or receiving any debts and from paying out, selling, assigning or transferring any of its property to other than a conservator, except as the commission may otherwise order. The commission shall have such further powers as shall be appropriate for the fulfillment of the purposes of this act.

d. Every conservator shall, before assuming his duties, execute and file a bond for the faithful performance of his duties payable to the commission in the office of the commission with such surety or sureties and in such form as the commission shall approve and in such amount as the commission shall prescribe.

e. When more than one conservator is appointed pursuant to this section, the provisions of this article applicable to one conservator shall be applicable to all; the debts and property of the former or suspended licensee may be collected and received by any of them; and the powers and rights conferred upon them shall be exercised by a majority of them.

f. The commission shall require that the former or suspended licensee purchase liability insurance, in an amount determined by the commission, to protect a conservator from liability for any acts or omissions of the conservator occurring during the duration of the conservatorship which are reasonably related to, and within the scope of, the conservator's duties.

L.1978,c.7,s.31; amended 1987,c.410,s.15; 1991,c.182,s.54.

### **5:12-130.1a. Instructions to, supervision of conservator**

Upon the appointment of a conservator, the commission shall provide the conservator with written instructions which enumerate the specific powers and duties conferred by the commission on the conservator with respect to the conservatorship. A conservator shall be under the direct supervision of the commission and shall exercise only those powers and perform only those duties expressly conferred on the conservator by the commission. The commission may, at any time after a conservatorship is established, modify the powers of the conservator by providing the conservator with a new set of written instructions.

L.1991,c.182,s.55.

### **5:12-130.2. Powers, authorities and duties of conservators**

Powers, Authorities and Duties of Conservators.

a. Upon his appointment, the conservator shall become vested with the title of all the property of the former or suspended licensee relating to the casino and the approved hotel, subject to any and all valid liens, claims, and encumbrances. The conservator shall have the duty to conserve and preserve the assets so acquired to the end that such assets shall continue to be operated on a sound and businesslike basis.

b. Subject to the direct supervision of the commission and pursuant to the written instructions of the commission issued pursuant to section 55 of P.L.1991, c.182 (C.5:12-130.1a) and any other order the commission may deem appropriate, a conservator shall have power to:

(1) Take into his possession all the property of the former or suspended licensee relating to the casino and the approved hotel, including its books, records and papers;

- (2) Institute and defend actions by or on behalf of the former or suspended licensee;
- (3) Settle or compromise with any debtor or creditor of the former or suspended licensee, including any taxing authority;
- (4) Continue the business of the former or suspended licensee and to that end enter into contracts, borrow money and pledge, mortgage or otherwise encumber the property of the former or suspended licensee as security for the repayment of the conservator's loans; provided, however, that such power shall be subject to any provisions and restrictions in any existing credit documents;
- (5) Hire, fire and discipline employees;
- (6) Review all outstanding agreements to which the former or suspended licensee is a party that fall within the purview of subsection b. of section 104 of P.L.1977, c.110 (C.5:12-104) and advise the commission as to which, if any, of such agreements should be the subject of scrutiny, examination or investigation by the commission; and
- (7) Do all further acts as shall best fulfill the purposes of the Casino Control Act.

c. Except during the pendency of a suspension or during the pendency of any appeal from any action or event set forth in section 31 a. of this amendatory and supplementary act which precipitated the conservatorship or in instances in which the commission finds that the interests of justice so require, the conservator, subject to the prior approval of and in accordance with such terms and conditions as may be prescribed by the commission, and after appropriate prior consultation with the former licensee as to the reasonableness of such terms and conditions, shall endeavor to and be authorized to sell, assign, convey or otherwise dispose of in bulk, subject to any and all valid liens, claims, and encumbrances, all the property of a former licensee relating to the casino and the approved hotel only upon prior written notice to all creditors and other parties in interest and only to such persons who shall be eligible to apply for and shall qualify as a casino licensee in accordance with the provisions of the Casino Control Act. Prior to any such sale, the former licensee shall be granted, upon request, a summary review by the commission of such proposed sale.

d. The commission may direct that the conservator, for an indefinite period of time, retain the property and continue the business of the former or suspended licensee relating to the casino and the approved hotel. During such period of time or any period of operation by the conservator, he shall pay when due, without in any way being personally liable, all secured obligations and shall not be immune from foreclosure or other legal proceedings to collect the secured debt, nor with respect thereto shall such conservator have any legal rights, claims, or defenses other than those which would have been available to the former or suspended licensee.

e. A conservator shall cooperate fully with any investigation or inquiry conducted by the commission or the division during the conservatorship or after the discontinuation of the conservatorship.

L.1978,c.17,s.32; amended 1987,c.410,s.16; 1991,c.182,s.56.

### **5:12-130.3. Compensation of conservators and others**

Compensation of Conservators and Others. In any proceeding pursuant to section 31 of P.L.1978, c.7 (C.5:12-130.1), the commission shall, upon the appointment of a conservator, establish a reasonable rate of compensation for the services, costs and expenses in the conservatorship action of the conservator. The commission shall also designate the party or parties responsible for the payment of compensation to the

conservator and shall direct that the responsible party or parties guarantee payment in such manner as the commission shall deem appropriate. The rate of compensation payable to the attorney for the conservator, the appraiser, the auctioneer, the accountant and such other persons as the commission may appoint in connection with the conservatorship action shall be established by the commission at the time of appointment. All requests for payment by the conservator and other persons appointed by the commission in connection with the conservatorship shall be subject to the approval of the commission, and the commission shall reduce any fee which it deems to be excessive. Fees payable to the conservator and expenses incurred in the course of the conservatorship shall have priority for payment over all other debts or obligations of the former or suspended licensee, including debts or obligations secured by the former or suspended licensee's property.

L.1978,c.7,s.33; amended 1991,c.182,s.57.

#### **5:12-130.4. Assumption of outstanding debts**

Assumption of Outstanding Debts. As an incident of its prior approval pursuant to section 32c. of this amendatory and supplementary act of the sale, assignment, conveyance or other disposition in bulk of all property of the former licensee relating to the casino and the approved hotel, the commission may, in its discretion, require that the purchaser thereof assume in a form and substance acceptable to the commission all of the outstanding debts of the former licensee that arose from or were based upon the operation of either or both the casino or the approved hotel.

L. 1978, c. 7, s. 17; amended 1987,c.410,s.17.

#### **5:12-130.5. Payment of net earnings during the period of the conservatorship**

Payment of Net Earnings During the Period of the Conservatorship. No payment of net earnings during the period of the conservatorship may be made by the conservator without the prior approval of the commission, which may, in its discretion, direct that all or any part of same be paid either to the suspended or former licensee or to the Casino Revenue Fund in accordance with regulations of the commission; provided, however, that the former or suspended licensee shall be entitled to a fair rate of return out of net earnings, if any, during the period of the conservatorship on the property retained by the conservator, taking into consideration that which amounts to a fair rate of return in the casino industry or the hotel industry, as the case may be.

L. 1978, c. 7, s. 35; amended 1987,c.410,s.18.

#### **5:12-130.6. Payments following a bulk sale**

Payments Following a Bulk Sale. Following any sale, assignment, conveyance or other disposition in bulk of all the property subject to the conservatorship, the net proceeds therefrom, if any, after payment of all obligations owing to the State of New Jersey and any political subdivision thereof and of those allowances set forth in section 33 of this amendatory and supplementary act, shall be paid by the conservator to the former or suspended licensee.

L. 1978, c. 7, s. 35A; amended 1987,c.410,s.19.

### **5:12-130.7. Continuing jurisdiction of commission**

A conservator appointed pursuant to section 31 of this amendatory and supplementary act shall at all times be subject to the Casino Control Act and such regulations, limitations, restrictions, terms and conditions as the commission may from time to time prescribe. Except as may be otherwise provided in this amendatory and supplementary act, during the period of any conservatorship imposed by the provisions of section 31 of this amendatory and supplementary act the casino operation in the form of the conservatorship shall be deemed to be a licensed casino operation and any reference in the Casino Control Act to any obligations or responsibilities incumbent upon a casino licensee or those persons dealing with, affiliated with, having an interest in, or employed by a casino licensee shall be deemed to apply to the said casino operation.

L.1978, c. 7, s. 36, eff. March 17, 1978.

### **5:12-130.8. Discontinuation of a conservatorship**

Discontinuation of a Conservatorship.

- a. The commission shall direct the discontinuation of any conservatorship action instituted pursuant to section 31 of this amendatory and supplementary act when the conservator has, pursuant to section 32 of this amendatory and supplementary act and with the prior approval of the commission, consummated the sale, assignment, conveyance or other disposition in bulk of all the property of the former licensee relating to the casino and the approved hotel.
- b. The commission may direct the discontinuation of any such conservatorship action when it determines that for any reason the cause for which the action was instituted no longer exists.
- c. Upon the discontinuation of the conservatorship action and with the approval of the commission, the conservator shall take such steps as may be necessary in order to effect an orderly transfer of the property of the former or suspended licensee.
- d. The sale, assignment, transfer, pledge or other disposition of the securities issued by a former or suspended licensee during the pendency of a conservatorship action instituted pursuant to this article shall neither divest, have the effect of divesting, nor otherwise affect the powers conferred upon a conservator by this amendatory and supplementary act.

L. 1978, c. 7, s. 37; amended 1987,c.410,s.20.

### **5:12-130.9. Required reports**

A conservator appointed and constituted pursuant to section 31 of this amendatory and supplementary act shall file with the commission such reports with regard to the administration of the conservatorship in such form and at such intervals as the commission shall prescribe. Such reports shall be available for examination and inspection by any creditor or party in interest and, in addition, the commission may direct that copies of any such reports be mailed to such creditors or other parties in interest as it may designate and that summaries of any such reports be published in such newspapers of general circulation as it may designate.

L.1978, c. 7, s. 38, eff. March 17, 1978.

### **5:12-130.10. Review of actions of conservator**

A creditor or party in interest aggrieved by any alleged breach of a fiduciary obligation of a conservator in the discharge of his duties shall be entitled, upon request, to a review thereof in accordance with regulations to be promulgated by the commission.

L.1978, c. 7 s. 39, eff. March 17, 1978.

### **5:12-130.11. Investigation by the division of gaming enforcement**

The division shall investigate and report to the commission with regard to the qualifications of each person who is proposed as a candidate to serve as a conservator pursuant to this amendatory and supplementary act.

L.1978, c. 7, s. 40, eff. March 17, 1978.

### **5:12-131. Declaration of State's Limited Exemption from Operation of Provisions of 15 U.S.C. (1172)**

Declaration of State's Limited Exemption from Operation of Provisions of 15 U.S.C. (1172).

Pursuant to section 2 of an Act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. (1171-1177), the State of New Jersey, acting by and through the duly elected and qualified members of its Legislature, does hereby, in accordance with and in compliance with the provisions of section 2 of said Act of Congress, declare and proclaim that section 2 of that Act of Congress shall not apply to any gambling device in this State where the transportation of such a device is specifically authorized by and done in compliance with the provisions of P.L.1977, c. 110 (C. 5:12-1 et seq.), any other applicable statute of this State, and any regulations promulgated pursuant thereto, and that any such gambling device transported in compliance with State law and regulations shall be exempt from the provisions of that Act of Congress.

L. 1977, c. 110; amended 1987,c.355,s.10.

### **5:12-132. Legal shipments of gaming devices into New Jersey**

132. Legal Shipments of Gaming Devices into New Jersey. All shipments into this State of gaming devices, including slot machines, the registering, recording and labeling of which has been duly had by the manufacturer or dealer thereof in accordance with sections 3 and 4 of an Act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January 2, 1951, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. (1173-1174), shall be deemed legal shipments thereof into this State.

L.1977,c.110,s.132; amended 1993,c.292,s.33.

### **5:12-133. Severability and preemption**

a. If any clause, sentence, subparagraph, paragraph, subsection, section, article or other portion of this act or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, subparagraph, subsection, section, article or other portion thereof directly involved in such holding or to the person or circumstance therein involved.

b. If any provision of this act is inconsistent with, in conflict with, or contrary to any other provision of law, such provision of this act shall prevail over such other provision and such other provision shall be deemed to be amended, superseded or repealed to the extent of such inconsistency or conflict. Notwithstanding the provisions of any other law to the contrary, no local government unit of this State may enact or enforce any ordinance or resolution conflicting with any provision of this act or with any policy of this State expressed or implied herein, whether by exclusion or inclusion. The commission shall have exclusive jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of this act.

L.1977, c. 110, s. 133, eff. June 2, 1977.

### **5:12-134. Equal employment opportunity; requirements of license**

Equal Employment Opportunity; Requirements of License.

a. Each applicant at the time of submitting architectural plans or site plans to the commission for approval of proposed construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino shall accompany same with a written guaranty that 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 commission and consonant with the provisions of the "Law Against Discrimination," P.L. 1945, c. 169 (C. 10:5-1 et seq.). On and after the effective date of this amendatory act an applicant shall also be required to demonstrate that equal employment opportunities in accordance with the aforesaid affirmative-action program in compliance with P.L. 1945, c. 169 have been afforded to all prospective employees and to all actual employees employed by a contractor or subcontractor in connection with the actual construction, renovation or reconstruction of any structure or facility to be used as an approved hotel or casino prior to submission of architectural plans or site plans to the commission.

b. No license shall be issued by the commission to any applicant, including a casino service industry as defined in section 12 of this act, who has not agreed to afford an equal employment opportunity to all prospective employees in accordance with an affirmative-action program approved by the commission and consonant with the provisions of the "Law Against Discrimination," P.L. 1945, c. 169 (C. 10:5-1 et seq.).

c. Each applicant shall formulate for commission approval and abide by an affirmative-action program of equal opportunity whereby the applicant guarantees to provide equal employment opportunity to rehabilitated offenders eligible under sections 90 and 91 of this act and members of minority groups qualified for licensure in all employment categories, including the handicapped, in accordance with the provisions of the "Law Against Discrimination," P.L. 1945, c. 169 (C. 10:5-1 et seq.), except in the case of the mentally handicapped, if it can be clearly shown that such handicap would prevent such person from performing a particular job.

d. Any license issued by the commission in violation of this section shall be null and void.

L. 1977, c. 110, s. 134; amended 1979, c.282, s.40; 1987,c.410,s.21.

### **5:12-135. Equal employment opportunity; enforcement by the commission**

The commission, in addition to and without limitation of other powers which it may have by law, shall have the following powers:

- a. To investigate and determine the percentage of population of minority groups in the State or in areas thereof from which the work force for the licensee is or may be drawn;
- b. To establish and promulgate such percentages as guidelines in determining the adequacy of affirmative-action programs submitted for approval pursuant to the provisions of section 134 of this act;
- c. To impose such sanctions as may be necessary to accomplish the objectives of section 134;
- d. To refer to the Attorney General or his designee circumstances which may constitute violation of the "Law Against Discrimination," P.L.1945, c. 169 (C. 10:5-1 et seq.);
- e. To enforce in a court of law the provisions of section 134 or to join in or assist any enforcement proceeding initiated by any aggrieved person; and
- f. To require the designation by a licensee of an equal employment officer to enforce the provisions of section 134 and this section and the regulations promulgated hereunder.

L.1977, c. 110, s. 135, eff. June 2, 1977.

### **5:12-136. Facilities for the handicapped**

All hotels and other facilities of a casino licensee, which are public accommodations and are subject to the regulatory powers of the commission under this act, shall be constructed or renovated to conform with the provisions of P.L.1971, c. 269, as amended and supplemented (C. 52:32-4 et seq.) relating to barrier-free design for providing facilities for the physically handicapped in public buildings, and the rules, regulations and codes thereunder promulgated.

L.1977, c. 110, s. 136, eff. June 2, 1977.

### **5:12-138. Prohibited political contributions**

No applicant for or holder of a casino license, nor any holding, intermediary or subsidiary company thereof, nor any officer, director, casino key employee or principal employee of an applicant for or holder of a casino license or of any holding, intermediary or subsidiary company thereof nor any person or agent on behalf of any such applicant, holder, company or person, shall directly or indirectly, pay or contribute any money or thing of value to any candidate for nomination or election to any public office in this State, or to any committee of any political party in this State, or to any group, committee or association organized in support of any such candidate or political party.

L.1977, c. 110, s. 138, eff. June 2, 1977.

### **5:12-139. Casino license fees**

139. Casino License Fees.

a. The commission shall, by regulation, establish annual fees for the issuance or renewal of casino licenses. The issuance fee shall be based upon the cost of investigation and consideration of the license application and shall be not less than \$200,000.00. The renewal fee shall be based upon the cost of maintaining control and regulatory activities contemplated by this act and shall be not less than \$100,000.00 for a one-year casino license and \$200,000.00 for a four-year casino license.

b. The Attorney General shall certify to the commission actual and prospective costs of the investigative and enforcement functions of the division, which costs shall be the basis, together with the operating expenses of the commission, for the establishment of annual license issuance and renewal fees.

c. A nonrefundable deposit of at least \$100,000.00 shall be required to be posted with each application for a casino license and shall be applied to the initial license fee if the application is approved.

L.1977,c.110,s.139; amended 1987,c.348,s.2; 1995,c.18,s.41.

### **5:12-140. License fee on slot machines**

a. In addition to any other tax or fee imposed by this act, there is also hereby imposed an annual license fee of \$500.00 upon every slot machine; maintained for use or in use in any licensed casino establishment in this State.

b. License fees imposed under the provisions of this section shall be imposed as of the first day of July of each year with regard to all slot machines maintained for use or in use on that date, and on a pro rata basis thereafter during the year with regard to all slot machines maintained for use or placed in use after July 1.

L.1977, c. 110, s. 140, eff. June 2, 1977. Amended by L.1979, c. 198, s. 1.

### **5:12-141. Fees for Other Than Casino Licenses**

Fees for Other Than Casino Licenses. The commission shall, by regulation, establish fees for the investigation and consideration of applications for the issuance and renewal of registrations and licenses other than casino licenses, which fees shall be payable by the applicant, licensee or registrant.

L. 1977, c. 110; amended 1981, c.503, s.22; 1987,c.354,s.20.

### **5:12-143. Casino control fund**

a. There is hereby created and established in the Department of the Treasury a separate special account to be known as the "Casino Control Fund," into which shall be deposited all license fee revenues imposed by sections 139, 140, 141, and 142 of this act.

b. Moneys in the Casino Control Fund shall be appropriated, notwithstanding the provisions of P.L.1976, c. 67 (C. 52:9H-5 et seq.), exclusively for the operating expenses of the commission and the division.

L.1977, c. 110, s. 143, eff. June 2, 1977.

### **5:12-144. Tax on gross revenues**

a. There is hereby imposed an annual tax on gross revenues as defined in section 24 of this act in the amount of 8% of such gross revenues.

b. Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1978, and ending before January 1, 1984 and based upon a determination that in said return or any annual return for a calendar year during that period the gross revenue of a licensee in the calendar year upon which the tax is based exceeds the cumulative investments in this State of said licensee as of that year, such licensee shall make investments in an amount not less than 2% of the gross revenue for said calendar year within a period of five years from the end of said calendar year. Fifty percent of the investments required by this subsection as a result of any of the three annual tax returns commencing with the first annual tax return for any calendar year beginning after December 31, 1978 shall be made in the municipality in which the licensed premises are located, and 50% of such investments shall be made in any other municipality of this State. Twenty-five percent of the investments required by this subsection as a result of any annual tax return subsequent to the third such return in a series of returns the first of which is for a calendar year beginning after December 31, 1978 shall be made in the municipality in which the licensed premises are located, and 75% shall be made in any other municipality of this State.

All investments and cumulative investments made pursuant to this subsection shall be subject to a determination by the commission as to the eligibility of such investments. In determining eligibility, the commission shall consider the public interest, including the social and economic benefits to be derived from such investments for the people of this State.

c. For the purposes of this section, "investments" means equity investments in land and real property on which improvements are made and in real property improvements. For the purpose of this section, "cumulative investments" means investments in and debt financing of the licensed premises, plus other investments in and debt financing of land and real property on which improvements are made and real property improvements; provided, however, that the investments and debt financing not associated with the licensed premises have been subsequent to July 6, 1976. Real property and real property improvements sold or otherwise disposed of by the licensee shall not be included for the purposes of determining cumulative investments.

d. For the purposes of satisfying the amount of investments in any given year and of determining cumulative investments as of any given year, pursuant to subsection b., contributions of money or realty shall be included if the commission determines that such contributions best serve the public interest and either (1) directly relate to the improvement, furtherance, and promotion of the tourist industry in this State through the planning, acquisition, construction, improvement, maintenance and operation of recreational, entertainment, and other facilities for the public, including, without limitation, a performing arts center, the beaches and shorefront of this State, and transportation facilities providing or enhancing service in resort areas of this State, or (2) directly relate to the improvement, furtherance, and promotion of the health and wellbeing of the people of this State through the planning, acquisition, construction, improvement, maintenance, and operation of a facility, project or program approved by the commission.

e. In the event that the investments required in subsection b. of this section are not made within the time set forth herein, there shall be imposed an investment alternative tax in an amount equivalent to 2% of gross revenue, which tax shall be added to the tax determined under subsection a. of this section and shall be due and payable in accordance with section 148 of P.L.1977, c. 110 (C. 5:12-148). For the purposes of determining whether the investment alternative tax shall be paid, the State Treasurer shall certify, under such rules and regulations as he shall promulgate consistent with the provisions of this article, the amount of cumulative investments made by each licensee. In the event of the sale or other disposition of the

licensed premises, any investment obligation imposed by subsection b. which is not satisfied shall be immediately deemed due and payable as investment alternative tax, and said amount shall constitute a lien upon the licensed premises until paid, together with interest at the rate specified in the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes; provided, however, that the appointment of a conservator under section 31 of P.L.1978, c. 7, shall not constitute a sale or other disposition of the licensed premises within the meaning of this subsection, and provided further, that if, in the judgment of the commission, a sale or other disposition does not significantly affect the operations of a casino licensee with respect to such premises, the commission may permit the investment obligation imposed on such licensee to continue under such conditions as the commission may deem appropriate.

f. The commission shall promulgate rules and regulations consistent with the provisions of this article as to the eligibility of the investments and cumulative investments required by this section.

g. The Casino Reinvestment Development Authority shall, simultaneous with the initial exercise of its general powers and responsibilities pursuant to section 39 of P.L.1984, c. 218 (C. ), assume and exercise all powers and responsibilities and make all determinations necessary to the administration of subsections b. through f. of section 144 of P.L.1977, c. 110 (C. 5:12-144) theretofore exercised or made by the commission, including the resolution of all matters then pending before the commission. Subsequent to the initial exercise of its general powers and responsibilities by the Casino Reinvestment Development Authority, the commission shall make no further determinations of eligibility under this section except as may be necessary to enable a licensee to satisfy an investment obligation which is due in calendar year 1984, and shall have no further responsibility for planning or redevelopment activity with regards to the use of reinvestment funds generated by either subsections b. through f. of section 144 of P.L.1977, c. 110 (C. 5:12-144) or subsection b. of section 3 of P.L.1984, c. 218 (C. 5:12-144.1). All determinations of the commission made in accordance with this section shall be final and subject only to alteration by a decision of a court.

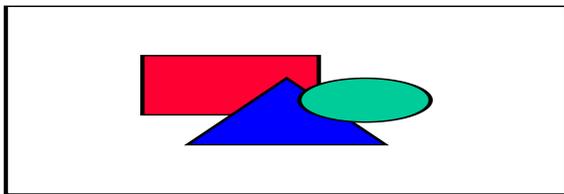
h. Notwithstanding any other provision of this section to the contrary, any investment required by this section which has not been commenced by a licensee as of the effective date of this 1984 amendatory and supplementary act, other than an investment which is necessary to enable a licensee to satisfy an investment obligation which is due in calendar year 1984, may only be satisfied through the purchase of bonds of the Casino Reinvestment Development Authority issued pursuant to sections 14 and 15 of P.L.1984, c. 218 (C. 5:12-162, 5:12-163), except that the date by which the investment shall be made, and the amount of the investment or investment alternative tax obligation, shall be that set forth in subsections b. and e. of this section.

Notwithstanding the provisions of subsections b. and c. of this section, any investment obligation which is due in calendar year 1984 which has not been commenced or satisfied by December 31, 1984 may, at the option of the licensee and with the approval of the Casino Control Commission, and in lieu of or in addition to making any other investment or contribution authorized by this section, be satisfied subsequent thereto by the purchase, or the agreement to make a purchase, of bonds of the Casino Reinvestment Development Authority. Any licensee desiring to exercise this option, with the approval of the Casino Control Commission, shall transfer and entrust the necessary amount to the State Treasurer, who shall maintain the funds until the initial exercise by the Casino Reinvestment Development Authority of its general powers and responsibilities pursuant to section 39 of P.L.1984, c. 218 (C. ). Immediately subsequent to the initial exercise of its general powers and responsibilities by the Casino Reinvestment Development Authority, the State Treasurer shall transfer any such entrusted funds to the Casino Reinvestment Development Authority for the purchase of bonds by the licensee in amounts equivalent to the amount of the funds deposited by the licensee with the State Treasurer. Until he transfers the funds to the Casino Reinvestment Development Authority, the State Treasurer shall be authorized to invest and reinvest such funds through the Director of the Division of Investment, who shall make such investments in accordance with written directions of the State Treasurer, without regard to any other law relating to investments by the Director of the Division of Investment. Any interest earned on the funds while they are entrusted to the State Treasurer shall accrue to the licensee and the Casino Reinvestment Development Authority in the same proportion as if the funds were held and invested by the Casino Reinvestment Development Authority pursuant to subsection m. of section 13 of P.L.1984, c. 218 (C. 5:12-161).

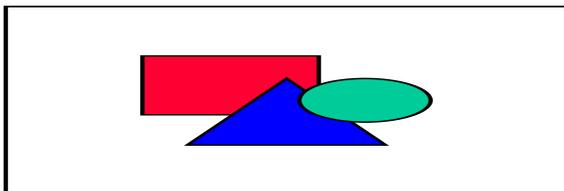
The proceeds of all bond purchases made pursuant to this subsection shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income in accordance with the provisions of subsection f. of section 3 of P.L.1984, c. 218 (C. 5:12-144.1).

i. If a licensee has incurred an investment obligation which requires bonds to be purchased pursuant to the provisions of subsection h. of this section and the licensee purchases bonds of the Casino Reinvestment Development Authority issued pursuant to sections 14 and 15 of P.L.1984, c. 218 (C. 5:12-162, 5:12-163) in satisfaction of that obligation no later than six months after the adoption by the Casino Reinvestment Development Authority of rules and regulations pursuant to subsection j. of section 3 of P.L.1984, c. 218 (C. 5:12-144.1), the licensee shall be entitled to a reduction of its investment obligation in an amount determined by the Casino Reinvestment Development Authority taking into account a current market discount rate from the date of the purchase to the date the purchase would have been required to be made. Any purchase of bonds made pursuant to this subsection shall first be used to satisfy the licensee's most recently incurred investment obligation. That purchase of bonds shall not constitute a credit against the tax provided for in subsection a. of section 3 of this 1984 amendatory and supplementary act.

L.1977, c. 110, s. 144, eff. June 2, 1977. Amended by L.1979, c. 198, s. 2; L.1984, c. 218, s. 2, eff. Dec. 19, 1984.

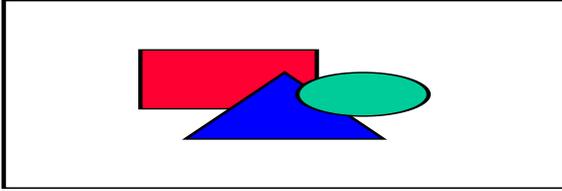


### **5:12-144.1.Imposition of investment alternative tax**



3. a. (1) Commencing with the first annual tax return of a licensee for any calendar year beginning after December 31, 1983, there is imposed an investment alternative tax on the gross revenues as defined in section 24 of P.L.1977, c.110 (C.5:12-24) of the licensee in the amount of 2.5% of those gross revenues. The tax imposed with respect to each calendar year shall be due and payable on the last day of April next following the end of the calendar year. The State Treasurer shall have a lien against the property constituting the casino of a licensee for the amount of any tax not paid when due. No tax shall be imposed, however, on the gross revenues received by a licensee during the first 12 months of the operation of any casino that commences operation after January 1, 1984, but prior to the effective date of this act, P.L.1996, c.118 (C.5:12-173.3a et al.).

(2) A licensee shall pay to the State Treasurer on or before the 15th day of the first, fourth, seventh, and 10th months of each year as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection an amount equal to 1.25% of the estimated gross revenues for the three-month period immediately preceding the first day of those months. The moneys received shall be placed in an escrow account and shall be held until the licensee directs that the moneys be transferred to the Casino Reinvestment Development Authority for the purchase of bonds issued by or offered through the Casino Reinvestment Development Authority or pursuant to a contract for such a purchase, be made available to

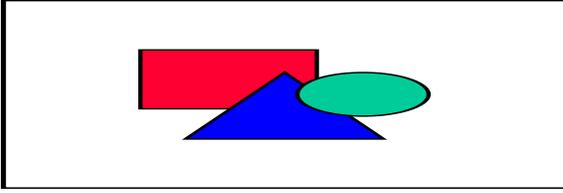


the licensee for a direct investment approved by the authority, or be transferred to the Casino Revenue Fund as partial payment of the investment alternative tax imposed pursuant to paragraph (1) of this subsection. Any interest derived from the moneys in the escrow account shall be paid or made available to the Casino Revenue Fund. If a licensee fails to pay the amount due or underpays by an unjustifiable amount, the Casino Control Commission shall impose a fine of 5% of the amount due or of the underpayment, as the case may be, for each month or portion thereof the licensee is in default of payment, up to 25% of the amount in default. Any fine imposed shall be paid to the Casino Reinvestment Development Authority and shall be used for the purposes of this 1984 amendatory and supplementary act.

b. Each licensee shall be entitled to an investment tax credit against the tax imposed by subsection a. of this section, provided the licensee shall pay over the moneys required pursuant to section 5 of P.L.1993, c.159 (C.5:12-173.5): (1) for the first 10 years of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and (2) for the remainder of a licensee's tax obligation, in an amount equal to twice the purchase price of bonds issued by the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this 1984 amendatory and supplementary act, purchased by the licensee, or twice the amount of the investments authorized in lieu thereof, and twice the amount of investments made by a licensee in other approved eligible investments made pursuant to section 25 of this act. The Casino Reinvestment Development Authority shall have the power to enter into a contract or contracts with a licensee pursuant to which the Casino Reinvestment Development Authority agrees to issue and sell bonds to the licensee, and the licensee agrees to purchase the bonds issued by or offered through the Casino Reinvestment Development Authority, in annual purchase price amounts as will constitute a credit against at least 50% of the tax to become due in any future year or years. The contract may contain those terms and conditions relating to the terms of the bonds and to the issuance and sale of the bonds to the licensee as the Casino Reinvestment Development Authority shall deem necessary or desirable. The contract shall not be deemed to be in violation of section 104 of P.L.1977, c.110 (C.5:12-104). After the first 10 years of a licensee's investment alternative tax obligation, a licensee will have the option of entering into a contract with the Casino Reinvestment Development Authority to have its tax credit comprised of direct investments in approved eligible projects. These direct investments shall not comprise more than 50% of a licensee's eligible tax credit in any one year.

The entering of a contract pursuant to this section shall be sufficient to entitle a licensee to an investment tax credit for the appropriate tax year.

c. A contract entered into between a licensee and the Casino Reinvestment Development Authority may provide for a deferral of payment for and delivery of bonds required to be purchased and for a deferral from making approved eligible investments in any year, but no deferral shall occur more than two years consecutively. A deferral of payment for any bonds required to be purchased by a licensee and a deferral from making approved eligible investments may be granted by the Casino Reinvestment Development Authority only upon a determination by the Casino Control Commission that purchase of these bonds or making approved eligible investments would cause extreme financial hardship to the licensee and a determination by the Casino Reinvestment Development Authority that the deferral of the payment would not violate any covenant or agreement or impair any financial obligation of the Casino Reinvestment Development Authority. The contract may establish a late payment charge to be paid in the event of deferral or other late payment at a rate as shall be agreed to by the Casino Reinvestment Development Authority. If a deferral of purchase or investment is granted, the licensee shall be deemed to have made the purchase or investment at the time required by the contract, except that if the purchase is not made at the time to which the purchase or investment was deferred, then the licensee shall be deemed not to have made the purchase or investment. The Casino Control Commission shall adopt regulations establishing a uniform



definition of extreme financial hardship applicable to all these contracts. If a licensee petitions the Casino Reinvestment Development Authority for a deferral, the Casino Reinvestment Development Authority shall give notice of that petition to the Casino Control Commission and to the Division of Gaming Enforcement within three days of the filing of the petition. The Casino Control Commission shall render a decision within 60 days of notice as to whether the licensee has established extreme financial hardship, after consultation with the Division of Gaming Enforcement. The Casino Reinvestment Development Authority shall render a decision as to the availability of the deferral within 10 days of the receipt by it of the decision of the Casino Control Commission and shall notify the Division of Gaming Enforcement and the Casino Control Commission of that decision. If a deferral is granted, the Casino Reinvestment Development Authority may determine whether the purchases or investments shall be made in a lump sum, made over a period of years, or whether the period of obligation shall be extended an additional period of time equivalent to the period of time deferred.

d. The license of any licensee which has defaulted in its obligation to make any purchase of bonds or investment in any approved eligible project under a contract entered into pursuant to subsection b. of this section for a period of 90 days may be suspended by the Casino Control Commission until that purchase is made or deferred in accordance with subsection b. of this section, or a fine or other penalty may be imposed upon the licensee by the commission. If the Casino Control Commission elects not to suspend the license of a licensee after the licensee has first defaulted in its obligation but instead imposes some lesser penalty and the licensee continues to be in default of its obligation after a period of 30 additional days and after any additional 30-day period, the commission may impose another fine or penalty upon the licensee, which may include suspension of that licensee's license. The fine shall be 5% of the amount of the obligation owed for each month or portion thereof a licensee is in default, up to 25% of that obligation; shall be paid to the Casino Reinvestment Development Authority; and shall be used for the purposes of this 1984 amendatory and supplementary act.

e. A contract entered into by a licensee and the Casino Reinvestment Development Authority pursuant to subsection b. of this section may provide that after the first 10 years of a licensee's investment alternative tax obligation imposed by subsection a. of this section, the Casino Reinvestment Development Authority may repurchase bonds previously sold to the licensee, which were issued after the 10th year of a licensee's investment alternative tax obligation, by the Casino Reinvestment Development Authority, if the Casino Reinvestment Development Authority determines that the repurchase will not violate any agreement or covenant or impair any financial obligation of the Casino Reinvestment Development Authority and that the licensee will reinvest the proceeds of the resale in an eligible project approved by the Casino Reinvestment Development Authority.

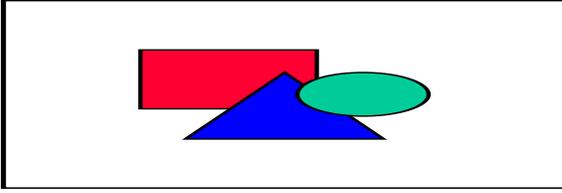
f. (1) During the 30 years a licensee is obligated to pay an investment alternative tax pursuant to subsection k. of this section, the total of (a) the proceeds of all bonds purchased by a licensee from or through the Casino Reinvestment Development Authority and (b) all approved investments in eligible projects by a licensee shall be devoted to the financing of projects in the following areas and amounts:

Areas Yrs. Yrs. Yrs. Yrs. Yrs. Yrs. Yrs.

1-34-56-1011-1516-2021-2526-30

a) Atlantic

City 100% 90% 80% 50% 30% 20%



b) South

Jersey 8% 12% 28% 43% 45%

c) North

Jersey 2% 8% 22% 27% 35% 35%

d) Atlantic City through  
the Atlantic City Fund 65%,

except that, with respect to the obligations for calendar years 1994 through 1998, the amount allocated for the financing of projects in North Jersey from each casino licensee's obligation shall be the amount allocated for calendar year 1993, and the difference between that amount and the amount to be allocated to North Jersey, on the basis of the above schedule, from each casino licensee's obligations for calendar years 1994 through 1998 shall be paid into or credited to the Atlantic City Fund established by section 44 of P.L.1995, c.18 (C.5:12-161.1) and be devoted to the financing of projects in Atlantic City through that fund. For the purposes of this paragraph, "South Jersey" means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem; and "North Jersey" means the remaining 12 counties of the State. For the purposes of this 1984 amendatory and supplementary act, bond "proceeds" means all funds received from the sale of bonds and any funds generated or derived therefrom.

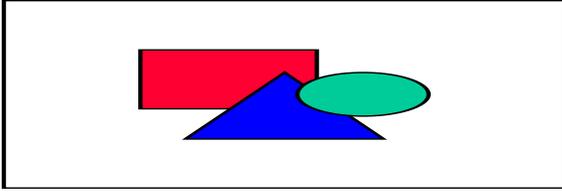
In the financing of projects outside Atlantic City, the Casino Reinvestment Development Authority shall give priority to the revitalization of the urban areas of this State in the ways specified in section 12 of this 1984 amendatory and supplementary act. Those areas shall include, but not be limited to, all municipalities qualifying for aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.).

Within nine months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in South Jersey for the first seven years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first seven years of the receipt of funds by South Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the seventh year of the receipt of funds by South Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the

municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

Within 36 months from the effective date of this 1984 amendatory and supplementary act, the Casino Reinvestment Development Authority shall determine the allocation of projected available moneys to municipalities in North Jersey for the first five years of their receipt of funds, giving priority to the revitalization of the urban areas of the region. Municipalities receiving such an allocation shall present to the Casino Reinvestment Development Authority for its approval comprehensive plans or projects for which the allocations shall be used. Any such comprehensive plan or project may be submitted to the Casino Reinvestment Development Authority for a determination of eligibility at any time prior to the year for which the funds are allocated, and the Casino Reinvestment Development Authority shall make a determination of eligibility of the plan or project within a reasonable amount of time. If the Casino Reinvestment Development Authority makes a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, for any municipality whose total cost exceeds the amount allocated to that municipality for the first five years of the receipt of funds by North Jersey municipalities, the Casino Reinvestment Development Authority shall make available sufficient funds in subsequent years necessary to complete those plans or projects, or to complete that portion of the plan or project originally agreed to be funded through the Casino Reinvestment Development Authority, from funds received by the Casino Reinvestment Development Authority in the years following the fifth year of the receipt of funds by North Jersey municipalities. If the comprehensive plan or project is determined by the Casino Reinvestment Development Authority not to be an eligible plan or project, the municipality may submit any other comprehensive plan or project for a determination of eligibility. If, however, the municipality fails to receive a positive determination of eligibility for any comprehensive plan or project, or combination of comprehensive plans or projects, sufficient to exhaust the total allocation to that municipality for any year prior to April 30 of the following year for which the allocation was made, the allocation to that municipality for that year shall cease, and the Casino Reinvestment Development Authority may apply those excess funds to any other comprehensive plan or project in any other municipality in the region whose comprehensive plan or project has received a positive determination of eligibility by the Casino Reinvestment Development Authority.

(2) Commencing with the first year in which a licensee incurs a tax obligation pursuant to this section, and for the period of two years thereafter, 100% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City pursuant to paragraph (1) of this subsection shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, as defined in this subsection. For the purposes of this subsection, the "rehabilitation, development, or construction of housing facilities" shall include expenses attributable to site preparation, infrastructure needs and housing-related community facilities and services, including supporting commercial development. Commencing with the fourth year in which a licensee incurs a tax obligation pursuant to this subsection, 50% of the proceeds of all bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or construction of housing facilities in the city of Atlantic City for persons or families of low through middle income. Commencing with the 11th year in which a licensee incurs a tax obligation pursuant to this section, 50% of the annual aggregate of the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority which are devoted to the financing of projects in the city of Atlantic City and investments in approved eligible projects commenced by a licensee in the city of Atlantic City shall be used exclusively to finance the rehabilitation, development, or



construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income.

(3) The Legislature finds that it is necessary to provide for a balanced community and develop a comprehensive housing program. The Casino Reinvestment Development Authority shall determine the need for housing in the city of Atlantic City, in consultation with the city of Atlantic City and specifically its zoning and planning boards. This shall include determining the types and classes of housing to be constructed and the number of units of each type and class of housing to be built. The Casino Reinvestment Development Authority shall give priority to the housing needs of the persons and their families residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act. The actual percentage of the proceeds of bonds and investments in approved eligible projects commenced by a licensee in the city of Atlantic City, which shall be used exclusively to finance the rehabilitation, development, or construction of, or to provide mortgage financing of, housing facilities in the city of Atlantic City for persons or families of low through middle income, shall be based upon the authority's determination of the need for housing in the city of Atlantic City conducted pursuant to this subsection. Once the housing needs of the persons residing in the city of Atlantic City in 1983 and continuing such residency through the effective date of this 1984 amendatory and supplementary act have been met, as determined by the Casino Reinvestment Development Authority pursuant to this subsection, any required percentages for such housing in the city of Atlantic City may, in its sole discretion, be waived by the Casino Reinvestment Development Authority. To aid the Casino Reinvestment Development Authority in making these determinations, the Casino Reinvestment Development Authority shall review the proposal for a housing redevelopment program and strategy for the city of Atlantic City approved and adopted by the Casino Control Commission and shall give priority to same and any other plan or project which is consistent with the standards of this subsection and is acceptable to the Casino Reinvestment Development Authority, pursuant to section 25 of this 1984 amendatory and supplementary act. The Casino Reinvestment Development Authority may determine whether the funds used to finance housing facilities in the city of Atlantic City for persons or families of low, moderate, median range, and middle income are derived from the proceeds of bonds purchased by a licensee from the Casino Reinvestment Development Authority to be devoted to the financing of projects in the city of Atlantic City, investments in approved eligible projects commenced by a licensee in the city of Atlantic City, or a combination of both. Any investment made by a licensee in excess of 100% of its eligible investment tax credit during the first three years and in excess of 50% thereafter in either the purchase of bonds or direct investments in approved eligible projects for low, moderate, median range, and middle income family housing facilities in the city of Atlantic City may be carried forward and credited against the licensee's obligation to make a 100% investment during the first three years and 50% thereafter in low, moderate, median range, and middle income family housing in any future year, with the approval of the Casino Reinvestment Development Authority. For the purposes of this act, "low income families" means families whose income does not exceed 50% of the median income of the area, with adjustments for smaller and larger families. "Moderate income families" means families whose income does not exceed 80% and is not less than 50% of the median income for the area, with adjustments for smaller and larger families. "Median range income families" means families whose income does not exceed 120% and is not less than 80% of the median income for the area, with adjustments for smaller and larger families. "Middle income families" means families whose income does not exceed 150% and not less than 120% of the median income for the area, with adjustments for smaller and larger families. "Median income" means an income defined as median within the Standard Metropolitan Statistical Area for Atlantic City by the United States Department of Housing and Urban Development.

In order to achieve a balanced community, the authority shall ensure that the development of housing for families of low and moderate income shall proceed at the same time as housing for families of median range and middle income, until such time as there is no longer a need for such facilities in the city of

Atlantic City, as determined by the Casino Reinvestment Development Authority.

(4) Notwithstanding any other law or section to the contrary, particularly this subsection regarding the waiver of the required percentages for housing in the city of Atlantic City, subsection i. of section 14, and sections 26, 27, 28, 29, and 31 of this 1984 amendatory and supplementary act, nothing shall be implemented or waived by the Casino Reinvestment Development Authority which would reduce, impair, or prevent the fulfillment of the priorities established and contained in this subsection of this 1984 amendatory and supplementary act.

g. If a person is a licensee with regard to more than one approved hotel pursuant to section 82 of P.L.1977, c.110 (C.5:12-82), the person shall separately account for the gross revenues, the investment alternative tax obligations, and the investments for a tax credit against the investment alternative tax for each approved hotel, and the tax obligations of the licensee under this section shall be determined separately for each approved hotel. The licensee may apportion investments between its approved hotels; provided that no amount of investment shall be credited more than once. If a licensee receives the prior approval of the Casino Reinvestment Development Authority, the licensee may make eligible investments in excess of the investments necessary to receive a tax credit against the investment alternative tax for a given calendar year, and the licensee may carry forward this excess investment and have it credited to its next investment alternative tax obligation. If the Casino Reinvestment Development Authority approves of such excess investment and approves the carry forward of this excess investment, and a licensee elects to purchase bonds of the Casino Reinvestment Development Authority or makes direct investments in approved eligible projects in excess of the investments necessary to receive a tax credit against the investment alternative tax for its current obligation, the licensee shall be entitled to a reduction of the amount of investments necessary in future years, which amount shall be determined annually by the Casino Reinvestment Development Authority, taking into account a current market discount rate from the date of the purchase or investment to the date the purchase or investment would have been required to be made.

h. Each casino licensee shall prepare and file, in a form prescribed by the Casino Reinvestment Development Authority, an annual return reporting that financial information as shall be deemed necessary by the Casino Reinvestment Development Authority to carry out the provisions of this act. This return shall be filed with the Casino Reinvestment Development Authority and the Casino Control Commission on or before April 30 following the calendar year on which the return is based. The Casino Control Commission shall verify to the Casino Reinvestment Development Authority the information contained in the report, to the fullest extent possible. Nothing in this subsection shall be deemed to affect the due dates for making any investment or paying any tax under this section.

i. Any purchase by a licensee of bonds issued by or offered through the Casino Reinvestment Development Authority pursuant to sections 14 and 15 of this act and subsection b. of this section and all approved eligible investments made by a licensee pursuant to section 25 of this act and subsection b. of this section are to be considered investments and not taxes owed or grants to the State or any political subdivision thereof. As such, a licensee shall have the possibility of the return of principal and a return on the capital invested as with other investments. Investors in the bonds issued by or offered through the Casino Reinvestment Development Authority shall be provided with an opinion from a recognized financial rating agency or a financial advisory firm with national standing that each loan of bond proceeds by the Casino Reinvestment Development Authority has the minimum characteristics of an investment, in that a degree of assurance exists that interest and principal payments can be made and other terms of the proposed investment be maintained over the period of the investment, and that the loan of the bond proceeds would qualify for a bond rating of "C" or better. If an opinion cannot be obtained from a recognized financial rating agency or a financial advisory firm with national standing, an opinion shall be obtained from an expert financial analyst with national standing, selected and hired by the Casino Reinvestment Development Authority. In order to achieve a balanced portfolio, assure the viability of the authority and the projects, facilities and programs undertaken pursuant to this 1984 amendatory and supplementary act, no more than 25% of the total investments made by or through the Casino Reinvestment Development Authority with the proceeds of bonds generated in each year shall be investments which would qualify for a bond rating of "C," unless all holders of obligations in each year agree to waive the 25% limit for that year. Nothing herein shall be interpreted as limiting the Casino Reinvestment Development Authority from

taking any steps it deems appropriate to protect the characteristics of its investment in projects or any other investments from not being real investments with a prospect for the return of principal and a return on the capital invested. Anything contained in this section shall not be considered a guarantee by the State or any political subdivision thereof of any return of principal or interest, but any purchase by a licensee of bonds or approved eligible investments made by a licensee pursuant to this act shall be at the risk of the licensee. A licensee or the licensees purchasing an issue of bonds issued by the Casino Reinvestment Development Authority in any given year may arrange, at their option, for those bonds or the investments, made by or through the Casino Reinvestment Development Authority with the proceeds of those bonds, to be insured. The cost of any such insurance purchased by a licensee or licensees shall be paid by the licensee or licensees desiring such insurance.

j. The Casino Reinvestment Development Authority shall promulgate rules and regulations deemed necessary to carry out the purposes of this section.

k. The obligation of a licensee to pay an investment alternative tax pursuant to subsection a. of this section shall end for each licensed facility operated by the licensee 30 years after any investment alternative tax obligation is first incurred in connection with each licensed facility operated by the licensee, unless extended in connection with a deferral granted by the Casino Reinvestment Development Authority pursuant to subsection c. of this section.

L.1984,c.218,s.3; 1984, c.218, s.3; amended 1985, c.183, s.1; 1993, c.159, s.9; 1995, c.18, s.46; 1996, c.118, s.3.

### **5:12-145. Casino revenue fund**

145. Casino revenue fund. a. There is hereby created and established in the Department of the Treasury a separate special account to be known as the "Casino Revenue Fund," into which shall be deposited all revenues from the tax imposed by section 144 of this act; the investment alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-144.1); and all penalties levied and collected by the commission pursuant to P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder, except that the first \$600,000 in penalties collected each fiscal year shall be paid into the General Fund for appropriation by the Legislature to the Department of Health, \$500,000 of which is to provide funds to the Council on Compulsive Gambling of New Jersey and \$100,000 of which is to provide funds for compulsive gambling treatment programs in the State. In the event that less than \$600,000 in penalties are collected, the Department of Health shall determine the allocation of funds between the Council and the treatment programs eligible under the criteria developed pursuant to section 2 of P.L.1993, c.229 (C.26:2-169).

b. The commission shall require at least monthly deposits by the licensee of the tax established pursuant to subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144), at such times, under such conditions, and in such depositories as shall be prescribed by the State Treasurer. The deposits shall be deposited to the credit of the Casino Revenue Fund. The commission may require a monthly report and reconciliation statement to be filed with it on or before the 10th day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

c. Moneys in the Casino Revenue Fund shall be appropriated exclusively for reductions in property taxes, rentals, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, as shall be provided by law. On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report accounting for the total revenues received in the Casino Revenue Fund and the specific amounts of money appropriated therefrom for specific expenditures during the preceding six months ending December 31 and June 30.

L.1977,c.110,s.145; amended 1984,c.136,s.2; 1984,c.218,s.4; 1991,c.182,s.58; 1993,c.229,s.1.

### **5:12-145a. Use of moneys from Casino Revenue Fund**

a. Except as otherwise provided in subsection b. of this section, no moneys deposited in the Casino Revenue Fund established by section 145 of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-145) may be appropriated to fund a program which was established by law on or before the effective date of that act.

b. Moneys deposited in the Casino Revenue Fund may be appropriated, within the limits set forth in the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.), for the costs of a program established on or before the effective date of that act, which costs are the result of:

(1) An increase in benefit levels provided by law after the effective date of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.); or

(2) An increase in the size of the recipient population due to changes made, pursuant to law enacted after the effective date of the "Casino Control Act," P.L. 1977, c. 110 (C. 5:12-1 et seq.), in the criteria of eligibility for the program.

L. 1987, c. 167, s. 1.

### **5:12-145.1. Income from investments; credit to fund**

Any income realized by reason of the investment of the moneys in the "Casino Revenue Fund," established under section 145 of P.L.1977, c. 110 (C. 5:12-145), shall be credited to the fund.

L.1982, c. 26, s. 1, eff. April 29, 1982.

### **5:12-145.2. Calculation of income**

2. For the purpose of determining the amount of investment income to be credited to the "Casino Revenue Fund," the State Treasurer shall calculate the average rate of earnings from the State's general investments during each fiscal year and apply that rate to the average daily balance of the fund during that fiscal year.

L.1982,c.26,s.2.

### **5:12-145.3. Casino Revenue Fund Advisory Commission**

1. There is created a commission to be known as the "Casino Revenue Fund Advisory Commission." The commission shall consist of 15 members to be appointed as follows: two members of the Senate, appointed by the President of the Senate, not more than one of whom shall be of the same political party; two members of the General Assembly, appointed by the Speaker of the General Assembly, not more than one of whom shall be of the same political party; three public members who are senior citizens, one of whom is appointed by the President of the Senate, one of whom is appointed by the Speaker of the General Assembly and one of whom is appointed by the Governor; three public members who are disabled, one of whom is appointed by the President of the Senate, one of whom is appointed by the Speaker of the General Assembly and one of whom is appointed by the Governor; one public member who is a representative of the casino industry to be appointed by the Governor upon the recommendation of the Casino Association of

New Jersey; the President of the New Jersey Association of Directors of Area Agencies on Aging, the Chairperson of the New Jersey Association of County Representatives for Disabled Persons, the Director of the Division on Aging in the Department of Community Affairs and the Legislative Budget and Finance Officer, or their designees, who shall serve as ex officio members.

The legislative members shall serve during the two-year legislative session in which the appointment is made. The senior citizen and disabled members shall serve for three year terms or until a successor is appointed; but of the members initially appointed, one of the senior citizens and one of the disabled members shall serve for a term of one year, one of the senior citizens and one of the disabled members shall serve for a term of two years and one of the senior citizens and one of the disabled members shall serve for a term of three years.

Vacancies in the membership of the commission shall be filled in the same manner as the original appointments are made and a member may be eligible for reappointment. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term.

Members shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties but reimbursement of expenses shall be within the limits of funds appropriated or otherwise made available to the commission for its purposes.

L.1992,c.108,s.1.

#### **5:12-145.4. Duties of commission**

2. The commission shall review the programs funded by the Casino Revenue Fund, established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145), and make recommendations to the Legislature annually or more often, if necessary, concerning existing or proposed programs or legislation and the expenditure of these funds. The commission also shall evaluate the need for existing, additional or expanded programs which may be funded from the Casino Revenue Fund and shall advise the Legislature accordingly.

L.1992,c.108,s.2.

#### **5:12-145.5. Organization, election of chairperson, secretary**

3. The commission shall organize as soon after the appointment of its members as is practicable. A majority of the commission members shall elect a chairperson from among the members and a secretary who need not be a member of the commission. The commission shall meet at regular intervals but at least on a quarterly basis.

L.1992,c.108,s.3.

#### **5:12-145.6. Entitlement to assistance, services, incurring of expenses**

4. The commission is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes. The Department of the Treasury shall supply professional, stenographic and clerical assistance which is necessary for the commission to perform its duties. The commission may incur miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for those purposes.

L.1992,c.108,s.4.

### **5:12-145.7. Annual report**

5. The commission shall submit an annual report to the Legislature by March 1 of each year.

L.1992,c.108,s.5.

### **5:12-146. In lieu tax**

a. Any casino licensee whose licensed premises are located in an area which has been declared, by the Department of Community Affairs and the commission, to be a blighted area, or an area endangered by blight, may, for a period of not more than 25 years, enter into a written agreement with the Department of the Treasury, which agreement shall, with respect to real property held for use as a licensed casino hotel, provide for the payment of taxes to the tax collector of the municipality, in lieu of full local real property tax payments, in an amount to be computed by the sum of the following amounts, payable at the time specified by law for the payment of local property taxes;

(1) An annual amount equal to 2% of the cost of the real property investment. For the purposes of this section, "cost of the real property investment" means only the actual cost or fair market value of direct labor and all materials used in the construction, expansion, or rehabilitation of all buildings, structures, and facilities at the project site, including the costs, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities, and parking facilities, together with architectural, engineering, legal, surveying, testing, and contractors' fees associated with the project; provided, however, that the applicant shall cause such costs to be certified and verified to the Department of the Treasury by an independent certified public accountant, following the completion of the investment in the project; and provided further, however, that upon execution of an agreement pursuant to this section, only real property improvements made after July 6, 1976 shall be subject to the provisions herein; plus

(2) An amount equivalent to the difference between an amount that would have been payable as property taxes under the full local property tax rate and the amount calculated pursuant to subsection a.(1) of this section, which shall be payable from such profits, if any, as hereinafter defined in section 147, as shall remain after deducting therefrom interest and principal paid on mortgage loans applicable to the real property held for use as a licensed casino hotel. The total payments provided by this section shall not exceed the full local property taxes normally payable for the year.

b. At the time an applicant applies for a license under this act, he shall determine whether to exercise the option to pay in lieu taxes under this section or whether the property of the applicant shall be subject to the normal real property taxes of the municipality. This determination having been made and approved, the method selected may not be changed or altered during the term of the agreement.

c. Upon the filing of a certification by the State Treasurer in any year that an agreement has been entered into pursuant to this section, the in lieu tax provisions of this section shall be applicable with respect to the ensuing tax years.

L.1977, c. 110, s. 146, eff. June 2, 1977.

### **5:12-147. Profits**

a. For the purposes of the application of the provisions of section 146 of this act, "profits" referred to in

section 146 a.(2) for any year means total profits from cumulative investments in Atlantic City. In computing profits under this section, a licensee shall deduct from the gross income of cumulative investments in Atlantic City all operating expenses in accordance with generally accepted accounting principles. There shall be included in said operating expenses (1) all annual payments pursuant to section 146 a.(1) of this act; (2) property taxes in said municipality not subject to section 146; and (3) an annual amount sufficient to amortize in equal annual installments the total cost of the investment over the life of the improvements, which in no case shall be less than 25 years in the case of real property. There shall not be included in said operating expenses or in any other account (1) depreciation or obsolescence; (2) interest on debt; (3) taxes on income; (4) losses on bad debt instruments from gaming operations in excess of the lesser of such instruments actually uncollected or 4% of gross revenues; or (5) salaries, bonuses and other compensation paid, directly or indirectly, to directors, partners, officers, stockholders or other persons having any proprietary or ownership interest in the licensee.

b. In any year during which gross income exceeds cumulative investments as defined in section 144 d. hereof, 50% of the profits, as herein defined, which exceed the amount equivalent to 20% of the cumulative investments in the municipality of a licensee who shall have entered into an agreement pursuant to the provisions of section 146 hereof for such year shall be retained in a separate interest-bearing account maintained by the Treasurer, which account shall be designated "Special Casino Retention Account." All amounts retained in such account with respect to a licensee for any year may be recaptured by the licensee, provided that (1) the average annual gross income for the tax year and the two immediately preceding years is less than the cumulative investments of the licensee in casino, hotel, or other facilities in the municipality or State; or (2) the licensee, within 5 years of the date its annual tax return under this act is due, shall make cumulative investments in such municipality which shall cause the total of such investments to exceed the average annual gross income for the tax year and the 2 immediately preceding years, and which are equal to or greater than the amount of profits, as herein defined, retained in such account for the tax year.

c. In the event such licensee fails to make cumulative investments within the time specified as required for recapture of profits under this section, the profits retained in the Special Casino Retention Account shall be remitted to the Treasurer for deposit to the credit of the Casino Revenue Fund.

d. For the purposes of this section, each annual return of such licensee shall reflect the profits, if appropriate, determined on the basis of the immediately preceding calendar year. The commission shall make rules and regulations for the determination of profits under the provisions of this section.

L.1977, c. 110, s. 147, eff. June 2, 1977.

### **5:12-148. Payment of taxes**

a. The tax imposed under section 144 hereof shall be due and payable annually on or before the 15th day of March and shall be based upon gross revenues derived during the previous calendar year. A licensee shall file its first return and shall report gross revenues from the time it commenced operations and ending on the last day of said calendar year. Such report shall be filed with the commission on or before the following March 15.

b. Any other law to the contrary notwithstanding, any business conducted by an individual, partnership, or corporation or any other entity, or any combination thereof, holding a license pursuant to this act shall, in addition to all other taxes imposed by this act, file a consolidated corporation business tax return pursuant to P.L.1945, c. 162 (C. 54:10A-1 et seq.) and pay the taxes indicated thereon. The director of the Division of Taxation shall issue such rules and regulations and design such tax forms as shall be necessary to carry into effect the provisions of this act.

L.1977, c. 110, s. 148, eff. June 2, 1977.

### **5:12-149. Determination of tax liability**

149. Determination of Tax Liability. The commission may perform audits of the books and records of a casino licensee, at such times and intervals as it deems appropriate, for the purpose of determining the sufficiency of tax payments. If a return or deposit required by section 145 with regard to obligations imposed by subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144) is not filed or paid, or if a return or deposit when filed or paid is determined by the commission to be incorrect or insufficient with or without an audit, the amount of tax or deposit due shall be determined by the commission. Notice of such determination shall be given to the licensee liable for the payment of the tax or deposit. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the commission for a hearing, or unless the commission on its own motion shall redetermine the same. After such hearing the commission shall give notice of its determination to the person against whom the tax is assessed.

L.1977,c.110,s.149; amended 1987,c.354,s.21; 1993,c.292,s.34.

### **5:12-150. Penalties**

150. Penalties. a. Any licensee who shall fail to file his return when due or to pay any tax or deposit when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes. If the commission determines that the failure to comply with any provision of this Article was excusable under the circumstances, the commission may remit such part or all of the penalty as shall be appropriate under such circumstances.

b. Any person failing to file a return, failing to pay the tax or deposit, or filing or causing to be filed, or making or causing to be made, or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this act, or rules or regulations adopted hereunder which is willfully false, or failing to keep any records required by this act or rules and regulations adopted hereunder, shall, in addition to any other penalties herein or elsewhere prescribed, be guilty of a crime of the fourth degree and subject to the penalties therefor, except that the amount of a fine may be up to \$100,000.00.

c. Except as to those determinations required to be made by the commission pursuant to section 149 of P.L.1977, c.110 (C.5:12-149), the certificate of the State Treasurer to the effect that a tax or deposit has not been paid, that a return has not been filed, that information has not been supplied, or that inaccurate information has been supplied pursuant to the provisions of this act or rules or regulations adopted hereunder, shall be presumptive evidence thereof.

d. If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.

L.1977,c.110,s.150; amended 1987,c.354,s.22; 1991,c.182,s.59; 1993,c.292,s.35.

### **5:12-151. Forms**

In addition to the other powers granted by this act, the commission is hereby authorized and empowered to promulgate and distribute all forms and returns necessary to the implementation of this act.

L.1977, c. 110, s. 151, eff. June 2, 1977.

## **5:12-152. Application of State Tax Uniform Procedure Law**

The taxes imposed by this act shall be governed in all respects by the provisions of the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes, except only to the extent that a specific provision of this act may be in conflict therewith.

L.1977, c. 110, s. 152, eff. June 2, 1977.

## **5:12-153. Casino Reinvestment Development Authority**

5. a. There is established in, but not of, the Department of the Treasury a Casino Reinvestment Development Authority to consist of the following members:

- (1) Six members appointed by the Governor with the advice and consent of the Senate for terms of four years, except that of the initial members to be appointed pursuant to this 1991 amendatory act, P.L.1991, c.219, one shall be appointed for a term of two years and one for a term of four years;
- (2) One member appointed by the Governor upon the recommendation of the President of the Senate for a term of four years, except that the initial member to be appointed shall be appointed for a term of three years;
- (3) One member appointed by the Governor upon the recommendation of the Speaker of the General Assembly for a term of four years, except that the initial member to be appointed shall be appointed for a term of one year;
- (4) A member of the Casino Control Commission, who shall be appointed by the Governor and shall be a voting member of the authority;
- (5) The mayor of Atlantic City, ex officio and voting;
- (6) The Attorney General and the State Treasurer, ex officio and voting;
- (7) Two casino industry representatives, both of whom shall be voting members, appointed by the Governor for terms of two years, except that of the initial appointees, one shall serve for a term of one year and one for a term of two years. No person shall be reappointed to succeed himself as a casino industry representative member, and no person appointed shall be an employee, officer or agent of the same casino licensee as the person whom he succeeds as a casino industry representative member; and
- (8) One member appointed by the Governor to serve ex officio as a voting member, who shall be either the Commissioner of the Department of Commerce and Economic Development or the Commissioner of the Department of Community Affairs, or the Governor may appoint, in lieu thereof, an additional member of the Casino Control Commission as a voting member.

No more than four of the voting members appointed by the Governor pursuant to paragraph (1) of this subsection shall be of the same political party.

In the appointment of members of the authority, consideration should be given to achieving a membership of high quality and varied experience, with special emphasis on the fields of banking, finance, investment, and housing and urban development.

b. Each member appointed by the Governor shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the

membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. The member or members of the Casino Control Commission appointed by the Governor shall serve as a member or members of the Casino Reinvestment Development Authority at the pleasure of the Governor, subject to the limitations in subsections c., f., and h. of section 52 of P.L.1977, c.110 (C.5:12-52). Such a member may be removed or suspended from office as a member of the Casino Reinvestment Development Authority as provided in section 6 of this act. Any removal or suspension from office of a member of the Casino Control Commission from the Casino Reinvestment Development Authority shall not affect his office held as a member of the Casino Control Commission. Removal from office as a member of the Casino Control Commission may only be done in accordance with subsection g. of section 52 of P.L.1977, c.110 (C.5:12-52).

L.1984,c.218,s.5; amended 1991, c.219, s.1; 1993, c.159, s.10; 1996, c.118, s.4.

## **5:12-1. Short title; declaration of policy and legislative findings**

1. Short title; Declaration of Policy and Legislative Findings.

a. This act shall be known and may be cited as the "Casino Control Act."

b. The Legislature hereby finds and declares to be the public policy of this State, the following:

(1) The tourist, resort and convention industry of this State constitutes a critical component of its economic structure and, if properly developed, controlled and fostered, is capable of providing a substantial contribution to the general welfare, health and prosperity of the State and its inhabitants.

(2) By reason of its location, natural resources and worldwide prominence and reputation, the city of Atlantic City and its resort, tourist and convention industry represent a critically important and valuable asset in the continued viability and economic strength of the tourist, convention and resort industry of the State of New Jersey.

(3) The rehabilitation and redevelopment of existing tourist and convention facilities in Atlantic City, and the fostering and encouragement of new construction and the replacement of lost convention, tourist, entertainment and cultural centers in Atlantic City will offer a unique opportunity for the inhabitants of the entire State to make maximum use of the natural resources available in Atlantic City for the expansion and encouragement of New Jersey's hospitality industry, and to that end, the restoration of Atlantic City as the Playground of the World and the major hospitality center of the Eastern United States is found to be a program of critical concern and importance to the inhabitants of the State of New Jersey.

(4) Legalized casino gaming has been approved by the citizens of New Jersey as a unique tool of urban redevelopment for Atlantic City. In this regard, the introduction of a limited number of casino rooms in major hotel convention complexes, permitted as an additional element in the hospitality industry of Atlantic City, will facilitate the redevelopment of existing blighted areas and the refurbishing and expansion of existing hotel, convention, tourist, and entertainment facilities; encourage the replacement of lost hospitality-oriented facilities; provide for judicious use of open space for leisure time and recreational activities; and attract new investment capital to New Jersey in general and to Atlantic City in particular.

(5) Restricting the issuance of casino licenses to major hotel and convention facilities is designed to assure

that the existing nature and tone of the hospitality industry in New Jersey and in Atlantic City is preserved, and that the casino rooms licensed pursuant to the provisions of this act are always offered and maintained as an integral element of such hospitality facilities, rather than as the industry unto themselves that they have become in other jurisdictions.

(6) An integral and essential element of the regulation and control of such casino facilities by the State rests in the public confidence and trust in the credibility and integrity of the regulatory process and of casino operations. To further such public confidence and trust, the regulatory provisions of this act are designed to extend strict State regulation to all persons, locations, practices and associations related to the operation of licensed casino enterprises and all related service industries as herein provided. In addition, licensure of a limited number of casino establishments, with the comprehensive law enforcement supervision attendant thereto, is further designed to contribute to the public confidence and trust in the efficacy and integrity of the regulatory process.

(7) Legalized casino gaming in New Jersey can attain, maintain and retain integrity, public confidence and trust, and remain compatible with the general public interest only under such a system of control and regulation as insures, so far as practicable, the exclusion from participation therein of persons with known criminal records, habits or associations, and the exclusion or removal from any positions of authority or responsibility within casino gaming operations and establishments of any persons known to be so deficient in business probity, either generally or with specific reference to gaming, as to create or enhance the dangers of unsound, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incident thereto.

(8) Since the public has a vital interest in casino operations in Atlantic City and has established an exception to the general policy of the State concerning gaming for private gain, participation in casino operations as a licensee or registrant under this act shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee or registrant and upon the discharge of the affirmative responsibility of each such licensee or registrant to provide to the regulatory and investigatory authorities established by this act any assistance and information necessary to assure that the policies declared by this act are achieved. Consistent with this policy, it is the intent of this act to preclude the creation of any property right in any license, registration, certificate or reservation permitted by this act, the accrual of any value to the privilege of participation in gaming operations, or the transfer of any license, registration, certificate, or reservation, and to require that participation in gaming be solely conditioned upon the individual qualifications of the person seeking such privilege.

(9) Since casino operations are especially sensitive and in need of public control and supervision, and since it is vital to the interests of the State to prevent entry, directly or indirectly, into such operations or the ancillary industries regulated by this act of persons who have pursued economic gains in an occupational manner or context which are in violation of the criminal or civil public policies of this State, the regulatory and investigatory powers and duties shall be exercised to the fullest extent consistent with law to avoid entry of such persons into the casino operations or the ancillary industries regulated by this act.

(10) (Deleted by amendment, P.L.1995, c.18.)

(11) The facilities in which licensed casinos are to be located are of vital law enforcement interest to the State, and it is in the public interest that the regulatory and investigatory powers and duties conferred by this act include the power and duty to review architectural and site plans to assure that the proposal is suitable by law enforcement standards.

(12) Since the economic stability of casino operations is in the public interest and competition in the casino operations in Atlantic City is desirable and necessary to assure the residents of Atlantic City and of this State and other visitors to Atlantic City varied attractions and exceptional facilities, the regulatory and investigatory powers and duties conferred by this act shall include the power and duty to regulate, control and prevent economic concentration in the casino operations and the ancillary industries regulated by this

act, and to encourage and preserve competition.

(13) It is in the public interest that the institution of licensed casino establishments in New Jersey be strictly regulated and controlled pursuant to the above findings and pursuant to the provisions of this act, which provisions are designed to engender and maintain public confidence and trust in the regulation of the licensed enterprises, to provide an effective method of rebuilding and redeveloping existing facilities and of encouraging new capital investment in Atlantic City, and to provide a meaningful and permanent contribution to the economic viability of the resort, convention, and tourist industry of New Jersey.

(14) Confidence in casino gaming operations is eroded to the extent the State of New Jersey does not provide a regulatory framework for casino gaming that permits and promotes stability and continuity in casino gaming operations.

(15) Continuity and stability in casino gaming operations cannot be achieved at the risk of permitting persons with unacceptable backgrounds and records of behavior to control casino gaming operations contrary to the vital law enforcement interest of the State.

(16) The aims of continuity and stability and of law enforcement will best be served by a system in which continuous casino operation can be assured under certain circumstances wherein there has been a transfer of property or another interest relating to an operating casino and the transferee has not been fully licensed or qualified, as long as control of the operation under such circumstances may be placed in the possession of a person or persons in whom the public may feel a confidence and a trust.

(17) A system whereby the suspension or revocation of casino operations under certain appropriate circumstances causes the imposition of a conservatorship upon the suspended or revoked casino operation serves both the economic and law enforcement interests involved in casino gaming operations.

L.1977,c.110,s.1; amended 1978,c.7,s.1; 1981,c.503,s.1; 1987,c.409,s.1; 1987,c.410,s.1; 1991,c.182,s.1; 1995,c.18,s.1.

### **5:12-1.1. References to include "Casino Simulcasting Act"**

41. Any reference in the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) to "this act" or to "P.L.1977, c.110" shall be deemed to include, where appropriate, the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et seq.).

L.1993,c.292,s.41.

### **5:12-2. Definitions**

As used in this act, the words and terms have the meanings ascribed to them in sections 3 through 48 of this act, unless a different meaning clearly appears in the context.

L.1977, c. 110, s. 2, eff. June 2, 1977.

#### **5:12-2.1. "Affiliate"**

2. "Affiliate"--A person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the affiliated person.

L.1995,c.18,s.2.

### **5:12-2.2. "Annuity jackpot trust"**

3. "Annuity jackpot trust"--A trust that is formed by one or more casino licensees, in accordance with rules established by the commission, to assure that all payments that are due to the winner of a slot machine jackpot that is to be paid in installments at specified intervals in the future are actually paid when due.

L.1995,c.18,s.3.

### **5:12-3. "Applicant"**

"Applicant" --Any person who on his own behalf or on behalf of another has applied for permission to engage in any act or activity which is regulated under the provisions of this act.

L.1977, c. 110, s. 3, eff. June 2, 1977.

### **5:12-4. "Application"**

"Application" --A written request for permission to engage in any act or activity which is regulated under the provisions of this act.

L.1977, c. 110, s. 4, eff. June 2, 1977.

### **5:12-4.1. "Attorney"**

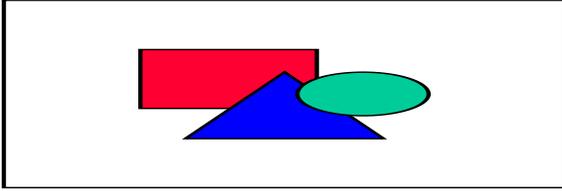
4. "Attorney"--Any attorney licensed to practice law in this State or any other jurisdiction, including an employee of a casino licensee.

L.1995,c.18,s.4.

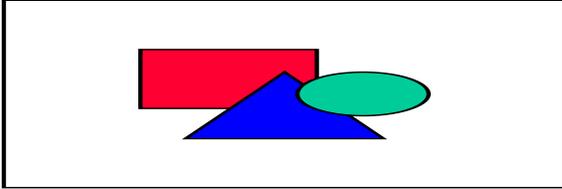
### **5:12-5. "Authorized game" or "authorized gambling game"**

5. "Authorized Game" or "Authorized Gambling Game"-- Roulette, baccarat, blackjack, craps, big six wheel, slot machines, minibaccarat, red dog, pai gow, and sic bo; any variations or composites of such games, provided that such variations or composites are found by the commission suitable for use after an appropriate test or experimental period under such terms and conditions as the commission may deem appropriate; and any other game which is determined by the commission to be compatible with the public interest and to be suitable for casino use after such appropriate test or experimental period as the commission may deem appropriate. "Authorized game" or "authorized gambling game" includes gaming tournaments in which players compete against one another in one or more of the games authorized herein or by the commission or in approved variations or composites thereof if the tournaments are authorized by the commission.

L.1977,c.110,s.5; amended 1979,c.282,s.1; 1985,c.350,s.1; 1991,c.182,s.2; 1992,c.9,s.1; 1992,c.19,s.22; 1993,c.292,s.1.



### **5:12-6. "Casino"**



6. "Casino" or "casino room" or "licensed casino" -- One or more locations or rooms in a casino hotel facility that have been approved by the commission for the conduct of casino gaming in accordance with the provisions of this act. "Casino" or "casino room" or "licensed casino" shall not include any casino simulcasting facility authorized pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et seq.).

L.1977,c.110,s.6; amended 1991, c.182, s.4; 1996, c.84, s.1.

### **5:12-7. "Casino employee"**

7. "Casino Employee"--Any natural person employed in the operation of a licensed casino or a simulcasting facility, including, without limitation, boxmen; dealers or croupiers; floormen; machine mechanics; casino security employees; count room personnel; cage personnel; slot machine and slot booth personnel; collection personnel; casino surveillance personnel; simulcasting facility personnel involved in wagering-related activities in a simulcasting facility; and data processing personnel; or any other natural person whose employment duties predominantly involve the maintenance or operation of gaming activity or equipment and assets associated therewith or who, in the judgment of the commission, is so regularly required to work in a restricted casino area that licensure as a casino employee is appropriate.

L.1977,c.110,s.7; amended 1979,c.282,s.2; 1987,c.353,s.1; 1991,c.182,s.5; 1992,c.9,s.2; 1992,c.19,s.23.

### **5:12-9. "Casino key employee"**

9. "Casino Key Employee"--Any natural person employed in the operation of a licensed casino or a simulcasting facility in a supervisory capacity or empowered to make discretionary decisions which regulate casino or simulcasting facility operations, including, without limitation, pit bosses; shift bosses; credit executives; casino cashier supervisors; casino or simulcasting facility managers and assistant managers; and managers or supervisors of casino security employees; or any other natural person empowered to make discretionary decisions which regulate the management of an approved hotel, including, without limitation, hotel managers; entertainment directors; and food and beverage directors; or any other employee so designated by the Casino Control Commission for reasons consistent with the policies of this act.

L.1977,c.110,s.9; amended 1987,c.355,s.1; 1992,c.19,s.24.

### **5:12-10. "Casino license"**

"Casino License"--Any license issued pursuant to this act which authorizes the holder thereof to own or operate a casino.

L. 1977, c.110, s. 10; amended 1978, c.7, s.2; 1987,c.410,s.2.

### **5:12-11. "Casino security employee"**

11. "Casino security employee" -- Any natural person employed by a casino licensee or its agent to provide physical security in a casino, simulcasting facility, or restricted casino area. "Casino security employee" shall not include any person who provides physical security solely in any other part of the casino hotel.

L.1977,c.110,s.11; amended 1991,c.182,s.7; 1993,c.292,s.2; 1995,c.18,s.5.

### **5:12-11.1. "Casino service employee"**

6. "Casino service employee" -- Any natural person employed to perform services or duties in a casino, casino simulcasting facility, or restricted casino area but who is not included within the definition of casino employee, casino key employee, or casino security employee as stated in sections 7, 9, and 11, respectively, of P.L.1977, c.110 (C.5:12-7, 5:12-9, and 5:12-11).

L.1995,c.18,s.6.

### **5:12-12. "Casino Service Industry"**

12. "Casino Service Industry" -- Any form of enterprise which provides casino applicants or licensees with goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility on a regular or continuing basis, including, without limitation, junket enterprises, security businesses, gaming schools, manufacturers, distributors and servicers of gaming and casino simulcasting devices or equipment, in-State and out-of-State sending tracks as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192), garbage haulers, maintenance companies, food purveyors, and construction companies, or any other enterprise which purchases goods or services from or which does any other business with licensed casinos on a regular or continuing basis. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution, testing or repair of slot machines within New Jersey, other than antique slot machines as defined in N.J.S.2C:37-7, shall be considered a casino service industry for the purposes of this act regardless of the nature of its business relationship, if any, with licensed casinos in this State.

For the purposes of this section, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82) who has applied to the commission for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

L.1977,c.110,s.12; amended 1982,57,s.1; 1987,c.355,s.2; 1991,c.182,s.8; 1992,c.9,s.3; 1992,c.19,s.25; 1995,c.18,s.7.

### **5:12-13. "Chairman" and "commissioner" or "member"**

"Chairman" and "commissioner" or "member" --The chairman and any member of the Casino Control Commission, respectively.

L.1977, c. 110, s. 13, eff. June 2, 1977.

### **5:12-14. "Commission"**

"Commission" --The New Jersey Casino Control Commission.

L.1977, c. 110, s. 14, eff. June 2, 1977.

### **5:12-14a. "Complimentary service or item"**

"Complimentary service or item" --A service or item provided at no cost or at a reduced price. The furnishing of a complimentary service or item by a casino licensee shall be deemed to constitute the indirect payment for the service or item by the casino licensee, and shall be valued in an amount based upon the retail price normally charged by the casino licensee for the service or item. The value of a complimentary service or item not normally offered for sale by a casino licensee or provided by a third party on behalf of a casino licensee shall be the cost to the casino licensee of providing the service or item, as determined in accordance with the rules of the commission.

L.1983, c. 41, s. 2, eff. Jan. 27, 1983.

### **5:12-14.1. "Conservator"**

"Conservator" --A fiduciary appointed pursuant to the Article concerning Casino License Conservatorship in the Casino Control Act.

L.1978, c. 7, s. 8, eff. March 17, 1978.

### **5:12-14.2. "Conservatorship action"**

"Conservatorship action" --An action brought pursuant to the Article concerning Casino License Conservatorship in the Casino Control Act for the appointment of a conservator.

L.1978, c. 7, s. 9, eff. March 17, 1978.

### **5:12-14.3. "Creditor"**

"Creditor" --The holder of any claim, of whatever character, against a person, whether secured or unsecured, matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

L.1978, c. 7, s. 3, eff. March 17, 1978.

#### **5:12-14.4. "Debt"**

"Debt" --Any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

L.1978, c. 7, s. 4, eff. March 17, 1978.

#### **5:12-15. "Director"**

"Director" --The Director of the Division of Gaming Enforcement.

L.1977, c. 110, s. 15, eff. June 2, 1977.

#### **5:12-16. "Division"**

"Division" --The Division of Gaming Enforcement.

L.1977, c. 110, s. 16, eff. June 2, 1977.

#### **5:12-16.1. "Encumbrance"**

"Encumbrance" --A mortgage, security interest, lien or charge of any nature in or upon property.

L.1978, c. 7, s. 5, eff. March 17, 1978.

#### **5:12-17. "Equal employment opportunity"**

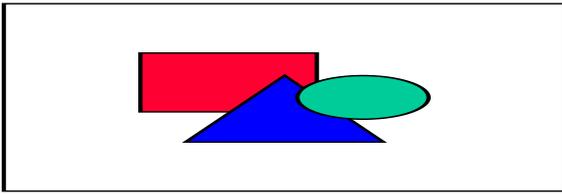
"Equal employment opportunity" --Equality in opportunity for employment by any person licensed pursuant to the provisions of this act.

L.1977, c. 110, s. 17, eff. June 2, 1977.

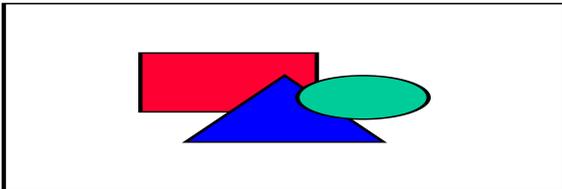
#### **5:12-18. "Equity security"**

"Equity security" --(a) Any voting stock of a corporation, or similar security; (b) any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; (c) any such warrant or right; or (d) any security having a direct or indirect participation in the profits of the issuer.

L.1977, c. 110, s. 18, eff. June 2, 1977.



#### **5:12-19. "Establishment"**



19. "Establishment" or "casino hotel" or "casino hotel facility" -- A single building, or two or more buildings which are physically connected in a manner deemed appropriate by the commission, containing an approved hotel, a casino and, if applicable, a casino simulcasting facility.  
L.1977,c.110,s.19; amended 1996, c.84, s.2.

#### **5:12-20. "Family"**

"Family" --Spouse, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, daughters-in-law, sons-in-law, brothers-in-law and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship.

L.1977, c. 110, s. 20, eff. June 2, 1977.

#### **5:12-21. "Game" or "gambling game"**

21. "Game" or "gambling game" -- Any banking or percentage game located within the casino or simulcasting facility played with cards, dice, tiles, dominoes, or any electronic, electrical, or mechanical device or machine for money, property, or any representative of value.

L.1977,c.110,s.21; amended 1979,c.282,s.3; 1991,c.182,s.9; 1992,c.19,s.26.

#### **5:12-22. "Gaming" or "gambling"**

"Gaming" or "gambling" --The dealing, operating, carrying on, conducting, maintaining or exposing for pay of any game.

L.1977, c. 110, s. 22, eff. June 2, 1977.

### **5:12-23. "Gaming device" or "gaming equipment"**

"Gaming device" or "gaming equipment" --Any electronic, electrical, or mechanical contrivance or machine used in connection with gaming or any game.

L.1977, c. 110, s. 23, eff. June 2, 1977. Amended by L.1979, c. 282, s. 4, eff. Jan. 9, 1980.

### **5:12-24. "Gross revenue"**

24. "Gross Revenue"--The total of all sums, including checks received by a casino licensee pursuant to section 101 of this act, whether collected or not, actually received by a casino licensee from gaming operations, less only the total of all sums paid out as winnings to patrons and a deduction for uncollectible gaming receivables not to exceed the lesser of a reasonable provision for uncollectible patron checks received from gaming operations or 4% of the total of all sums including checks, whether collected or not, less the amount paid out as winnings to patrons. "Gross Revenue" shall not include any amount received by a casino from casino simulcasting pursuant to the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.).

For the purposes of this section, any check which is invalid and unenforceable pursuant to subsection f. of section 101 of P.L.1977, c.110 (C.5:12-101) shall be treated as cash received by the casino licensee from gaming operations.

L.1977,c.110,s.24; amended 1979,c.282,s.5; 1987,c.426,s.2; 1992,c.19,s.27.

### **5:12-25. "Hearing examiner"**

"Hearing examiner" --A commissioner or other person authorized by the commission to conduct hearings.

L.1977, c. 110, s. 25, eff. June 2, 1977.

### **5:12-26. "Holding company"**

"Holding company" --Any corporation, association, firm, partnership, trust or other form of business organization not a natural person which, directly or indirectly, owns, has the power or right to control, or has the power to vote any significant part of the outstanding voting securities of a corporation which holds or applies for a casino license. For the purpose of this section, in addition to any other reasonable meaning of the words used, a "holding company" indirectly has, holds or owns any such power, right or security if it does so through any interest in a subsidiary or successive subsidiaries, however many such subsidiaries may intervene between the holding company and the corporate licensee or applicant.

L.1977, c. 110, s. 26, eff. June 2, 1977. Amended by L.1979, c. 282, s. 6, eff. Jan. 9, 1980.

### **5:12-27. "Hotel" or "approved hotel"**

27. "Hotel" or "approved hotel" -- A single building, or two or more buildings which are physically connected in a manner deemed appropriate by the commission and which are operated as one casino-hotel facility under the provisions of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), located within

the limits of the city of Atlantic City as said limits were defined as of November 2, 1976, and containing not fewer than the number of sleeping units required by section 83 of P.L.1977, c.110 (C.5:12-83), each of which sleeping units shall: a. be at least 325 square feet measured to the center of perimeter walls, including bathroom and closet space and excluding hallways, balconies and lounges; b. contain private bathroom facilities; and c. be held available and used regularly for the lodging of tourists and convention guests. In no event shall the main entrance or only access to an approved hotel be through a casino or simulcasting facility.

L.1993,c.110,s.27; amended 1979,c.282,s.7; 1991,c.182,s.10; 1993,c.292,s.3.

### **5:12-27.1. "Institutional investor"**

"Institutional investor" -- Any retirement fund administered by a public agency for the exclusive benefit of federal, State, or local public employees; investment company registered under the Investment Company Act of 1940 (15 U.S.C. s.80a-1 et seq.); collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency; closed end investment trust; chartered or licensed life insurance company or property and casualty insurance company; banking and other chartered or licensed lending institution; investment advisor registered under The Investment Advisors Act of 1940 (15 U.S.C. s.80b-1 et seq.); and such other persons as the commission may determine for reasons consistent with the policies of the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.).

L.1991,c.182,s.11.

### **5:12-28. "Intermediary company"**

"Intermediary company" --Any corporation, association, firm, partnership, trust or any other form of business organization other than a natural person which:

- a. Is a holding company with respect to a corporation which holds or applies for a casino license, and
- b. Is a subsidiary with respect to any holding company.

L.1977, c. 110, s. 28, eff. June 2, 1977.

### **5:12-29. Junket**

"Junket"--An arrangement the purpose of which is to induce any person, selected or approved for participation therein on the basis of his ability to satisfy a financial qualification obligation related to his ability or willingness to gamble or on any other basis related to his propensity to gamble, to come to a licensed casino hotel for the purpose of gambling and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a casino licensee or employee or agent thereof.

L. 1977, c. 110, s. 29; amended 1979,c.282,s.8; 1983,c.41,s.1; 1987,c.426,s.1.

### **5:12-29.1. "Junket enterprise"**

3. "Junket enterprise" -- Any person, other than the holder of or an applicant for a casino license, who

employs or otherwise engages the services of a junket representative in connection with a junket to a licensed casino, regardless of whether or not those activities occur within the State of New Jersey.

L.1983,c.41,s.3; amended 1992,c.9,s.4.

### **5:12-29.2. "Junket representative"**

4. "Junket representative"--Any natural person who negotiates the terms of, or engages in the referral, procurement or selection of persons who may participate in, any junket to a licensed casino, regardless of whether or not those activities occur within the State of New Jersey.

L.1983,c.41,s.4; amended 1987,c.426,s.3; 1995,c.18,s.8.

### **5:12-30. "License"**

"License" --Any license required by this act.

L.1977, c. 110, s. 30, eff. June 2, 1977.

### **5:12-31. "License or Registration Fee"**

"License or Registration Fee" --Any moneys required by law to be paid for the issuance or renewal of a casino license, or any other license or registration required by this act.

L.1977, c. 110, s. 31, eff. June 2, 1977. Amended by L.1981, c. 503, s. 2, eff. Feb. 15, 1982.

### **5:12-32. "Licensed casino operation"**

"Licensed casino operation" --Any casino licensed pursuant to the provisions of this act.

L.1977, c. 110, s. 32, eff. June 2, 1977.

### **5:12-33. "Licensee"**

"Licensee" --Any person who is licensed under any of the provisions of this act.

L.1977, c. 110, s. 33, eff. June 2, 1977.

### **5:12-34. "Operation"**

"Operation" --The conduct of gaming as herein defined.

L.1977, c. 110, s. 34, eff. June 2, 1977.

### **5:12-35. "Operation certificate"**

35. "Operation certificate" -- A certificate issued by the commission which certifies that operation of a casino and, if applicable, a simulcasting facility conforms to the requirements of this act and applicable regulations.

L.1977,c.110,s.35; amended 1993,c.292,s.4.

### **5:12-36. "Party"**

"Party" --The commission, or any licensee, registrant, or applicant, or any person appearing of record for any licensee, registrant, or applicant in any proceeding before the commission or in any proceeding for judicial review of any action, decision or order of the commission.

L.1977, c. 110, s. 36, eff. June 2, 1977. Amended by L.1981, c. 503, s. 3, eff. Feb. 15, 1982.

### **5:12-37. "Person"**

"Person" --Any corporation, association, operation, firm, partnership, trust or other form of business association, as well as a natural person.

L.1977, c. 110, s. 37, eff. June 2, 1977.

### **5:12-38. "Principal employee"**

"Principal employee" --Any employee who, by reason of remuneration or of a management, supervisory or policy-making position or such other criteria as may be established by the commission by regulation, holds or exercises such authority as shall in the judgment of the commission be sufficiently related to the operation of a licensee so as to require approval by the commission in the protection of the public interest.

L.1977, c. 110, s. 38, eff. June 2, 1977.

### **5:12-38.1. "Property"**

"Property" --Real property, tangible and intangible personal property, and rights, claims and franchises of every nature.

L.1978, c. 7, s. 6, eff. March 17, 1978.

### **5:12-39. Publicly traded corporation"**

39. "Publicly traded corporation" --Any corporation or other legal entity, except a natural person, which:

- a. Has one or more classes of security registered pursuant to section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. s. 78l.), or
- b. Is an issuer subject to section 15(d) of the Securities Exchange Act of 1934, as amended (15 U.S.C. s. 78o.), or
- c. Has one or more classes of securities traded in any open market in any foreign jurisdiction or regulated pursuant to a statute of any foreign jurisdiction which the commission determines to be substantially similar to either or both of the aforementioned statutes.

L.1977,c.110,s.39; amended 1978,c.7,s.7; 1992,c.9,s.7.

### **5:12-40. "Registration"**

"Registration" --Any requirement other than one which requires a license as a prerequisite to conduct a particular business as specified by this act.

L.1977, c. 110, s. 40, eff. June 2, 1977.

### **5:12-41. "Registrant"**

"Registrant" --Any person who is registered pursuant to the provisions of this act.

L.1977, c. 110, s. 41, eff. June 2, 1977.

### **5:12-42. "Regulated complimentary service account"**

"Regulated complimentary service account" --An account maintained by a casino licensee on a regular basis which itemizes complimentary services and includes, without limitation, a listing of the cost of junket activities and any other service provided at no cost or reduced price.

L.1977, c. 110, s. 42, eff. June 2, 1977.

### **5:12-42.1. "Resident"**

"Resident" --Any person who occupies a dwelling within the State, has a present intent to remain within the State for a period of time, and manifests the genuineness of that intent by establishing an ongoing physical presence within the State together with indicia that his presence within the State is something other than merely transitory in nature.

L.1978, c. 7, s. 10, eff. Oct. 1, 1978.

### **5:12-43. "Respondent"**

"Respondent" --Any person against whom a complaint has been filed or a written request for information

served.

L.1977, c. 110, s. 43, eff. June 2, 1977.

### **5:12-43.1. "Restricted Casino Areas"**

"Restricted Casino Areas"--The cashier's cage, the soft count room, the hard count room, the slot cage booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the slot machine repair room and any other area specifically designated by the commission as restricted in a licensee's operation certificate.

L. 1987,c.353,s.3.

### **5:12-44. "Security"**

"Security" --Any instrument evidencing a direct or indirect beneficial ownership or creditor interest in a corporation, including but not limited to, stock, common and preferred; bonds; mortgages; debentures; security agreements; notes; warrants; options and rights.

L.1977, c. 110, s. 44, eff. June 2, 1977.

### **5:12-44.1. "Simulcasting facility"**

21. "Simulcasting facility"--A facility established in a casino hotel pursuant to section 4 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-194).

L.1992,c.19,s.21.

### **5:12-45. "Slot machine"**

45. "Slot machine"--Any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash, or to receive merchandise or any thing of value whatsoever, whether the payoff is made automatically from the machine or in any other manner whatsoever, except that the cash equivalent value of any merchandise or other thing of value shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenues as defined by section 24 of P.L.1977, c.110 (C.5:12-24) or be included in determining the payout percentage of any slot machine. The commission shall promulgate rules defining "cash equivalent value" in order to assure fairness, uniformity and comparability of valuation of slot machine payoffs.

L.1977,c.110,s.45; amended 1985,c.350,s.2; 1987,c.355,s.3; 1995,c.18,s.9.

### **5:12-46. "Statement of compliance"**

"Statement of compliance" --A statement by the commission which may be issued to an applicant indicating satisfactory completion of a particular stage or stages of the license consideration process, and which states that unless there is a change of any material circumstance pertaining to such particular stage or stages of license consideration involved in the statement, such applicant has complied with requirements mandated by this act and by the commission and is therefore approved for license qualification to the stage or stages for which the statement has been issued.

L.1977, c. 110, s. 46, eff. June 2, 1977.

### **5:12-47. "Subsidiary"**

"Subsidiary" --a. Any corporation, any significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company; or

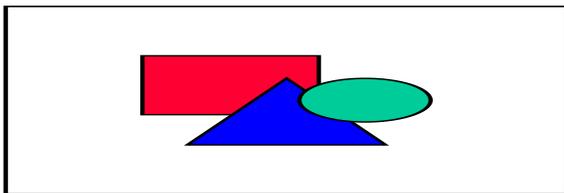
b. A significant interest in any firm, association, partnership, trust or other form of business organization, not a natural person, which is owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company.

L.1977, c. 110, s. 47, eff. June 2, 1977. Amended by L.1979, c. 282, s. 9, eff. Jan. 9, 1980.

### **5:12-47.2. "Transfer"**

"Transfer" --The sale and every other method, direct or indirect, of disposing of or parting with property or with an interest therein, or with the possession thereof, or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, payment, pledge, mortgage, lien, encumbrance, gift, security or otherwise; the retention of a security interest in property delivered to a corporation shall be deemed a transfer suffered by such corporation.

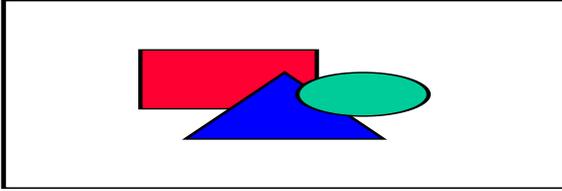
L.1978, c. 7, s. 12, eff. March 17, 1978.



### **5:12-49. Words and terms: tense, number and gender**

49. Words and terms: tense, number and gender.

In constructing the provisions of this act, save when otherwise plainly declared or clearly apparent from the context:



a. Words in the present tense shall include the future tense.

b. Words in the masculine shall include feminine and neuter genders.

c. Words in the singular shall include the plural and the plural shall include the singular.

L.1977,c.110,s.49.

### **5:12-50. Creation of Casino Control Commission; number of members**

50. Creation of Casino Control Commission; number of members. The New Jersey Casino Control Commission, consisting of five members, is hereby created in but not of the Department of the Treasury. The commission shall be principally located in Atlantic City.

L.1977,c.110,s.50; amended 1995,c.18,s.10.

### **5:12-51. Members of the commission; qualifications and eligibility**

a. Each member of the commission shall be a citizen of the United States and a resident of the State of New Jersey.

b. No member of the Legislature, or person holding any elective or appointive office in the federal, State or local government shall be eligible to serve as a member of the commission.

c. No more than three members of the commission may be of the same political affiliation.

L.1977, c. 110, s. 51, eff. June 2, 1977.

### **5:12-52. Appointment and terms of commission members**

a. Initial appointments to the commission made pursuant to this amendatory and supplementary act shall be for terms as follows:

(1) One member for 2 years;

(2) One member for 3 years;

(3) One member for 4 years; and

(4) One member for 5 years.

b. The term of each of the members first appointed pursuant to this amendatory and supplementary act shall be designated by the Governor.

c. After the initial appointments, all members shall be appointed for terms of 5 years; provided, however, that no member shall serve more than two terms of 5 years each.

d. Appointments to the commission and designation of the chairman shall be made by the Governor with the advice and consent of the Senate. Prior to nomination, the Governor shall cause an inquiry to be conducted by the Attorney General into the nominee's background, with particular regard to the nominee's financial stability, integrity, and responsibility and his reputation for good character, honesty, and integrity.

e. Appointments to fill vacancies on the commission shall be for the unexpired term of the member to be replaced.

f. The member designated by the Governor to serve as chairman shall serve in such capacity throughout such member's entire term and until his successor shall have been duly appointed and qualified. No such member, however, shall serve in such capacity for more than 10 years. The chairman shall be the chief executive officer of the commission. All members shall devote full time to their duties of office and shall not pursue or engage in any other business, occupation or other gainful employment.

g. A commissioner may be removed from office for misconduct in office, willful neglect of duty, or other conduct evidencing unfitness for his office, or for incompetence. A proceeding for removal may be instituted by the Attorney General in the Superior Court. Notwithstanding any provision of this or any other act, any commissioner or employee of the commission shall automatically forfeit his office or position upon conviction of any crime. Any commissioner or employee of the commission shall be subject to the duty to appear and testify and to removal from his office, position or employment in accordance with the provisions of P.L.1970, c.72 (C.2A:81-17.2a et seq.).

h. Each member of the commission shall serve for the duration of his term and until his successor shall be duly appointed and qualified, subject to the limitations in subsections c. and f. of this section; provided, however, that in the event that a successor is not duly appointed and qualified within 120 days after the expiration of the member's term, a vacancy shall be deemed to exist.

L.1977, c. 110, s. 52, eff. June 2, 1977. Amended by L.1980, c. 28, s. 1, e ff. May 20, 1980, operative May 14, 1981; L.1980, c.138, s.1, eff. November 12 , 1980.

### **5:12-53. Compensation of members**

53. Compensation of members. Each member of the commission shall receive an annual salary of \$90,000. The chairman shall receive \$5,000.00 per annum in addition to his salary as a member of the commission.

L.1977,c.110,s.53; amended 1980,c.28,ss.2,10(s.10 amended 1980,c.159,s.2; 1981,c.142,s.5); 1984,c.82; 1993,c.292,s.5.

### **5:12-54. Organization and Employees**

Organization and Employees. a. The commission may establish, and from time to time alter, such plan of organization as it may deem expedient, and may incur expenses within the limits of funds available to it.

b. The commission shall elect annually by a majority of the full commission one of its members, other than the chairman, to serve as vice-chairman for the ensuing year. The vice-chairman shall be empowered to carry out all of the responsibilities of the chairman as prescribed in this act during his absence, disqualification, or inability to serve.

c. The commission shall appoint an executive secretary who shall serve at its pleasure and shall be responsible for the conduct of its administrative affairs. No person shall be eligible for such appointment unless he shall have at least 5 years of responsible experience in public or business administration or possesses broad management skills.

d. The commission may employ such other personnel as it deems necessary. All employees of the commission, except for secretarial and clerical personnel, shall be in the unclassified service of the Civil Service. All employees of the commission shall be deemed confidential employees for the purposes of the "New Jersey Employer-Employee Relations Act" (P.L.1941, c. 100; C. 34:13A-1 et seq.), as amended. Notwithstanding the provisions of any other law to the contrary, the commission may employ legal counsel who shall represent the commission in any proceeding to which it is a party, and who shall render legal advice to the commission upon its request. The commission may contract for the services of other professional, technical and operational personnel and consultants as may be necessary to the performance of its responsibilities under this act. Members and employees of the commission shall be enrolled in the Public Employees' Retirement System of New Jersey (P.L.1954, c. 84; C. 43:15A-1 et seq.).

L. 1977, c. 110; amended by L. 1979,c.282,s.10; 1980,c.28,ss.3,10(s.10 amended 1980, c.159,s.2; 1981,c.142,s.5); 1981,c.238,s.1; 1987,c.354,s.1.

### **5:12-55. Division of gaming enforcement**

55. Division of gaming enforcement. There is hereby established in the Department of Law and Public Safety the Division of Gaming Enforcement. The division shall be under the immediate supervision of a director who shall also be sworn as an Assistant Attorney General and who shall administer the work of the division under the direction and supervision of the Attorney General. The director shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve during the term of office of the Governor, except that the first director shall be appointed for a term of 2 years. The director may be removed from office by the Attorney General for cause upon notice and opportunity to be heard.

The director and any employee or agent of the division shall be subject to the duty to appear and testify and to removal from his office, position or employment in accordance with the provisions of P.L.1970, c.72 (C.2A:81-17.2a et seq.). The Attorney General shall be responsible for the exercise of the duties and powers assigned to the division.

The division shall be principally located in Atlantic City.

L.1977,c.110,s.55; amended 1980,c.69,s.1; 1995,c.18,s.11.

### **5:12-56. Organization and employees**

a. The Attorney General shall organize the work of the division in such bureaus and other organizational units as he may determine to be necessary for efficient and effective operation and shall assign to the division such employees of the Department of Law and Public Safety as may be necessary to assist the director in the performance of his duties. Subject to the approval of the Attorney General, the Superintendent of State Police shall assign such supervisory and investigative personnel and other resources to the Division of Gaming Enforcement as may be necessary to fulfill its obligations under this act.

b. All employees of the division, except for secretarial and clerical personnel, shall be in the unclassified service of the Civil Service. All employees of the division shall be deemed confidential employees for the

purposes of the "New Jersey Employer-Employee Relations Act" (P.L.1941, c. 100; C. 34:13A-1 et seq.), as amended.

L.1977, c. 110, s. 56, eff. June 2, 1977.

### **5:12-57. Expenses; limits**

The division may incur expenses within the limits of funds available to it.

L.1977, c. 110, s. 57, eff. June 2, 1977.

### **5:12-58. Restrictions on pre-employment by commissioners, commission employees and division employees and agents**

Restrictions on Pre-Employment by Commissioners, Commission Employees and Division Employees and Agents.

a. Deleted by amendment.

b. No person shall be appointed to or employed by the commission or division if, during the period commencing three years prior to appointment or employment, said person held any direct or indirect interest in, or any employment by, any person which is licensed as a casino licensee pursuant to section 87 of P.L.1977, c.110 (C.5:12-87) or as a casino service industry pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) or has an application for such a license pending before the commission; provided, however, that notwithstanding any other provision of this act to the contrary, any such person may be appointed to or employed by the commission or division if his interest in any such casino licensee or casino service industry which is publicly traded would not, in the opinion of the employing agency, interfere with the objective discharge of such person's employment obligations, but in no instance shall any person be appointed to or employed by the commission or division if his interest in such a casino licensee or casino service industry which is publicly traded constituted a controlling interest in that casino licensee or casino service industry; and provided further, however, that notwithstanding any other provision of this act to the contrary, any such person may be employed by the commission or division in a secretarial or clerical position if, in the opinion of the employing agency, his previous employment by, or interest in, any such casino licensee or casino service industry would not interfere with the objective discharge of such person's employment obligations.

c. Prior to appointment or employment, each member of the commission, each employee of the commission, the director of the Division of Gaming Enforcement and each employee and agent of the division shall swear or affirm that he possesses no interest in any business or organization licensed by or registered with the commission.

d. Each member of the commission and the director of the division shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said member or director and his spouse and shall provide to the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the parents, brothers, sisters, and children of said member or director. Such statement shall be under oath and shall be filed at the time of appointment and annually thereafter.

e. Each employee of the commission, except for secretarial and clerical personnel, and each employee and

agent of the division, except for secretarial and clerical personnel, shall file with the Executive Commission on Ethical Standards a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said employee or agent and his spouse. Such statement shall be under oath and shall be filed at the time of employment and annually thereafter.

L.1977,c.110,s.58; amended 1979,c.282,s.11; 1987,c.354,s.2; 1991,c.182,s.12.

### **5:12-59. Employment restrictions on commissioners, commission employees and division employees**

59. Employment Restrictions on Commissioners, Commission Employees and Division Employees.

a. The "New Jersey Conflicts of Interest Law," P.L.1971, c.182, (C.52:13D-12 et seq.) shall apply to members of the commission and to all employees of the commission and the division, except as herein specifically provided.

b. The commission shall, no later than January 1, 1981, promulgate a Code of Ethics that is modeled upon the Code of Judicial Conduct of the American Bar Association, as amended and adopted by the Supreme Court of New Jersey. This Code of Ethics shall include, but not be limited to, provisions that address the propriety of relationships and dealings between the commission and its staff, and licensees and applicants for licensure under this act.

c. The division shall promulgate a Code of Ethics governing its specific needs.

d. The Codes of Ethics promulgated by the commission and the division shall not be in conflict with the laws of this State, except, however, that said Codes of Ethics may be more restrictive than any law of this State.

e. The Codes of Ethics promulgated by the commission and the division shall be submitted to the Executive Commission on Ethical Standards for approval. The Codes of Ethics shall include, but not be limited to provisions that:

(1) No commission member or employee or division employee or agent shall be permitted to gamble in any establishment licensed by the commission except in the course of his duties.

(2) No commission member or employee or division employee or agent shall solicit or accept employment from any person licensed by or registered with the commission or from any applicant for a period of four years after termination of service with the commission or division, except as otherwise provided in section 60 of this act.

(3) No commission member or employee or any division employee or agent shall act in his official capacity in any matter wherein he or his spouse, child, parent or sibling has a direct or indirect personal financial interest that might reasonably be expected to impair his objectivity or independence of judgment.

(4) No commission employee or any division employee or agent shall act in his official capacity in a matter concerning an applicant for licensure or a licensee who is the employer of a spouse, child, parent or sibling of said commission or division employee or agent when the fact of the employment of such spouse, child, parent or sibling might reasonably be expected to impair the objectivity and independence of judgment of said commission employee or division employee or agent.

(5) No spouse, child, parent or sibling of a commission member shall be employed in any capacity by an applicant for a casino license or a casino licensee nor by any holding, intermediary or subsidiary company thereof.

(6) No commission member shall meet with any person, except for any other member of the commission or employee of the commission, or discuss any issues involving any pending or proposed application or any matter whatsoever which may reasonably be expected to come before the commission, or any member thereof, for determination unless the meeting or discussion takes place on the business premises of the commission, provided, however, that commission members may meet to consider matters requiring the physical inspection of equipment or premises at the location of the equipment or premises. All meetings or discussions subject to this paragraph shall be noted in a log maintained for this purpose and available for inspection pursuant to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.).

f. No commission member or employee or division employee or agent shall have any interest, direct or indirect, in any applicant or in any person licensed by or registered with the commission during his term of office or employment.

g. Each commission member and employee of the commission, including legal counsel, and each employee and agent of the division shall devote his entire time and attention to his duties and shall not pursue any other business or occupation or other gainful employment; provided, however, that secretarial and clerical personnel may engage in such other gainful employment as shall not interfere with their duties to the commission or division, unless otherwise directed; and provided further, however, that other employees of the commission and division and agents of the division may engage in such other gainful employment as shall not interfere or be in conflict with their duties to the commission or division, upon approval by the commission or the director of the division, as the case may be.

h. No member of the commission, employee of the commission, or employee or agent of the division shall:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) Directly or indirectly coerce, attempt to coerce, command or advise any person to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

(3) Take any active part in political campaigns or the management thereof; provided, however, that nothing herein shall prohibit a person from voting as he chooses or from expressing his personal opinions on political subjects and candidates.

i. For the purpose of applying the provisions of the "New Jersey Conflicts of Interest Law," any consultant or other person under contract for services to the commission and the division shall be deemed to be a special State employee, except that the restrictions of section 4 of P.L.1981, c.142 (C.52:13D-17.2) shall not apply to such person. Such person and any corporation, firm or partnership in which he has an interest or by which he is employed shall not represent any person or party other than the commission or the division before the commission.

L.1977,c.110,s.59; amended 1978,c.7,s.13; 1979,c.282,s.12; 1980,c.69,s.2; 1983,c.406; 1987,c.354,s.3; 1989,c.150; 1995,c.18,s.12.

## **5:12-60. Post-employment restrictions**

60. Post-employment restrictions.

a. No member of the commission shall hold any direct or indirect interest in, or be employed by, any applicant or by any person licensed by or registered with the commission for a period of 4 years commencing on the date his membership on the commission terminates.

b. (1) No employee of the commission or employee or agent of the division may acquire any direct or indirect interest in, or accept employment with, any applicant or any person licensed by or registered with

the commission, for a period of two years commencing at the termination of employment with the commission or division, except that a secretarial or clerical employee of the commission or the division may accept such employment at any time after the termination of employment with the commission or division. At the end of two years and for a period of two years thereafter, a former employee or agent who held a policy-making management position at any time during the five years prior to termination of employment may acquire an interest in, or accept employment with, any applicant or person licensed by or registered with the commission upon application to and the approval of the commission upon a finding that the interest to be acquired or the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact.

(2) Notwithstanding the provisions of this subsection, if the employment of a commission employee or a division employee or agent, other than an employee or agent who held a policy-making management position at any time during the five years prior to termination of employment, is terminated as a result of a reduction in the workforce at the commission or division, the employee or agent may, at any time prior to the end of the two-year period, accept employment with any applicant or person licensed by or registered with the commission upon application to and the approval of the commission upon a finding that the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact. The decision of the commission shall be final, and the employee or agent shall not be subject to a determination by the Executive Commission on Ethical Standards under section 4 of P.L.1981, c.142 (C.52:13D-17.2).

c. No commission member or person employed by the commission or division shall represent any person or party other than the State before or against the commission for a period of two years from the termination of his office or employment with the commission or division.

d. No partnership, firm or corporation in which a former commission 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 said 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 subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92).

e. Notwithstanding any post-employment restriction imposed by this section, nothing herein shall prohibit a former commission member or employee or former division employee or agent, at any time after termination of such membership or employment, from acquiring an interest in, or soliciting or obtaining employment with, any person licensed as a casino service industry under subsection c. of section 92 of this act or any applicant for such licensure.

L.1977,c.110,s.60; amended 1979,c.282,s.13; 1995,c.18,s.13.

### **5:12-61. Applicant and licensee liability for violations**

a. No applicant or person or organization licensed by or registered with the commission shall employ or offer to employ, or provide, transfer or sell, or offer to provide, transfer or sell any interest, direct or indirect, in any person licensed by or registered with the commission to any person restricted from such transactions by the provisions of sections 58, 59, and 60 of this act.

b. The commission shall impose such sanctions upon an applicant or a licensed or registered person for violations of this section as authorized by Article 9 of this act.

L.1977, c. 110, s. 61, eff. June 2, 1977.

## **5:12-62. Enforcement**

a. The Executive Commission on Ethical Standards, established pursuant to the "New Jersey Conflicts of Interest Law" (P.L.1971, c. 182; C. 52:13D-12 et seq.) shall enforce the provisions of sections 58, 59, and 60 of this act.

b. Penalties for violation of sections 58, 59, and 60 shall be those set forth in P.L.1971, c. 182 (C. 52:13D-12 et seq.).

L.1977, c. 110, s. 62, eff. June 2, 1977.

## **5:12-63. Duties of the commission**

63. Duties of the Commission. The Casino Control Commission shall have general responsibility for the implementation of this act, as hereinafter provided, including, without limitation, the responsibility:

a. To hear and decide promptly and in reasonable order all license, registration, certificate, and permit applications and causes affecting the granting, suspension, revocation, or renewal thereof;

b. To conduct all hearings pertaining to civil violations of this act or regulations promulgated hereunder;

c. To promulgate such regulations as in its judgment may be necessary to fulfill the policies of this act;

d. To collect all license and registration fees and taxes imposed by this act and the regulations issued pursuant hereto;

e. To levy and collect penalties for the violation of provisions of this act and the regulations promulgated hereunder;

f. To be present through its inspectors and agents at all times during the operation of any casino or simulcasting facility for the purpose of certifying the revenue thereof, receiving complaints from the public relating to the conduct of gaming and simulcast wagering operations, examining records of revenues and procedures, and conducting periodic reviews of operations and facilities for the purpose of evaluating current or suggested provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder;

g. To refer to the division for investigation and prosecution any evidence of a violation of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder;

h. To review and rule upon any complaint by a casino licensee regarding any investigative procedures of the division which are unnecessarily disruptive of casino or simulcasting facility operations. The need to inspect and investigate shall be presumed at all times. The disruption of a licensee's operations shall be proved by clear and convincing evidence, which evidence shall establish that: (1) the procedures had no reasonable law enforcement purpose, and (2) the procedures were so disruptive as to inhibit unreasonably casino or simulcasting facility operations; and

i. To ensure that there is no duplication of duties and responsibilities between it and the division.

L.1977,c.110,s.63; amended 1981,c.503,s.4; 1985,c.539,s.3; 1987,c.137,s.2; 1991,c.182,s.13; 1993,c.292,s.6; 1995,c.18,s.14.

### **5:12-64. Commission Powers -- Denials and Sanctions**

Commission Powers--Denials and Sanctions. The commission shall assure, to the extent required by this act, that licenses, approvals, certificates, or permits shall not be issued to nor held by, nor shall there be any material involvement, directly or indirectly, with the licensed casino operation or the ownership thereof by, unqualified or disqualified persons or persons whose operations are conducted in a manner not conforming with the provisions of this act. For the purposes of this section, "unqualified person" shall mean any person who is found by the commission to be unqualified pursuant to criteria set forth in section 84 or 89, and "disqualified person" shall mean any person found by the commission to be disqualified pursuant to the criteria set forth in section 86. In enforcing the provisions of this act, the commission shall have the power and authority to deny any application; limit or restrict any license, registration, certificate, permit or approval; suspend or revoke any license, registration, certificate, permit or approval; and, impose a penalty on any person licensed, registered, or previously approved for any cause deemed reasonable by the commission pursuant to rules and regulations promulgated thereby, except that no such denial, limitation, suspension or revocation shall be issued solely by reason of the fact that an applicant, registrant, or licensee holds an interest in or is associated with any licensed casino enterprise in any other jurisdiction.

L. 1977, c. 110; amended 1981, c.503, s.5; 1987,c.354,s.4.

### **5:12-65. Subpenas; Oaths**

Subpenas; Oaths. The commission shall have the power and authority to issue subpenas and to compel the attendance of witnesses at any place within this State, to administer oaths and to require testimony under oath before the commission or division in the course of any investigation or hearing conducted under this act. The commission may serve or cause to be served its process or notices in a manner provided for the service of process and notice in civil actions in accordance with the rules of court. The commission and the division shall have the authority to propound written interrogatories and the commission may appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpenas, propound written interrogatories, and require testimony under oath.

L. 1977, c. 110; amended 1987,c.354,s.5.

### **5:12-66. Investigative hearings**

66. Investigative hearings. The commission shall have the authority to conduct investigative hearings concerning the conduct of gaming and gaming operations as well as the enforcement of the provisions of P.L.1977, c.110 (C.5:12-1 et seq.), as amended and supplemented.

L.1977,c.110,s.66; amended 1995,c.18,s.15.

### **5:12-67. Testimonial immunity**

The commission may order any person to answer a question or questions or produce evidence of any kind and confer immunity as provided in this section. If, in the course of any investigation or hearing conducted under this act, a person refuses to answer a question or produce evidence on the ground that he will be exposed to criminal prosecution thereby, then in addition to any other remedies or sanctions provided for by this act, the commission may, by resolution of four of its members and after the written approval of the Attorney General, issue an order to answer or to produce evidence with immunity.

If, upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him, or evidence derived therefrom, used to expose him to criminal prosecution, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or for contempt for failing to give an answer or produce evidence in accordance with the order of the commission; provided, however, that no period of incarceration for contempt shall exceed 18 months in duration pursuant to this section. Any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury; upon any investigation, proceeding or trial against him for such contempt; or in any manner consonant with State and constitutional provisions.

L.1977, c. 110, s. 67, eff. June 2, 1977.

### **5:12-68. Collection of fees, penalties or tax**

Collection of Fees, Penalties or Tax. At any time within five years after any amount of fees, interest, penalties or tax required to be collected pursuant to the provisions of this act shall become due and payable, the commission may bring a civil action in the courts of this State or any other state or of the United States, in the name of the State of New Jersey, 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 State, 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 State, the records of the commission 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 P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder, including any compensation authorized pursuant to section 33 of P.L.1978, c.7 (C.5:12-130.3), and each regulatory obligation imposed as a condition upon the issuance or renewal of a casino 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 State 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 R.S.54:5-9, such a lien shall be a first lien paramount to all prior or subsequent liens, claims, or encumbrances on that property.

L.1977,c.110,s.68; amended 1987,c.354,s.6; 1991,c.182,s.14.

### **5:12-69. Regulations**

69. Regulations.

a. The commission shall be authorized to adopt, amend, or repeal such regulations, consistent with the policy and objectives of this act, as amended, as it may deem necessary to protect the public interest in carrying out the provisions of this act.

b. Such regulations shall be adopted, amended, and repealed in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. Any interested person may, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), file a petition with the commission requesting the adoption, amendment or repeal of a regulation.

d. The commission may, in emergency circumstances, summarily adopt, amend or repeal any regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. Notwithstanding any other provision of this act or the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commission may, after notice provided in accordance with this subsection, authorize the temporary adoption, amendment or repeal of any rule concerning the conduct of gaming or simulcast wagering, or the use or design of gaming or simulcast wagering equipment, or the internal procedures and administrative and accounting controls required by section 99 of P.L.1977, c.110 (C.5:12-99) for a period not to exceed 270 days for the purpose of determining whether such rules should be adopted on a permanent basis in accordance with the requirements of this section. Any temporary rulemaking authorized by this subsection shall be subject to such terms and conditions as the commission may deem appropriate. Notice of any temporary rulemaking action taken by the commission pursuant to this subsection shall be published in the New Jersey Register, and provided to the newspapers designated by the commission pursuant to subsection d. of section 3 of P.L.1975, c.231 (C.10:4-8), at least seven days prior to the implementation of the temporary rules. Nothing herein shall be deemed to require the publication of the text of any temporary rule adopted by the commission or notice of any modification of any temporary rulemaking initiated in accordance with this subsection. The text of any temporary rule adopted by the commission shall be posted in each casino or simulcasting facility participating in the temporary rulemaking and shall be available upon request from the commission.

L.1977,c.110,s.69; amended 1987,c.354,s.7; 1987,c.410,s.4; 1991,c.182,s.15; 1992,c.19,s.28; 1993,c.292,s.7; 1995,c.18,s.16.

## **5:12-70. Required regulations**

70. Required Regulations. The commission shall, without limitation on the powers conferred in the preceding section, include within its regulations the following specific provisions in accordance with the provisions of this act:

a. Prescribing the methods and forms of application which any applicant shall follow and complete prior to consideration of his application by the commission;

b. Prescribing the methods, procedures and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs;

c. Prescribing procedures for the fingerprinting of an applicant, employee of a licensee, or registrant, or other methods of identification which may be necessary in the judgment of the commission to accomplish effective enforcement of restrictions on access to the casino floor, the simulcasting facility, and other restricted areas of the casino hotel complex;

d. Prescribing the manner and procedure of all hearings conducted by the commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof;

e. Prescribing the manner and method of collection of payments of taxes, fees, and penalties;

f. Defining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices;

g. Regulating the practice and procedures for negotiable transactions involving patrons, including limitations on the circumstances and amounts of such transactions, and the establishment of forms and procedures for negotiable instrument transactions, redemptions, and consolidations;

h. Prescribing grounds and procedures for the revocation or suspension of operating certificates and

licenses;

i. Governing the manufacture, distribution, sale, and servicing of gaming devices and equipment;

j. Prescribing for gaming operations the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility, and minimum security standards, including security personnel structure, alarm and other electrical or visual security measures;

k. Prescribing the qualifications of, and the conditions pursuant to which, engineers, accountants, and others shall be permitted to practice before the commission or to submit materials on behalf of any applicant or licensee; provided, however, that no member of the Legislature, nor any firm with which said member is associated, shall be permitted to appear or practice or act in any capacity whatsoever before the commission or division regarding any matter whatsoever, nor shall any member of the family of the Governor or of a member of the Legislature be permitted to so practice or appear in any capacity whatsoever before the commission or division regarding any matter whatsoever;

l. Prescribing minimum procedures for the exercise of effective control over the internal fiscal affairs of a licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts, and reports of transactions, operations and events, including reports to the commission;

m. Providing for a minimum uniform standard of accountancy methods, procedures and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures, including those controls listed in section 99a. hereof, as may be necessary to assure consistency, comparability, and effective disclosure of all financial information, including calculations of percentages of profit by games, tables, gaming devices and slot machines;

n. Requiring quarterly financial reports and the form thereof, and an annual audit prepared by a certified public accountant licensed to do business in this State, attesting to the financial condition of a licensee and disclosing whether the accounts, records and control procedures examined are maintained by the licensee as required by this act and the regulations promulgated hereunder;

o. Governing the gaming-related advertising of casino licensees, their employees and agents, with the view toward assuring that such advertisements are in no way deceptive; provided, however, that such regulations: (1) shall not prohibit the advertisement of casino location, hours of operation, or types of games and other amenities offered; (2) shall prohibit the advertisement of information about odds, the number of games, and the size of the casino or simulcasting facility; and (3) shall require the words "Bet with your head, not over it," or some comparable language approved by the commission, to appear on all billboards, signs, and other on-site advertising of a casino operation and shall require the words "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER," or some comparable language approved by the commission, which language shall include the words "gambling problem" and "call 1-800 GAMBLER," to appear legibly on all print, billboard, and sign advertising of a casino operation; and

p. (Deleted by amendment, P.L.1991, c.182).

q. Concerning the distribution and consumption of alcoholic beverages on the premises of the licensee, which regulations shall be insofar as possible consistent with Title 33 of the Revised Statutes, and shall deviate only insofar as necessary because of the unique character of the hotel casino premises and operations;

r. (Deleted by amendment, P.L.1991, c.182).

L.1977,c.110,s.70; amended 1979,c.282,s.14; 1982,c.148,s.1; 1991,c.182,s.16; 1992,c.9,s.5; 1993,c.292,s.8; 1995,c.18,s.17.

### **5:12-71. Regulation requiring exclusion of certain persons**

71. Regulation Requiring Exclusion of Certain Persons. a. The commission shall, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any licensed casino establishment. Such provisions shall define the standards for exclusion, and shall include standards relating to persons:

- (1) Who are career or professional offenders as defined by regulations of the commission;
- (2) Who have been convicted of a criminal offense under the laws of any state or of the United States, which is punishable by more than six months in prison, or any crime or offense involving moral turpitude; or
- (3) Whose presence in a licensed casino hotel would, in the opinion of the commission, be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both.

The commission shall promulgate definitions establishing those categories of persons who shall be excluded pursuant to this section, including cheats and persons whose privileges for licensure or registration have been revoked.

b. Race, color, creed, national origin or ancestry, or sex shall not be a reason for placing the name of any person upon such list.

c. The commission may impose sanctions upon a licensed casino or individual licensee or registrant in accordance with the provisions of this act if such casino or individual licensee or registrant knowingly fails to exclude or eject from the premises of any licensed casino any person placed by the commission on the list of persons to be excluded or ejected.

d. Any list compiled by the commission of persons to be excluded or ejected shall not be deemed an all-inclusive list, and licensed casino establishments shall have a duty to keep from their premises persons known to them to be within the classifications declared in paragraphs (1) and (2) of subsection a. of this section and the regulations promulgated thereunder, or known to them to be persons whose presence in a licensed casino hotel would be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both, as defined in standards established by the commission.

e. Whenever the division petitions the commission to place the name of any person on a list pursuant to this section, the commission shall serve notice of such fact to such person by personal service, by certified mail at the last known address of such person, or by publication daily for one week in a newspaper of general circulation in Atlantic City.

f. Within 30 days after service of the petition in accordance with subsection e. of this section, the person named for exclusion or ejection may demand a hearing before the commission, at which hearing the division shall have the affirmative obligation to demonstrate by a preponderance of the evidence that the person named for exclusion or ejection satisfies the criteria for exclusion established by this section and the commission's regulations. Failure to demand such a hearing within 30 days after service shall be deemed an admission of all matters and facts alleged in the division's petition and shall preclude a person from having an administrative hearing, but shall in no way affect his or her right to judicial review as provided herein.

g. The division may file an application with the commission requesting preliminary placement on the list of a person named in a petition for exclusion or ejection pending completion of a hearing on the petition. The

hearing on the application for preliminary placement shall be a limited proceeding at which the division shall have the affirmative obligation to demonstrate that there is a reasonable possibility that the person satisfies the criteria for exclusion established by this section and the commission's regulations. If a person has been placed on the list as a result of an application for preliminary placement, unless otherwise agreed by the commission and the named person, a hearing on the petition for exclusion or ejection shall be initiated within 30 days after the receipt of a demand for such hearing or the date of preliminary placement on the list, whichever is later.

h. If, upon completion of the hearing on the petition for exclusion or ejection, the commission determines that the person named therein does not satisfy the criteria for exclusion established by this section and the commission's regulations, the commission shall issue an order denying the petition. If the person named in the petition for exclusion or ejection had been placed on the list as a result of an application for preliminary placement, the commission shall notify all casino licensees of his or her removal from the list.

i. If, upon completion of a hearing on the petition for exclusion or ejection, the commission determines that placement of the name of the person on the exclusion list is appropriate, the commission shall make and enter an order to that effect, which order shall be served on all casino licensees. Such order shall be subject to review by the Superior Court in accordance with the rules of court.

L.1977,c.110,s.71; amended 1979,c.282,s.15; 1981,c.503,s.6; 1991,c.182,s.17; 1993,c.292,s.9.

### **5:12-71.1. Exclusion, ejection of certain persons**

40. A casino licensee may exclude or eject from its casino hotel any person who is known to it to have been convicted of a crime, disorderly persons offense, or petty disorderly persons offense committed in or on the premises of any casino hotel. Nothing in this section or in any other law of this State shall limit the right of a casino licensee to exercise its common law right to exclude or eject permanently from its casino hotel any person who disrupts the operations of its premises, threatens the security of its premises or its occupants, or is disorderly or intoxicated.

L.1993,c.292,s.40; amended 1995,c.18,s.18.

### **5:12-72. Commission reports and recommendations**

72. Commission reports and recommendations. The commission shall carry on a continuous study of the operation and administration of casino control laws which may be in effect in other jurisdictions, literature on this subject which may from time to time become available, federal laws which may affect the operation of casino gaming in this State, and the reaction of New Jersey citizens to existing and potential features of casino gaming under this act. It shall be responsible for ascertaining any defects in this act or in the rules and regulations issued thereunder, formulating recommendations for changes in this act to prevent abuses thereof, guarding against the use of this act as a cloak for the carrying on of illegal gambling or other criminal activities, and insuring that this act and the rules and regulations shall be in such form and be so administered as to serve the true purposes of this act. The commission shall make to the Governor and the Legislature an annual report of all revenues, expenses and disbursements, and shall include therein such recommendations for changes in this act as the commission deems necessary or desirable. The commission shall also report recommendations that promote more efficient operations of the commission. The commission shall report immediately to the Governor and the Legislature any matters which in its judgment require immediate changes in the laws of this State in order to prevent abuses and evasions of this act or of rules and regulations promulgated hereunder, or to rectify undesirable conditions in connection with the operation and regulation of casino gaming.

L.1977,c.110,s.72; amended 1995,c.18,s.19.

### **5:12-73. Meetings and quorum**

Meetings and Quorum. a. Meetings of the commission will be held at the discretion of the chairman at such times and places as he may deem necessary and convenient, or at the call of three members of the commission.

b. The commission shall in all respects comply with the provisions of the "Open Public Meetings Act" (P.L. 1975, c. 231; C. 10:4-6 et seq.).

c. Any other law, rule or regulation to the contrary notwithstanding, the commission shall take all necessary steps to ensure that all interested persons are given adequate notice of commission meetings, and the agenda of such meetings, through the utilization of all media engaged in the dissemination of information.

d. A majority of the full commission shall determine any action of the commission, except that no casino license or interim casino authorization may be issued without the approval of four members. In the event that a vacancy has existed in the commission for more than 60 days, a majority of the full commission may act with respect to any matter, including the issuance of a casino license or interim casino authorization.

L. 1977, c.110; amended 1980, c.28,ss.4,10(s.10 amended 1980, c.159,s.2; 1981, c.142, s.5); 1987,c.409,s.2.

### **5:12-74. Minutes and records**

74. Minutes and Records. a. The commission shall cause to be made and kept a record of all proceedings held at public meetings of the commission. A verbatim transcript of those proceedings shall be prepared by the commission upon the request of any commissioner or upon the request of any other person and the payment by that person of the costs of preparation. A copy of a transcript shall be made available to any person upon request and payment of the costs of preparing the copy.

A true copy of the minutes of every meeting of the commission and of any regulations finally adopted by the commission shall be forthwith delivered, by and under the certification of the executive secretary, to the Governor, the Secretary of the Senate, and the Clerk of the General Assembly.

b. The commission shall keep and maintain a list of all applicants for licenses and registrations under this act together with a record of all actions taken with respect to such applicants, which file and record shall be open to public inspection; provided, however, that the foregoing information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after five years from the date of such action.

c. The commission shall maintain such other files and records as may be deemed desirable.

d. Except as provided in subsection h. of this section, all information and data required by the commission to be furnished hereunder, or which may otherwise be obtained, relative to the internal controls specified in section 99a. of this act or to the earnings or revenue of any applicant, registrant, or licensee shall be considered to be confidential and shall not be revealed in whole or in part except in the course of the necessary administration of this act, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

e. All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the commission from any source shall be considered confidential and shall be withheld in whole or in part, except that any information shall be released upon the lawful order of a court of

competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

f. Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsection d. or e. of this section, shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules and regulations adopted by the commission.

g. Files, records, reports and other information in the possession of the New Jersey Division of Taxation pertaining to licensees shall be made available to the commission and the division as may be necessary to the effective administration of this act.

h. The following information to be reported periodically to the commission by a casino licensee shall not be considered confidential and shall be made available for public inspection:

(1) A licensee's gross revenue from all authorized games as herein defined, and its gross revenue from simulcast wagering;

(2) (a) The dollar amount of patron checks initially accepted by a licensee, (b) the dollar amount of patron checks deposited to the licensee's bank account, (c) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as "uncollected," and (d) the dollar amount ultimately uncollected after all reasonable efforts;

(3) The amount of gross revenue tax or investment alternative tax actually paid and the amount of investment, if any, required and allowed, pursuant to section 144 of P.L.1977, c.110 (C.5:12-144) and section 3 of P.L.1984, c.218 (C.5:12-144.1);

(4) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements, which were the subject of an investment required and allowed pursuant to section 144 of P.L.1977, c.110 (C.5:12-144) and section 3 of P.L.1984, c.218 (C.5:12-144.1);

(5) The amount, if any, of tax in lieu of full local real property tax paid pursuant to section 146, and the amount of profits, if any, recaptured pursuant to section 147;

(6) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments by which a licensee has recaptured profits pursuant to section 147; and

(7) All quarterly and annual financial statements presenting historical data which are submitted to the commission, including all annual financial statements which have been audited by an independent certified public accountant licensed to practice in the State of New Jersey.

Nothing in this subsection shall be construed to limit access by the public to those forms and documents required to be filed pursuant to Article 11 of this act.

L.1977,c.110,s.74; amended 1981,c.503,s.7; 1984,c.218,s.1; 1987,c.354,s.8; 1987,c.410,s.5; 1991,c.182,s.18; 1993,c.292,s.10.

### **5:12-75. Powers not enumerated**

The commission may exercise any proper power or authority necessary to perform the duties assigned to it by law, and no specific enumeration of powers in this act shall be read to limit the authority of the commission to administer this act.

L.1977, c. 110, s. 75, eff. June 2, 1977.

## **5:12-76. General duties and powers**

### 76. General Duties and Powers.

#### a. The Division of Gaming Enforcement shall:

(1) promptly and in reasonable order investigate all applications, enforce the provisions of this act and any regulations promulgated hereunder, and prosecute before the commission all proceedings for violations of this act or any regulations promulgated hereunder;

(2) provide the commission with all information necessary for all action under Article 6 of this act and for all proceedings involving enforcement of the provisions of this act or any regulations promulgated hereunder; and

(3) ensure that there is no duplication of duties and responsibilities between it and the commission.

#### b. The division shall:

(1) Investigate the qualifications of each applicant before any license, certificate, or permit is issued pursuant to the provisions of this act;

(2) Investigate the circumstances surrounding any act or transaction for which commission approval is required;

(3) Investigate violations of this act and regulations promulgated hereunder;

(4) Initiate, prosecute and defend such proceedings before the commission, or appeals therefrom, as the division may deem appropriate;

(5) Provide assistance upon request by the commission in the consideration and promulgation of rules and regulations;

(6) Conduct continuing reviews of casino operations through on-site observation and other reasonable means to assure compliance with this act and regulations promulgated hereunder, subject to subsection h. of section 63 of this act;

(7) Receive and take appropriate action on any referral from the commission relating to any evidence of a violation of P.L.1977, c.110 (C.5:12-1 et seq.) or the regulations promulgated thereunder;

(8) Exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation for use in considering applicants for any license or registration issued pursuant to the provisions of P.L.1977, c.110 (C.5:12-1 et seq.);

(9) 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;

(10) 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 act; and

(11) Report to the Attorney General recommendations that promote more efficient operations of the division.

L.1977,c.110,s.76; amended 1979,c.282,s.16; 1991,c.182,s.19; 1993,c.292,s.11; 1995,c.18,s.20.

### **5:12-77. Law enforcement powers, responsibilities**

77. The division is a law enforcement agency, and its employees and agents shall have such law enforcement powers as may be delegated to them by the Attorney General to effectuate the purposes of P.L.1977, c.110 (C.5:12-1 et seq.).

The division shall prosecute all criminal violations of this act except those it may refer to the Division of Criminal Justice. To effectuate this power, the division shall have access to the State Grand Jury.

L.1977,c.110,s.77; amended 1993,c.292,s.39.

### **5:12-78. Cooperation by licensees, registrants or applicants**

Each licensee or registrant, or applicant for a license or registration under this act shall cooperate with the division in the performance of its duties.

L.1977, c. 110, s. 78, eff. June 2, 1977.

### **5:12-79. Inspection, seizure and warrants**

79. a. The division and its employees and agents, upon approval of the director, shall have the authority, without notice and without warrant:

(1) To inspect and examine all premises wherein casino gaming or casino simulcasting, as defined in section 2 of the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-192), is conducted; or gaming devices or equipment are manufactured, sold, distributed, or serviced; or wherein any records of such activities are prepared or maintained;

(2) To inspect all equipment and supplies in, about, upon or around such premises;

(3) To seize summarily and remove from such premises and impound any such equipment or supplies for the purposes of examination and inspection;

(4) To inspect, examine and audit all books, records, and documents pertaining to a casino licensee's operation;

(5) To seize, impound or assume physical control of any book, record, ledger, game, device, cash box and its contents, counting room or its equipment, or casino operations; and

(6) To inspect the person, and personal effects present in a casino facility licensed under this act, of any holder of a license or registration issued pursuant to this act while that person is present in a licensed casino facility.

b. The provisions of subsection a. of this section shall in no way be deemed to limit warrantless inspections except in accordance with constitutional requirements.

c. To effectuate further the purposes of this act, the division and its employees and agents may obtain administrative warrants for the inspection and seizure of any property possessed, controlled, bailed or otherwise held by any applicant, licensee, registrant, intermediary company, or holding company.

d. Issuance and execution of warrants for administrative inspection shall be in accordance with the following:

(1) Any judge of a court having jurisdiction in the municipality where the inspection or seizure is to be conducted may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this act or regulations thereunder and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of the act or regulations sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of a person duly designated and having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected; the purpose of such inspection; and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours of the licensee. It shall designate the judge to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

e. The division is authorized to make administrative inspections to check for compliance by any applicant, licensee, registrant, intermediary company or holding company with the provisions of this act or regulations promulgated thereunder, and to investigate any violations thereof.

f. This section shall not be construed to prevent entries and administrative inspections, including seizures of property, without a warrant:

(1) With the consent of the owner, operator or agent in charge of the controlled premises;

(2) In situations presenting imminent danger to health or safety;

(3) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impractical to obtain a warrant or in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

(4) In accordance with the provisions of this act; or

(5) In all other situations where a warrant is not constitutionally required.

L.1977,c.110,s.79; amended 1981,c.503,s.8; 1992,c.19,s.29.

### **5:12-80. General provisions**

80. General Provisions. a. It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence his individual qualifications, and for a casino license the qualifications of each person who is required to be qualified under this act as well as the qualifications of the facility in which the casino is to be located.

b. Any applicant, licensee, registrant, or any other person who must be qualified pursuant to this act shall provide all information required by this act and satisfy all requests for information pertaining to qualification and in the form specified by the commission. All applicants, registrants, and licensees shall waive liability as to the State of New Jersey, and its instrumentalities and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings.

c. All applicants, licensees, registrants, intermediary companies, and holding companies shall consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this act and regulations promulgated hereunder.

d. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this act shall have the continuing duty to provide any assistance or information required by the commission or division, and to cooperate in any inquiry or investigation conducted by the division and any inquiry, investigation, or hearing conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this act refuses to comply, the application, license, registration or qualification of such person may be denied or revoked by the commission.

e. No applicant or licensee shall give or provide, offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming or simulcast wagering activities, except as authorized by this act, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in gaming or simulcast wagering operations.

f. Each applicant or person who must be qualified under this act shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures established by the commission.

g. All licensees, all registrants, all persons required to be qualified under this act, and all persons employed by a casino service industry licensed pursuant to this act, shall have a duty to inform the commission or

division of any action which they believe would constitute a violation of this act. No person who so informs the commission or the division shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.

h. (Deleted by amendment, P.L.1995, c.18.)

L.1977,c.110,s.80; amended 1979,c.282,s.17; 1981,c.503,s.9; 1991,c.182,s.20; 1993,c.292,s.12; 1995,c.18,s.21.

## **5:12-81. Statement of compliance**

81. Statement of compliance.

a. (1) The commission may, in its discretion, issue a statement of compliance to an applicant for any license or for qualification status under this act at any time the commission is satisfied that the applicant has established by clear and convincing evidence that one or more particular eligibility criteria have been satisfied by an applicant. A request for the issuance of a statement of compliance pursuant to this paragraph shall be initiated by the applicant filing a petition with the commission. Before the commission refers any such petition to the division for investigation, the commission may require the applicant to establish to the satisfaction of the commission that the applicant actually intends, if found qualified, to engage in the business or activity that would require the issuance of the license or the determination of qualification status.

(2) Any person who must be qualified pursuant to the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) in order to hold the securities of a casino licensee or any holding or intermediary company of a casino licensee may, prior to the acquisition of any such securities, request the issuance of a statement of compliance by the commission that the person is qualified to hold such securities. Any request for the issuance of a statement of compliance pursuant to this paragraph shall be initiated by the person filing a petition with the commission in which the person shall be required to establish that there is a reasonable likelihood that, if qualified, the person will obtain and hold the securities of a casino licensee or any holding or intermediary company thereof to such extent as to require the qualification of the person. If the commission finds that this reasonable likelihood exists, and if the commission is satisfied, after an investigation by the division, that the qualifications of the person have been established by clear and convincing evidence, the commission may, in its discretion, issue a statement of compliance that the person is qualified to hold such securities. Any person who requests a statement of compliance pursuant to this paragraph shall be subject to the provisions of section 80 of P.L.1977, c.110 (C.5:12-80) and shall pay for the costs of all investigations and proceedings in relation to the request unless the person provides to the commission an agreement with one or more casino licensees which states that the licensee or licensees will pay those costs.

b. Any statement of compliance issued under P.L.1977, c.110 (C.5:12-1 et seq.) shall specify:

(1) the particular eligibility criterion satisfied by the applicant or person;

(2) the date as of which such satisfaction was determined by the commission;

(3) the continuing obligation of the applicant or person to file any information required by the commission or division as part of any application for a license or qualification status, including information related to the eligibility criterion for which the statement of compliance was issued; and

(4) the obligation of the applicant or person to reestablish its satisfaction of the eligibility criterion should there be a change in any material fact or circumstance that is relevant to the eligibility criterion for which the statement of compliance was issued.

c. A statement of compliance certifying satisfaction of all of the requirements of subsection e. of section 84 of this act with respect to a specific casino hotel proposal submitted by an eligible applicant may be accompanied by a written commitment from the commission that a casino license shall be reserved for a period not to exceed 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish and shall be issued to such eligible applicant with respect to such proposal provided that such applicant (1) complies in all respects with the provisions of this act, (2) qualifies for a casino license within a period not to exceed 30 months of the date of such commitment or within such additional time period as the commission may, upon a showing of good cause therefor, establish, and (3) complies with such other conditions as the commission shall impose. The commission may revoke such reservation at any time it finds that the applicant is disqualified from receiving or holding a casino license or has failed to comply with any conditions imposed by the commission. Such reservation shall be automatically revoked if the applicant does not qualify for a casino license within the period of such commitment. No license other than a casino license shall be reserved by the commission.

d. Any statement of compliance issued pursuant to this section shall be withdrawn by the commission if:

- (1) the applicant or person otherwise fails to satisfy the standards for licensure or qualification;
- (2) the applicant or person fails to comply with any condition imposed by the commission; or
- (3) the commission finds cause to revoke the statement of compliance for any other reason.

L.1977,c.110,s.81; amended 1978,c.7,s.14; 1991,c.182,s.21; 1995,c.18,s.22.

### **5:12-82.Casino license -- applicant eligibility**

82. a. No casino shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with law.

b. Only the following persons shall be eligible to hold a casino license; and, unless otherwise determined by the commission with the concurrence of the Attorney General which may not be unreasonably withheld in accordance with subsection c. of this section, each of the following persons shall be required to hold a casino license prior to the operation of a casino in the casino hotel with respect to which the casino license has been applied for:

- (1) Any person who either owns an approved casino hotel or owns or has a contract to purchase or construct a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;
- (2) Any person who, whether as lessor or lessee, either leases an approved casino hotel or leases or has an agreement to lease a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;
- (3) Any person who has a written agreement with a casino licensee or with an eligible applicant for a casino license for the complete management of a casino and, if applicable, any authorized games in a casino

simulcasting facility; and

(4) Any other person who has control over either an approved casino hotel or the land thereunder or the operation of a casino.

c. Prior to the operation of a casino and, if applicable, a casino simulcasting facility, every agreement to lease an approved casino hotel or the land thereunder and every agreement for the management of the casino and, if applicable, any authorized games in a casino simulcasting facility, shall be in writing and filed with the commission. No such agreement shall be effective unless expressly approved by the commission. The commission may require that any such agreement include within its terms any provision reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

(1) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any person who does not have the ability to exercise any significant control over either the approved casino hotel or the operation of the casino contained therein shall not be eligible to hold or required to hold a casino license;

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved casino hotel or the land thereunder who does not own or lease the entire approved casino hotel shall not be eligible to hold or required to hold a casino license;

(3) The commission shall require that any person or persons eligible to apply for a casino license organize itself or themselves into such form or forms of business association as the commission shall deem necessary or desirable in the circumstances to carry out the policies of this act;

(4) The commission may issue separate casino licenses to any persons eligible to apply therefor;

(5) As to agreements to lease an approved casino hotel or the land thereunder, unless it expressly and by formal vote for good cause determines otherwise, the commission shall require that each party thereto hold either a casino license or casino service industry license and that such an agreement be for a durational term exceeding 30 years, concern 100% of the entire approved casino hotel or of the land upon which same is located, and include within its terms a buy-out provision conferring upon the casino licensee-lessee who controls the operation of the approved casino hotel the absolute right to purchase for an expressly set forth fixed sum the entire interest of the lessor or any person associated with the lessor in the approved casino hotel or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved casino hotel or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino unless the party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease agreement holds either a casino license or casino service industry license and unless the agreement is for a durational term exceeding 30 years, concerns a significant portion of the entire approved casino hotel or of the land upon which same is located, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino gaming operations own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of all casino space in the casino hotel and, if applicable, all authorized games in a casino simulcasting facility, provide for the sole and unrestricted power to direct the casino gaming operations of the casino hotel which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino gaming operations;

(8) The commission may permit an agreement for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility to provide for the payment to the managing party of an interest, percentage or share of money gambled at all authorized games or derived from casino gaming activity or of revenues or profits of casino gaming operations;

(9) The commission may permit an agreement between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) for the conduct of casino simulcasting in a simulcasting facility to provide for the payment to the casino service industry of an interest, percentage or share of the money derived from the casino licensee's share of proceeds from simulcast wagering activity; and

(10) As to agreements to lease an approved casino hotel or the land thereunder, agreements to jointly own an approved casino hotel or the land thereunder and agreements for the management of casino gaming operations or for the conduct of casino simulcasting in a simulcasting facility, the commission shall require that each party thereto, except for a banking or other chartered or licensed lending institution or any subsidiary thereof, or any chartered or licensed life insurance company or property and casualty insurance company, or the State of New Jersey or any political subdivision thereof or any agency or instrumentality of the State or any political subdivision thereof, shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission or violation and notwithstanding any provision in such agreement to the contrary.

d. No corporation shall be eligible to apply for a casino license unless:

(1) The corporation shall be incorporated in the State of New Jersey, although such corporation may be a wholly or partially owned subsidiary of a corporation which is organized pursuant to the laws of another state of the United States or of a foreign country;

(2) The corporation shall maintain an office of the corporation in the casino hotel licensed or to be licensed;

(3) The corporation shall comply with all the requirements of the laws of the State of New Jersey pertaining to corporations;

(4) The corporation shall maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the commission or the division and authorized agents of the commission and the division at all reasonable times without notice;

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey, except that a casino licensee may establish deposit-only accounts in any jurisdiction in order to obtain payment of any check described in section 101 of P.L.1977, c.110 (C.5:12-101);

(6) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by this act;

(7) The corporation, if it is not a publicly traded corporation, shall file with the commission such adopted corporate charter provisions as may be necessary to establish the right of prior approval by the commission with regard to transfers of securities, shares, and other interests in the applicant corporation; and, if it is a publicly traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the commission pursuant to the provisions of this act, such holder shall dispose of his interest in the corporation; provided, however, that, notwithstanding the provisions of N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

(8) The corporation, if it is not a publicly traded corporation, shall establish to the satisfaction of the commission that appropriate charter provisions create the absolute right of such non-publicly traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a

transfer in accordance with the provisions of this act;

(9) Any publicly traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (7) for a publicly traded corporation to be eligible to apply for a casino license; and

(10) Any non-publicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those required under paragraphs (7) and (8) for a non-publicly traded corporation to be eligible to apply for a casino license.

Notwithstanding the foregoing, any corporation or company which had bylaw provisions approved by the commission prior to the effective date of this 1987 amendatory act shall have one year from the effective date of this 1987 amendatory act to adopt appropriate charter provisions in accordance with the requirements of this subsection.

The provisions of this subsection shall apply with the same force and effect with regard to casino license applicants and casino licensees which have a legal existence that is other than corporate to the extent which is appropriate.

e. No person shall be issued or be the holder of a casino license if the issuance or the holding results in undue economic concentration in Atlantic City casino operations by that person. The commission shall, after conducting public hearings thereon, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) defining the criteria the commission will use in determining what constitutes undue economic concentration. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

L.1977,c.110,s.82; amended 1978, c.7, s.15; 1979, c.282, s.18; 1987, c.355, s.4; 1987, c.410, s.6; 1991, c.182, s.22; 1993, c.121, s.1; 1995, c.18, s.23; 1996, c.84, s.3.

## **TITLE 9. CHILDREN – JUVENILE AND DOMESTIC RELATIONS COURTS**

### **SUBTITLE 4B. LEGAL CAPACITY OF MINORS**

#### **CHAPTER 17B. LEGAL CAPACITY OF MINORS EIGHTEEN YEARS AND OLDER**

##### **9:17B-1. Legislative findings**

The Legislature finds and declares and by this act intends, pending the revision and amendment of the many statutory provisions involved, to:

a. Extend to persons 18 years of age and older the basic civil and contractual rights and obligations heretofore applicable only to persons 21 years of age or older, including the right to contract, sue, be sued and defend civil actions, apply for and be appointed to public employment, apply for and be granted a license or authority to engage in a business or profession subject to State regulation, serve on juries, marry, adopt children, attend and participate in horse race meetings and parimutuel betting and other legalized games and gaming, except as otherwise provided in subsection c. of this section, sell alcoholic beverages, act as an incorporator, registered agent or director of a corporation, consent to medical and surgical treatment, execute a will, and to inherit, purchase, mortgage or otherwise encumber and convey real and personal property.

b. Extend to persons 21 years of age and older the right to purchase and consume alcoholic beverages on

January 1, 1983, provided that anyone attaining the age to purchase and consume alcoholic beverages legally prior to January 1, 1983, shall retain that right. Nothing in this act shall preclude any licensee under R.S. 33:1-1 et seq. from making purchases in the regular course of his licensed activities.

c. Extend to persons at or over the age at which a person is authorized to purchase and consume alcoholic beverages, heretofore applicable only to persons 18 years of age or older, the right to attend and participate in casino gaming. Nothing in this act shall preclude any licensee under the "Casino Control Act," P.L.1977, c. 110 (C. 5:12-1 et seq.) from attending and participating in casino gaming in the regular course of his licensed activities.

d. Abolish the right of a person between the ages of 18 and 21 years to disaffirm and be relieved of contractual obligations by reason of age.

L.1972, c. 81, s. 1, eff. Jan. 1, 1973. Amended by L.1979, c. 260, s. 1, eff. Jan. 2, 1980; L.1982, c. 215, s. 1, eff. Dec. 28, 1982; L.1983, c. 134, s. 1, eff. April 13, 1983.

## **TITLE 13. CONSERVATION AND DEVELOPMENT – PARKS AND RESERVATIONS**

### **CHAPTER 1E. SOLID WASTE MANAGEMENT**

#### **13:1E-133. Disqualification criteria**

8. The provisions of any law to the contrary notwithstanding, no license shall be approved by the department:

a. Unless the department finds that the applicant, or the permittee, as the case may be, in any prior performance record in the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste, has exhibited sufficient integrity, reliability, expertise, and competency to engage in the collection or transportation of solid waste or hazardous waste, or to operate the solid waste facility or hazardous waste facility, given the potential economic consequences for affected counties, municipalities and ratepayers or significant adverse impacts upon human health and the environment which could result from the irresponsible participation therein or operation thereof, or if no prior record exists, that the applicant or the permittee is likely to exhibit that integrity, reliability, expertise and competence.

b. If any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, the permittee or the licensee, has been convicted of any of the following crimes under the laws of New Jersey or the equivalent thereof under the laws of any other jurisdiction:

(1) Murder;

(2) Kidnapping;

(3) Gambling;

(4) Robbery;

- (5) Bribery;
- (6) Extortion;
- (7) Criminal usury;
- (8) Arson;
- (9) Burglary;
- (10) Theft and related crimes;
- (11) Forgery and fraudulent practices;
- (12) Fraud in the offering, sale or purchase of securities;
- (13) Alteration of motor vehicle identification numbers;
- (14) Unlawful manufacture, purchase, use or transfer of firearms;
- (15) Unlawful possession or use of destructive devices or explosives;
- (16) Violation of N.J.S.2C:35-5, except possession of 84 grams or less of marijuana, or of N.J.S.2C:35-10;
- (17) Racketeering, P.L.1981, c.167 (C.2C:41-1 et seq.);
- (18) Violation of criminal provisions of the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.);
- (19) Any purposeful or reckless violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations, including, but not limited to, solid waste or hazardous waste management laws, rules, or regulations;
- (20) Violation of N.J.S.2C:17-2;

(21) Any offense specified in chapter 28 of Title 2C; or

(22) Violation of the "Solid Waste Utility Control Act of 1970," P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221 (C.48:13A-6.1).

c. If the Attorney General determines that there is a reasonable suspicion to believe that a person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, the permittee or the licensee, does not possess a reputation for good character, honesty and integrity, and that person or the applicant, the permittee or the licensee fails, by clear and convincing evidence, to establish his reputation for good character, honesty and integrity.

d. With respect to the approval of an initial license, if there are current prosecutions or pending charges in any jurisdiction against any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, for any of the crimes enumerated in subsection b. of this section, provided, however, that at the request of the applicant, permittee, or the person charged, the department shall defer decision upon such application during the pendency of such charge.

e. If any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, permittee or the licensee, has pursued economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, where such pursuit creates a reasonable belief that the participation of that person in any activity required to be licensed under this act would be inimical to the policies of this act. For the purposes of this section, "occupational manner or context" means the systematic planning, administration, management, or execution of an activity for financial gain.

f. If the Attorney General determines that any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, permittee or the licensee, has been identified by the State Commission of Investigation or the Federal Bureau of Investigation as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel, where such identification, membership or association creates a reasonable belief that the participation of that person in any activity required to be licensed under this act would be inimical to the policies of this act. For the purposes of this section, "career offender" means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State; and a "career offender cartel" means any group of persons who operate together as career offenders.

A license may be approved by the department for any applicant or permittee if the information contained within the disclosure statement and investigative report, including any determination made by the Attorney General concerning the character, honesty and integrity of any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or permittee, would not require disqualification pursuant to subsection a., b. c., e. or f. of this section.

A license approved by the department for any applicant or permittee pursuant to this section is non-transferable and shall be valid only for the length of time for which it is given.

Any applicant or permittee who is denied an initial license pursuant to this section shall, upon a written request transmitted to the department within 30 days of that denial, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

L.1983,c.392,s.8; amended 1991,c.269,s.6.

**TITLE 19. ELECTIONS**  
**SUBTITLE 12B. FINANCIAL DISCLOSURE BY CANDIDATES**  
**CHAPTER 44B. FINANCIAL DISCLOSURE STATEMENT**

**19:44B-4. Contents**

Financial disclosure statements shall include the sources of income received from sources other than the State during the preceding calendar year by the candidate and members of his household. Without disclosing the amounts of income, gifts, reimbursements, and holdings, the statements shall include the following:

- a. Each of the following categories of earned income totalling more than \$1,000.00: salaries, bonuses, royalties, fees, commissions and profit sharing received as an officer, employee, partner or consultant of a named corporation, professional association, partnership or sole proprietorship;
- b. Each of the following categories of unearned income totalling more than \$1,000.00: rents, dividends and other income received from named investments, trusts and estates;
- c. Fees and honorariums totalling more than \$100.00 received from named payers for personal appearances, speeches or writings;
- d. Reimbursements totalling more than \$100.00 for travel, subsistence or facilities provided in kind received from named payers or providers other than the State, any political subdivision thereof, a principal employer, or a nonprofit organization;
- e. Gifts having a value totalling more than \$250.00 received from named donors; and
- f. Ownership, holding, or control of an interest in any land or building in any city in which casino gambling is authorized, which land or building shall be specified.

L.1981, c. 129, s. 4, eff. May 1, 1981.

**TITLE 26. HEALTH AND VITAL STATISTICS**  
**CHAPTER 2BB. GOVERNOR'S COUNCIL ON ALCOHOLISM AND DRUG ABUSE**

**26:2BB-4. Authority, powers of council**

The Governor's Council on Alcoholism and Drug Abuse is authorized and empowered to:

- a. Review and coordinate all State departments' efforts in regard to the planning and provision of treatment, prevention, research, evaluation, and education services for, and public awareness of, alcoholism and drug abuse;
- b. Prepare by July 1 of each year, the State government component of the Comprehensive Statewide Alcoholism and Drug Abuse Master Plan for the treatment, prevention, research, evaluation, education and public awareness of alcoholism and drug abuse in this State, which plan shall include an emphasis on prevention, community awareness, and family and youth services;
- c. Review each County Annual Alliance Plan and the recommendations of the Division of Alcoholism and Drug Abuse in the Department of Health for awarding the Alliance grants and, by October 1 of each year,

return the plan to the Local Advisory Committee on Alcoholism and Drug Abuse with the council's proposed recommendations for awarding Alliance grants;

d. Submit to the Governor and the Legislature by December 1 of each year the Comprehensive Statewide Alcoholism and Drug Abuse Master Plan which shall include recommended appropriate allocations to State departments, local governments and local agencies and service providers of all State and federal funds for the treatment, prevention, research, evaluation, education and public awareness of alcoholism and drug abuse in accordance with the regular budget cycle, and shall incorporate and unify all State, county, local and private alcohol and drug abuse initiatives;

e. Distribute grants, upon the recommendation of the executive director of the council, by August 1 of each year to counties and municipalities for alcohol and drug abuse programs established under the Alliance to Prevent Alcoholism and Drug Abuse;

f. Evaluate the existing funding mechanisms for alcoholism and drug abuse services and recommend to the Governor and the Legislature any changes which may improve the coordination of services to citizens in this State;

g. Encourage the development or expansion of employee assistance programs for employees in both government and the private sector;

h. Evaluate the need for, and feasibility of, including other addictions, such as smoking and gambling, within the scope and responsibility of the council;

i. Collect from any State, county, local governmental entity or any other appropriate source data, reports, statistics or other materials which are necessary to carry out the council's functions; and

j. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to carry out the purposes of this act.

The council shall not accept or receive moneys from any source other than moneys deposited in, and appropriated from, the "Drug Enforcement and Demand Reduction Fund" established pursuant to N.J.S.2C:35-15 and any moneys appropriated by law for operating expenses of the council or appropriated pursuant to section 19 of P.L.1989, c.51.

L. 1989, c. 51, s. 4.

## **TITLE 27. HIGHWAYS**

### **SUBTITLE 8. NEW JERSEY PUBLIC TRANSPORTATION ACT; RESIDENT TRANSPORTATION ASSISTANCE ACT; SOUTH HERSEY TRANSPRTATION AUTHORITY; TRAFFIC CONTROL**

#### **CHAPTER 25. NEW JERSEY PUBLIC TRANSPORTATION ACT OF 1979; SENIOR CITIZEN AND DISABLED RESIDENT TRANSPORTATION ASSISTANCE ACT**

##### **27:25-26. Legislative findings and declarations**

The Legislature finds and declares that many senior citizens and disabled residents in the State require assistance in meeting their need for available and accessible transportation so that they may obtain the necessities of life, including but not limited to employment, post-secondary education, social and recreational activities, shopping and medical service; and that the voters of this State recognized the need for such assistance when in 1981 they approved an amendment of the State Constitution which provides

that State revenues derived from the taxation of gambling establishments in Atlantic City may be used, in addition to the purposes for which they were originally dedicated, for additional or expanded transportation services or benefits to senior citizens and the disabled.

The Legislature further finds and declares that it is appropriate that the New Jersey Transit Corporation, in conjunction with its advisory bodies, representatives or associations of counties, and other interested parties, develop a plan for transportation assistance to senior citizens and the disabled; that the instrumentalities of local government, particularly the counties of this State, should play a major role in facilitating the provision of that transportation assistance; and that the New Jersey Transit Corporation in conjunction with the New Jersey Department of Transportation's Office of Coordination, as well as the counties, should coordinate the assistance with existing transportation services, including but not limited to those services funded by any other State agency, at the local level and coordinate inter-county transportation services.

L.1983, c. 578, s. 2, eff. Jan. 17, 1984.

## **CHAPTER 25A. SOUTH JERSEY STATUTES**

### **27:25A-2. Findings, declarations**

2. The Legislature finds and declares that:

a. It is the public policy of this State to provide for the coordinated development and planning of the State's transportation system both on the State and regional level. Through the medium of the Transportation Executive Council, established by Executive Order No. 10 of 1990, the activities of the various transportation related authorities are coordinated on the State level. In the northern region of the State the Port Authority of New York and New Jersey, the New Jersey Turnpike Authority, the New Jersey Highway Authority, the Hackensack Meadowlands Development Commission, the North Jersey Transportation Coordinating Committee and other organizations exist to provide for the support and planning of the transportation system in that region.

b. In the southern region of the State an increase in residential development, the completion of Interstate Route 476 (also known as the "Blue Route") in Pennsylvania, the establishment of casino gaming in Atlantic City, and other factors, have caused an increase in vehicular traffic in southern New Jersey and have highlighted the need for a more coordinated effort on a regional basis to deal with the operation and possible extension of the region's highway system, the improvement and expansion of its aviation facilities, and the coordination of Atlantic County's transportation system within the larger regional system.

c. Concomitant with the development of the transportation system in southern New Jersey the need exists for the ancillary establishment of economic development facilities directly related to transportation projects in that region to be funded by a transportation authority.

d. It is in the public interest to create a South Jersey Transportation Authority, encompassing the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester and Salem, as a successor to the New Jersey Expressway Authority and the Atlantic County Transportation Authority, to provide more coordination of the region's transportation system and to deal particularly with the highway system, aviation facilities and the transportation problems of Atlantic County through the acquisition, construction, maintenance, operation and support of expressway and transportation projects and economic development facilities directly related to transportation projects authorized by this act. However, the activities of a transportation authority are not to supplant or replace the funding of projects by the Transportation Trust Fund Authority or the operation of public transportation services by the New Jersey Transit Corporation.

### **27:25A-22. Provisions of plan for motorbus services**

22. a. If a plan is established under subsection q. of section 7 of this act for motorbus regular route and motorbus charter services, the plan may provide for: (1) the designation of certain routes upon which motorbus regular route and charter services shall be permitted to travel and, with the consent of the affected municipalities, the posting of signs by the authority to this effect. The authority may require the owner or operator of a bus entering Atlantic County to file with the authority a notice, in the form and manner which the authority may direct, indicating the proposed route and destination or destinations and the parking facility at which the motorbus intends to park. The authority may issue a permit without charge to the owner or operator filing this notice; (2) the regulation of the manner in which buses may travel to points of loading and unloading by providing for the interception and dispatching of buses; (3) regulation of the activities of the buses incident to their reception at, and leaving of, places of business, in particular casino hotels; (4) the requirement that the buses entering a municipality in which casino gaming is authorized park at a parking facility which can accommodate motorbus parking situated in Atlantic County and which is owned, operated, leased, licensed or approved by the authority. This shall not apply to those motorbuses, as determined by the authority, which have as their ultimate destination their point of origin, without the necessity of interrupting a continuous journey for the purpose of stopping within Atlantic County, except for the purpose of discharging passengers or those motorbuses whose only destination within Atlantic County is a bus terminal designated by the authority as a public bus terminal. Such a motorbus shall complete its journey by the most direct and expeditious route, as provided by the authority; (5) licensing, including renewals thereof, and regulation of parking, repair and maintenance facilities which can accommodate motorbus parking, repair and maintenance not owned, operated, leased, or approved by the authority, including the regulation of size, location, utilization and operation of, and need for, the facilities. The authority shall notify and request comment from any municipality affected by rules and regulations concerning licensure and regulation of parking, repair and maintenance facilities which can accommodate motorbus parking in accordance with subsection d. of this section. The authority shall regulate repair and maintenance facilities only to the extent necessary to assure that those facilities are not operated as parking facilities and may adopt criteria for determining when the parking of motorbuses at repair and maintenance facilities constitutes operation as a parking facility. This subsection shall not apply to a privately owned parking, repair and maintenance facility in existence at a location in Atlantic County as of February 1, 1983, which exclusively accommodates motorbuses owned by the owner of the parking facility and does not rent or lease the facility or its use to any other motorbus provided there is no increase in the capacity of the facility after the date of enactment of this act, except that any such facility located within the city limits of Atlantic City may provide repair and maintenance service to its motorbuses and other motorbuses and attendant storage and may expand its facility to an adjoining property, subject to municipal planning and zoning ordinances. This subsection shall also not apply to a privately owned parking, repair or maintenance facility located outside the city limits of Atlantic City in existence on February 1, 1983, and in continuous operation thereafter, which exclusively accommodates motorbuses, tractor trailers, and limousines owned directly or through a corporation by an owner or a contract purchaser of the facility, provided there is no increase in the land area of the entire facility after February 1, 1983, the number of buses parked at any one time does not exceed 85, and that on or after January 1, 1992 this exemption shall not transfer with title to the facility.

b. The authority may establish a reasonable service charge to be paid by the owner or operator of each motorbus which shall enter a municipality in which casino gaming is authorized, which service charge shall be collected in a manner as the authority may direct. The fee shall not exceed \$2.00 per motorbus, except once the maximum fee is reached, the authority may increase the fee annually by the percentage increase of the Consumer Price Index for the Philadelphia-New Jersey area for the preceding year as determined by the Bureau of Labor Statistics. This subsection shall not apply to those motorbuses whose only destination within Atlantic County is a bus terminal designated by the authority as a public bus terminal.

The authority is empowered to require casino hotels in a municipality in which casino gaming is authorized

to furnish it with information as is necessary to collect the reasonable service charge referred to in this subsection.

c. Rules and regulations promulgated by the authority under this section may include the provision for an assessment of penalties for any violation of these rules and regulations not to exceed \$500 for any single violation. Any violation of these rules and regulations shall be prosecuted by the municipality in which the violation occurred. All moneys collected as a result of the imposition of fines in cases prosecuted by the municipality shall be paid to the municipality. However, if in the judgment of the authority, any municipality shall fail to enforce adequately the provisions of these rules and regulations, proceedings to enforce rules and regulations in that municipality shall be prosecuted by the authority, and moneys collected as result of the imposition of fines shall be paid to the authority. Proceedings under this section may be instituted on any day of the week and institution of proceedings on a Sunday or holiday shall be no bar to successful prosecution. Any process served on a Sunday or holiday shall be valid as if served on any other day of the week.

d. The authority shall notify by personal service or registered or certified mail, return receipt requested, the clerk of any municipality to be affected by the rules and regulations to be promulgated under this section at least 15 days prior to their promulgation and request comment from the municipality.

e. All rules and regulations adopted pursuant to this section shall be submitted to the commissioner for review prior to adoption by the authority pursuant to the "Administrative Procedure Act," and the commissioner shall have 30 business days to approve or reject the rules and regulations. If the commissioner rejects the rules and regulations, they shall not be approved. If the commissioner approves the rules and regulations or fails to act within 30 business days after submission, then the authority may adopt the rules and regulations.

f. In order to provide for equitable treatment of all motorbus carriers, including those exempted from this act, and for the proper routing of all carriers, the authority in conjunction with the commissioner or the Board of the New Jersey Transit Corporation, as the case may be, may adopt policies and issue rules and regulations providing for the routing, interception, dispatching, reception and leaving of places of business of exempt motorbuses, in a manner consistent with subsection a. of this section.

g. The Chairperson of the Senate Transportation and Public Utilities Committee, the Chairperson of the Assembly Transportation Authorities, Telecommunications and Technology Committee, or their successor committees, and the director of the Federal Aviation Administration Technical Center shall receive copies of any rules and regulations to be adopted by the authority at the time of submission to the commissioner pursuant to subsection e. of this section or if not submitted to the commissioner, at the time of submission to the Governor as provided in the "Administrative Procedure Act."

L.1991,c.252,s.22.

**TITLE 32. INTERSTATE AND PORT AUTHORITIES AND COMMISSIONS**  
**SUBTITLE 11. WATERFRONT AND AIRPORT COMMISSION OF NEW YORK**  
**AND NEW JERSEY**  
**CHAPTER 23. WATERFRONT AND AIRPORT COMMISSION ACT**  
**PART III**

**32:23-93. Revocation of licenses and registrations**

In addition to the grounds elsewhere set forth in this act any license or registration issued or made pursuant thereto may be revoked or suspended for such period as the commission deems in the public interest or the licensee or registrant may be reprimanded, for:

(1) Conviction of any crime or offense in relation to gambling, bookmaking, pool selling, lotteries or similar crimes or offenses if the crime or offense was committed at or on a pier or other waterfront terminal

or within 500 feet thereof; or

(2) Willful commission of, or willful attempt to commit at or on a waterfront terminal or adjacent highway, any act of physical injury to any other person or of willful damage to or misappropriation of any other person's property, unless justified or excused by law; or

(3) Receipt or solicitation of anything of value from any person other than a licensee's or registrant's employer as consideration for the selection or retention for employment of such licensee or registrant; or

(4) Coercion of a licensee or registrant by threat of discrimination or violence or economic reprisal, to make purchases from or to utilize the services of any person; or

(5) Refusal to answer any question or produce any evidence lawfully required to be answered or produced at any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act, or, if such refusal is accompanied by a valid plea of privilege against self-incrimination, refusal to obey an order to answer such question or produce such evidence made by the commission pursuant to the provisions of subdivision 5 of section 5-b of this act.

L.1954, c. 14, p. 67, s. 9[5-i]. Amended by L.1956, c. 194, p. 717, s. 4.

## **ARTICLE IV. AIRFREIGHTMEN AND SUPERVISORS**

### **32:23-156. Denial of application; ineligibility of persons convicted of certain crimes**

The commission may in its discretion deny the application for such license submitted on behalf of a prospective licensee for any of the following causes:

(a) Conviction by a court of the United States or any state or territory thereof, without subsequent pardon, of the commission of, or the attempt or conspiracy to commit, treason, murder, manslaughter, coercion or any felony or high misdemeanor or any of the following misdemeanors or offenses (excluding, however, any conviction for a misdemeanor or lesser offense arising out of physical misconduct committed during the course of lawful organizational or collective bargaining activities of any labor organization): illegally using, carrying or possessing a pistol or other dangerous weapon; making, manufacturing or possessing burglar's instruments; buying or receiving stolen property; criminal possession of stolen property; unlawful entry of a building; criminal trespass; aiding an escape from prison; and unlawfully possessing, selling or distributing a dangerous drug;

(b) Conviction by any such court, after having been previously convicted by any such court of any crime or of the offenses hereinafter set forth, of a misdemeanor or any of the following offenses (excluding, however, any conviction for a misdemeanor or lesser offense arising out of physical misconduct committed during the course of lawful organizational or collective bargaining activities of any labor organization): assault, malicious injury to property, criminal mischief, malicious mischief, criminal tampering, unlawful use or taking of a motor vehicle, corruption of employees, promoting gambling, possession of gambling records or devices, or possession of lottery or number slips;

(c) Fraud, deceit or misrepresentation in connection with any application or petition submitted to, or any interview, hearing or proceeding conducted by the commission;

(d) Violation of any provision of this act or the commission of any offense thereunder;

(e) Refusal on the part of the applicant, or prospective licensee, to answer any material question or produce any material evidence in connection with the application;

(f) As to an airfreightman, his presence at the airports or air freight terminals is found by the commission on the basis of the facts and evidence before it to constitute a danger to the public peace or safety;

(g) As to an airfreightman supervisor, failure to satisfy the commission that the prospective licensee possesses good character and integrity;

(h) Conviction of a crime or other cause which would permit reprimand of such prospective licensee or the suspension or revocation of his license if such person were already licensed.

L.1970, c. 58, s. 4.

### **32:23-158. Reprimand of licensees; revocation or suspension of license; grounds**

The commission shall have the power to reprimand any airfreightman or airfreightman supervisor licensed under this article or to revoke or suspend his license for such period as the commission deems in the public interest for any of the following causes:

- (a) Conviction of a crime or other cause which would permit the denial of a license upon original application;
- (b) Fraud, deceit or misrepresentation in securing the license, or in the conduct of the licensed activity;
- (c) Transfer or surrender of possession to any person either temporarily or permanently of any card or other means of identification issued by the commission as evidence of a license, without satisfactory explanation;
- (d) False impersonation of another person who is a licensee or permittee of the commission under this compact;
- (e) Willful commission of, or willful attempt to commit at an airport or at an air freight terminal or adjacent highway any act of physical injury to any other person or of willful damage to or misappropriation of any other person's property unless justified or excused by law;
- (f) Violation of any of the provisions of this act or inducing or otherwise aiding or abetting any person to violate the terms of this act;
- (g) Addiction to the use of, or unlawful possession, sale or distribution of a dangerous drug;
- (h) Paying, giving, causing to be paid or given or offering to pay or give to any person any valid consideration to induce such other person to violate any provision of this act or to induce any public officer, agent or employee to fail to perform his duty under this act;
- (i) Consorting with known criminals for unlawful purposes;
- (j) Receipt or solicitation of anything of value from any person other than the licensee's or permittee's employer as consideration for the selection or retention for employment of any person who is a licensee or permittee of the commission under this compact;
- (k) Coercion of any person who is a licensee or permittee of the commission under this compact by threat of discrimination or violent or economic reprisal to make purchases from or to utilize the services of any person;
- (l) Lending any money to or borrowing any money from any person who is a licensee or permittee of the commission under this compact for which there is a charge of interest or other consideration which is usurious;
- (m) Conviction of any criminal offense in relation to gambling, bookmaking, pool selling, lotteries or

similar crimes or offenses if the crime or offense was committed at an airport or air freight terminal or within 500 feet thereof;

(n) Refusal to answer any material question or produce any material evidence lawfully required to be answered or produced at any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act, or, if such refusal is accompanied by a valid plea of privilege against self-incrimination, refusal to obey an order to answer such question or produce such evidence made by the commission pursuant to the power of the commission under this act to grant immunity from prosecution;

( o ) Refusal to exhibit his license or permit upon the demand of any officer, agent or employee of the commission or failure to wear such license or permit when required.

L.1970, c. 58, s. 4.

## **TITLE 33. INTOXIVATING LIQUORS**

### **CHAPTER 1. ALCOHOLIC BEVERAGE CONTROL ACT**

#### **33:1-39. Rules and regulations by commissioner; subjects covered**

The commissioner may make such general rules and regulations and such special rulings and findings as may be necessary for the proper regulation and control of the manufacture, sale and distribution of alcoholic beverages and the enforcement of this chapter, in addition thereto, and not inconsistent therewith, and may alter, amend, repeal and publish the same from time to time.

Such rules and regulations may cover the following subjects: Specification of duties of holders of any office, position or employment in the department of alcoholic beverage control; instructions for municipalities and municipal boards; all forms necessary or convenient in the administration of this chapter; tax paid, licensed vehicle and other insignia; inspections, investigations, searches, seizures, findings and such activities as may become necessary from time to time; hours of sale; sales on credit; sales to defectives and habitual drunkards; out-of-door sales; limitation of sales, limitation of the quantity to be sold to a consumer for off-premises consumption, unfair competition; racketeering; prostitution; solicitation; disorderly houses; criminals; disreputable characters; gambling, slot machines and gambling devices; control of signs and other displays on licensed premises; use of screens; identification of licensees and their employees; employment of aliens, minors and females; storage; warehouses; transportation; health and sanitary requirements; standards of cleanliness, orderliness and decency; sampling and analysis of products; standards of purity and labeling; records to be kept by licensees and availability thereof; practices unduly designed to increase consumption of alcoholic beverages; gifts of equipment, products and things of value; and such other matters whatsoever as are or may become necessary in the fair, impartial, stringent and comprehensive administration of this chapter.

Amended by L.1943, c. 154, p. 435, s. 1, eff. April 8, 1943.

## **TITLE 38A. MINITARY AND VETERANS LAW**

### **SUBTITLE 1. ARMED FORCES**

#### **CHAPTER 14. UNLAWFUL ACTS**

#### **38A:14-10. Gambling, auction sales and huckstery prohibited**

The commanding officer may prohibit and prevent all gambling, auction sales and the peddling of all kinds of merchandise within the limits of the post, camp ground, or place of encampment.

L.1963, c. 109.

**TITLE 40. MUNICIPALITIES AND COUNTIES**  
**SUBTITLE 3. MUNICIPALITY PROVISIONS**  
**CHAPTER 48. GENERAL POWERS; APPROPRIATIONS**  
**ARTICLE 4. APPROPRIATIONS**

**40:48-8.46. Promotional fees**

2. There is authorized to be imposed on and collected from hotels in an eligible municipality, fees for the promotion of tourism, conventions, resorts and casino gaming, if any, in the eligible municipality.

L.1991,c.376,s.2.

**40:48-8.47. Proceeds from promotional fees**

3. The proceeds from the fees collected in any eligible municipality pursuant to this act shall be paid into a special fund which shall be established and held by the convention center operating authority which is empowered to operate the convention center facilities in the eligible municipality. Amounts in the special fund shall be expended by the convention center operating authority solely for the purpose of promoting tourism, conventions, resorts and casino gaming, if any, in the eligible municipality. Pending this application, monies in the fund shall be invested in accordance with law applicable to the convention center operating authority and the income therefrom shall be credited to the fund.

L.1991,c.376,s.3.

**40:48-8.48. Fees adopted by resolution**

4. Fees under this act with respect to any eligible municipality shall be adopted by resolution of the convention center operating authority operating convention center facilities within the eligible municipality. The rate thereof shall be \$2 per day for each occupied room in the case of any hotels in the eligible municipality which provide casino gaming, and \$1 per day for each occupied room in the case of the other hotels in the eligible municipality. A certified copy of the resolution shall be provided to the State Treasurer and the director.

L.1991,c.376,s.4.

**TITLE 40A. MUNICIPALITIES AND COUNTIES**  
**CHAPTER 21. FIVE-YEAR EXEMPTION AND ABATEMENT LAW**

**40A:21-18. Act not available to casinos**

18. Notwithstanding any other provision of this act, no exemption or abatement or tax agreement shall be allowed with respect to any facility containing a licensed gambling casino. The issuance of a casino license shall operate to invalidate any existing exemption, abatement or tax agreement, and all unpaid taxes otherwise due, were the exemption, abatement or tax agreement not granted, on the full and true value of the property shall become immediately due and payable.

L.1991,c.441,s.18.

## **TITLE 48. PUBLIC UTILITIES**

### **CHAPTER 2. DEPARTMENT OF PUBLIC UTILITIES; BOARD OF COMMISSIONERS**

#### **ARTICLE 2. JURISDICTION, POWERS AND PAYMENTS**

##### **B. POWERS**

##### **48:2-29.30. Legislative findings and declarations**

The Legislature hereby finds and declares that the extraordinary and unprecedented energy costs in recent years have had a deleterious financial impact on senior citizens and disabled residents in this State, many of whom must meet their regular living expenses on fixed incomes; that the voters of this State recognized the seriousness of this situation in 1976 by approving an amendment to the Constitution of the State of New Jersey which provides that all State revenues derived from the taxation of gambling establishments in Atlantic City be dedicated to reducing the property taxes, rentals, telephone, gas, electric, and municipal utility charges of eligible senior citizens and disabled residents; and, that in 1979 this Legislature created the "Lifeline Credit Program," which utilizes casino revenues to provide eligible senior citizens and disabled residents who are residential electric or gas customers with a credit against their utility charges.

The Legislature further finds and declares that many of the senior citizens and disabled residents in this State live in accommodations where they do not receive an individual utility bill, and therefore are not eligible for the "Lifeline Credit Program," even though they meet all the other requirements of the program; and, that these citizens, no less than those who receive individual utility bills, deserve financial relief from burdensome energy costs.

The Legislature, therefore, determines that it serves a public purpose, and is consistent with the provisions of the Constitution of the State of New Jersey, to establish a tenants' lifeline assistance program, and to fund such a program with revenues derived from the taxation of casinos.

L.1981, c. 210, s. 1, eff. July 20, 1981.

## **TITLE 52 STATE GOVERNMENT, DPARTMENTS AND OFFICERS**

### **SUBTITLE 2 STATE LEGISLATURE**

#### **CHAPTER 13D CONFLICT OF INTEREST**

##### **52:13D-17.2. "Person" defined; conflict of interest; violations; penalty**

4. a. As used in this section "person" means any State officer or employee subject to financial disclosure by law or executive order and any other State officer or employee with responsibility for matters affecting casino activity; any special State officer or employee with responsibility for matters affecting casino activity; the Governor; any member of the Legislature or any full-time member of the Judiciary; any full-time professional employee of the Office of the Governor, or the Legislature; members of the Casino Reinvestment Development Authority; the head of a principal department; the assistant or deputy heads of a principal department, including all assistant and deputy commissioners; the head of any division of a principal department; any member of the governing body, or the municipal judge or the municipal attorney of a municipality wherein a casino is located; any member of or attorney for the planning board or zoning board of adjustment of a municipality wherein a casino is located, or any professional planner, or consultant regularly employed or retained by such planning board or zoning board of adjustment.

b. No State officer or employee, nor any person, nor any member of the immediate family of any State officer or employee, or person, nor any partnership, firm or corporation with which any such State officer or employee or person is associated or in which he has an interest, nor any partner, officer, director or employee while he is associated with such partnership, firm, or corporation, shall hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for, or negotiate on behalf of, any

holder of, or applicant for, a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application, or matter, except that (1) a State officer or employee other than a State officer or employee included in the definition of person, and (2) a member of the immediate family of a State officer or employee, or of a person, may hold employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the State officer or employee, or person, and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the State officer or employee, or person. No special State officer or employee without responsibility for matters affecting casino activity, excluding those serving in the Departments of Education, Health, and Human Services and the Commission on Higher Education, shall hold, directly or indirectly, an interest in, or represent, appear for, or negotiate on behalf of, any holder of, or applicant for, a casino license, or any holding or intermediary company with respect thereto, in connection with any cause, application, or matter. However, a special State officer or employee without responsibility for matters affecting casino activity may hold employment directly with any holder of or applicant for a casino license or any holding or intermediary company thereof and if so employed may hold, directly or indirectly, an interest in, or represent, appear for, or negotiate on behalf of, his employer, except as otherwise prohibited by law.

c. No person or any member of his immediate family, nor any partnership, firm or corporation with which such person is associated or in which he has an interest, nor any partner, officer, director or employee while he is associated with such partnership, firm or corporation, shall, within two years next subsequent to the termination of the office or employment of such person, hold, directly or indirectly, an interest in, or hold employment with, or represent, appear for or negotiate on behalf of, any holder of, or applicant for, a casino license in connection with any cause, application or matter, or any holding or intermediary company with respect to such holder of, or applicant for, a casino license in connection with any phase of casino development, permitting, licensure or any other matter whatsoever related to casino activity, except that:

(1) a member of the immediate family of a person may hold employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not interfere with the responsibilities of the person and will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the person; and

(2) an employee who is terminated as a result of a reduction in the workforce at the agency where employed, other than an employee who held a policy-making management position at any time during the five years prior to termination of employment, may, at any time prior to the end of the two-year period, accept employment with the holder of, or applicant for, a casino license if, in the judgment of the Executive Commission on Ethical Standards, the Joint Legislative Committee on Ethical Standards, or the Supreme Court, as appropriate, such employment will not create a conflict of interest, or reasonable risk of the public perception of a conflict of interest, on the part of the employee. In no case shall the restrictions of this subsection apply to a secretarial or clerical employee. Nothing herein contained shall alter or amend the post-employment restrictions applicable to members and employees of the Casino Control Commission and employees and agents of the Division of Gaming Enforcement pursuant to subsection b. (2) of section 59 and to section 60 of P.L.1977, c.110 (C.5:12-59 and C.5:12-60).

d. This section shall not apply to the spouse of a State officer or employee, which State officer or employee is without responsibility for matters affecting casino activity, who becomes the spouse subsequent to the State officer's or employee's appointment or employment as a State officer or employee and who is not individually or directly employed by a holder of, or applicant for, a casino license, or any holding or intermediary company.

e. The Joint Legislative Committee on Ethical Standards and the Executive Commission on Ethical Standards, as appropriate, shall forthwith determine and publish, and periodically update, a list of those positions in State government with responsibility for matters affecting casino activity.

f. No person shall solicit or accept, directly or indirectly, any complimentary service or discount from any

casino applicant or licensee which he knows or has reason to know is other than a service or discount that is offered to members of the general public in like circumstance.

g. No person shall influence, or attempt to influence, by use of his official authority, the decision of the commission or the investigation of the division in any application for licensure or in any proceeding to enforce the provisions of this act or the regulations of the commission. Any such attempt shall be promptly reported to the Attorney General; provided, however, that nothing in this section shall be deemed to proscribe a request for information by any person concerning the status of any application for licensure or any proceeding to enforce the provisions of this act or the regulations of the commission.

h. Any person who willfully violates the provisions of this section is a disorderly person and shall be subject to a fine not to exceed \$500.00 or imprisonment not to exceed six months, or both.

L.1981,c.142,s.4; amended 1983,c.185; 1984,c.218,s.36; 1991,c.182,s.60; 1993,c.292,s.38; 1994,c.152; 1995,c.18,s.43.

**SUBTITLE 3 EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS  
CHAPTER 27H DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT**

**52:27H-29. Legislative findings and declarations**

The Legislature finds that the tourist, resort and convention industry of Atlantic City has traditionally made an important contribution to the economic vitality of this State; that the recent revitalization of that industry as a result of the authorization of casino gaming in Atlantic City has resulted in significant economic benefits not only to the residents of the city and its immediate environs, but to all of the residents of the State in the form of increased business and employment opportunities and augmented State and local revenues; and that the future growth of this industry will depend in part upon the provision and operation of an attractive convention center in Atlantic City and the provision of an adequate mechanism whereby the interests and efforts of the State, the city and the private sector may be effectively coordinated and the financial soundness of a convention center assured.

To this end, the Legislature declares the establishment of an authority responsible for the promotion, operation and maintenance of a convention center in Atlantic City to be in the public interest of the citizens of this State.

L.1981, c. 459, s. 1, eff. Jan. 12, 1982.

**52:32-40. Definitions**

1. As used in this act:

"Prime contractor" means any person who has a construction contract with a State agency and who subcontracts all or a part of that contract.

"State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality or agency which is authorized by law to award construction contracts. A county or municipality shall not be deemed an agency or instrumentality of the State.

"Subcontractor" means any person who enters into a contract with a prime contractor to perform a specific part of the work for which the prime contractor is responsible under a construction contract with a State agency.

"Supplier" means any person who enters into a contract with a prime contractor to provide materials to that prime contractor in connection with a State construction contract.

L.1991,c.507,s.1.

**TITLE 55 TENEMENT HOUSES AND PUBLIC HOUSING  
SUBTITLE 2 PUBLIC HOUSING  
CHAPTER 14K NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**

**55:14K-5. Powers of agency**

In order to carry out the purposes and provisions of this act, the agency, in addition to any powers granted to it elsewhere in this act, shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business; to adopt an official seal and alter the same at pleasure; to maintain an office at such place or places within the State as it may designate; to sue and be

sued in its own name;

b. To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out the provisions of this act;

c. To issue subpoenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before the agency, or before one or more of the members of the agency appointed by it to conduct a hearing;

d. To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a subpoena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;

e. To acquire by purchase, gift, foreclosure or condemnation any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

f. To acquire, hold, use and dispose of its income revenues, funds and moneys;

g. To adopt rules and regulations expressly authorized by this act and such additional rules and regulations as shall be necessary or desirable to carry out the purposes of this act. The agency shall adopt regulations which provide for consultation with housing sponsors regarding the formulation of agency rules and regulations governing the operation of housing projects and which require the agency to consult with the affected housing sponsor prior to taking any and all specific proposed agency actions relating to the sponsor's housing project. The agency shall publish all rules and regulations and file them with the Secretary of State;

h. To borrow money or secure credit on a temporary, short-term, interim or long-term basis, and to issue negotiable bonds and to secure the payment thereof and to provide for the rights of the holders thereof;

i. To make and enter into and enforce all contracts and agreements necessary, convenient or desirable to the performance of its duties and the execution of its powers under this act, including contracts or agreements with qualified financial institutions for the servicing and processing of eligible loans owned by the agency;

j. To appoint and employ an executive director, who shall be the chief executive officer of the agency, and additional officers, who need not be members of the agency as the agency deems advisable, and to employ architects, engineers, attorneys, accountants, construction and financial experts and other employees and agents as may be necessary in its judgment and to determine their qualifications, terms of office, duties and compensation; and to promote and discharge such officers, employees and agents, all without regard to the provisions of Title 11 of the Revised Statutes, Civil Service;

k. To contract for and to receive and accept any gifts, grants, loans or contributions from any source, of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to the conditions upon which the grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or the State for payment of rent supplements to eligible families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

l. To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the State with respect to any real property owned or operated directly by the agency;

m. To procure insurance against any loss in connection with its operations, property and other assets (including eligible loans) in the amounts and from the insurers it deems desirable;

n. To the extent permitted under its contract with the holders of bonds of the agency, to consent to any modification

with respect to rate of interest, time and payment of any installment of principal or interest, security or any other terms of any loan to an institutional lender, eligible loan, loan commitment, contract or agreement of any kind to which the agency is a party;

o. To the extent permitted under its contract with the holders of bonds of the agency, to enter into contracts with any housing sponsor containing provisions enabling the housing sponsor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment from the agency, any department or agency of the United States or the State, these reductions can be made without jeopardizing the economic stability of the housing project;

p. To make and collect the fees and charges it determines are reasonable;

q. To the extent permitted under its contract with the holders of bonds of the agency, to invest and reinvest any moneys of the agency not required for immediate use, including proceeds from the sale of any obligations of the agency, in obligations, securities or other investments as the agency deems prudent. All functions, powers and duties relating to the investment or reinvestment of these funds, including the purchase, sale or exchange of any investments or securities may, upon the request of the agency, be exercised and performed by the Director of the Division of Investment in the Department of the Treasury, in accordance with written directions of the agency signed by an authorized officer, without regard to any other law relating to investments by the Director of the Division of Investment;

r. To provide, contract or arrange for, where, by reason of the financing arrangement, review of the application and proposed construction of a project is required by or in behalf of any department or agency of the United States, consolidated processing of the application or supervision or, in the alternative, to delegate the processing in whole or in part to any such department or agency;

s. To make eligible loans, and to participate with any department, agency or authority of the United States or of any state thereof, this State, a municipality, or any banking institution, foundation, labor union, insurance company, trustee or fiduciary in an eligible loan, secured by a single participating mortgage, by separate mortgages or by other security agreements, the interest of each having equal priority as to lien in proportion to the amount of the loan so secured, but which need not be equal as to interest rate, time or rate of amortization or otherwise, and to undertake commitments to make such loans;

t. To assess from time to time the housing needs of any municipality which is experiencing housing shortages as a result of the authorization of casino gaming and to address those needs when planning its programs;

u. To sell any eligible loan made by the agency or any loan to an institutional lender owned by the agency, at public or private sale, with or without bidding, either singly or in groups, or in shares of loans or shares of groups of loans, issue securities, certificates or other evidence of ownership secured by such loans or groups of loans, sell the same to investors, arrange for the marketing of the same; and to deposit and invest the funds derived from such sales in any manner authorized by this act;

v. To make commitments to purchase, and to purchase, service and sell, eligible loans, pools of loans or securities based on loans, insured or issued by any department or agency of the United States, and to make loans directly upon the security of any such loan, pools of loans or securities;

w. To provide such advisory consultation, training and educational services as will assist in the planning, construction, rehabilitation and operation of housing including but not limited to assistance in community development and organization, home management and advisory services for residents and to encourage community organizations and local governments to assist in developing housing;

x. To encourage research in and demonstration projects to develop new and better techniques and methods for increasing the supply, types and financing of housing and housing projects in the State and to engage in these research and demonstration projects and to receive and accept contributions, grants or aid, from any source, public or private, including but not limited to the United States and the State, for carrying out this purpose;

y. To provide to housing sponsors, through eligible loans or otherwise, financing, refinancing or financial assistance for fully completed, as well as partially completed, projects which may or may not be occupied, if the projects meet all the requirements of this act, except that, prior to the making of the mortgage loans by the agency, said projects need not have complied with sections 7a.(9) and 42 of this act;

z. To encourage and stimulate cooperatives and other forms of housing with tenant participation;

aa. To promote innovative programs for home ownership, including but not limited to lease-purchase programs, employer-sponsored housing programs, and tenant cooperatives;

bb. To set aside and designate, out of the funds that are or may become available to it for the purpose of financing housing in this State pursuant to the terms of this act, certain sums or proportions thereof to be used for the financing of housing and home-ownership opportunities, including specifically lease-purchase arrangements, provided by employers to their employees through nonprofit or limited-dividend corporations or associations created by employers for that purpose; and to establish priority in funding, offer bonus fund allocations, and institute other incentives to encourage such employer-sponsored housing and home-ownership opportunities;

cc. Subject to any agreement with bondholders, to collect, enforce the collection of, and foreclose on any property or collateral securing its eligible loan or loans to institutional lenders and acquire or take possession of such property or collateral and sell the same at public or private sale, with or without bidding, and otherwise deal with such collateral as may be necessary to protect the interests of the agency therein;

dd. To administer and to enter into agreements to administer programs of the federal government or any other entity which are in furtherance of the purposes of this act;

ee. To do and perform any acts and things authorized by this act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation; and

ff. To do any acts and things necessary or convenient to carry out the powers expressly granted in this act.

L.1983, c. 530, s. 5, eff. Jan. 17, 1984.

## **TITLE 54. TAXATION**

### **SUBTITLE 2A. INCOME TAXES**

#### **CHAPTER 8A. COMMUTERS INCOME TAX**

#### **ARTICLE 1. EMERGENCY TRANSPORTATION TAX**

##### **54:8A-37. Additional deductions**

(a) In addition to the deductions authorized in section 35(b), any taxpayer shall be allowed the deductions itemized in this section to the same extent that such deductions are allowed to New Jersey residents who are subject to the income tax laws of a critical area state other than New Jersey. To the extent that any deduction itemized in this section has been taken by a taxpayer to compute his Federal adjusted gross income, such deductions shall not be allowed to a taxpayer computing his gross income in accordance with the provisions of section 36 of this act.

(b) Subject to the limitations expressed in subsection (a) hereof and any other limitations set forth in this act, the following deductions shall be allowed:

(1) Deduction of interest paid or accrued within the taxable year on indebtedness, except interest on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is exempt from tax under this act.

(2) Deduction of taxes paid or accrued within the taxable year except--

- (A) Income taxes imposed by this State or any other taxing jurisdiction,
- (B) Federal import duties, excise and stamp taxes,
- (C) Estate, inheritance, legacy, succession and gift taxes,
- (D) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and
- (E) License fees payable for operation or ownership of motor vehicles; State and local license fees; taxes on cigarettes, other tobacco products and alcoholic beverages.

(3) Deduction of losses sustained during the taxable year, not compensated by insurance or otherwise, except--

(A) Losses, not incurred in a trade or business or in any transaction entered into for profit, shall be allowed only if they arise from fire, storm, shipwreck or other casualty or from theft, and only to the extent that the amount of loss to an individual arising from each casualty, or from each theft, exceeds \$100.00;

(B) Losses from gambling activities shall be allowed only to the extent of the gains from such activities;

(4) Deduction of any charitable contribution payment of which is made within the taxable year to the extent that the aggregate of such contributions does not exceed 20% of the taxpayer's gross income.

In addition, there shall be allowed a deduction of any charitable contribution not in excess of 10% of the taxpayer's gross income which is made by the taxpayer within the taxable year to a religious organization, an educational organization which normally maintains a regular faculty and has a regularly enrolled body of students in attendance, an organization, the principal purposes or functions of which are the providing of medical or hospital care or medical education or medical or agricultural research, a governmental unit or an organization referred to in subparagraph (B) below which normally receives a substantial part of its support from a governmental unit described in subparagraph (A) below or from direct or indirect contributions from the general public.

In the case of an individual, if the amount of charitable contributions described above, payment of which is made within a taxable year beginning after December 31, 1963, exceeds 30% of the taxpayer's adjusted gross income for such year (computed without regard to any net operating loss carryback to such year), such excess shall be treated as a charitable contribution paid in each of the 5 succeeding taxable years in order of time.

For the purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of

(A) A state, territory, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(B) A corporation, trust, community chest, fund or foundation--

(i) Created or organized in the United States or in any possession thereof, or under the law of the United States, any state or territory, the District of Columbia, or any possession of the United States;

(ii) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals;

(iii) No part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(iv) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

(C) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization--

(i) Organized in the United States or any of its possessions, and

(ii) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(D) A domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(E) A cemetery company owned and operated exclusively for the benefit of its members or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

(5)(A) Deduction of expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse or a dependent as follows:

(i) If neither the taxpayer nor his spouse has attained the age of 65 before the close of the taxable year--

(a) The amount of such expenses for the care of any dependent who--

(1) Is the mother or father of the taxpayer or of his spouse, and

(2) Has attained the age of 65 before the close of the taxable year, and

(b) The amount by which such expenses for the care of the taxpayer, his spouse, and such dependents (other than any dependent described in paragraph (a) of this subsection) exceed 3% of gross income.

(ii) If either the taxpayer or his spouse has attained the age of 65 before the close of the taxable year--

(a) The amount of such expenses for the care of the taxpayer and his spouse,

(b) The amount of such expenses for the care of any dependent described in paragraph (i)(a), and

(c) The amount by which such expenses for the care of such dependents (other than any dependent described in paragraph (i)(a)) exceeds 3% of the gross income.

(B) Amounts paid during the taxable year for medicine and drugs which (but for this paragraph) would be taken into account in computing the deduction under subsection (A) shall be taken into account only to the extent that the aggregate of such amounts exceeds 1% of gross income, except that the gross income limitation herein shall not apply to amounts paid for the care of the taxpayer and his spouse, if either of them has attained the age of 65 before the close of the taxable year, or for the care of the mother or father of the taxpayer or of his spouse, and has attained the age of 65 before the close of the taxable year.

(C) Except as provided in subsection (E), the deduction under this section shall not exceed \$5,000.00, multiplied by the number of \$600.00 exemptions allowed for the taxable year as a deduction under section 10 of this act (other than exemptions relating to additional exemptions for age or blindness); except that the maximum deduction under this section shall be--

(i) \$10,000.00, if the taxpayer is single and not the head of a household and not a surviving spouse or is

married but files a separate return; or

(ii) \$20,000.00, if the taxpayer files a joint return with his spouse or is the head of a household or a surviving spouse.

(D) For purposes of subsection (A), expenses for the medical care of the taxpayer which are paid out of his estate during the 1-year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred.

(E)(i) Subject to the provisions of paragraph (ii) hereunder the deduction under this subsection shall not exceed--

(a) \$20,000.00, if the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, or if his spouse has attained the age of 65 before the close of the taxable year and is disabled and if his spouse does not make a separate return for the taxable year, or

(b) \$40,000.00, if both the taxpayer and his spouse have attained the age of 65 before the close of the taxable year and are disabled and if the taxpayer files a joint return with his spouse.

(ii) For purposes of paragraph (i) hereunder

(a) Amounts paid by the taxpayer during the taxable year for medical care, other than amounts paid for--

(1) His medical care, if he has attained the age of 65 before the close of the taxable year and is disabled, or

(2) The medical care of his spouse, if his spouse has attained the age of 65 before the close of the taxable year and is disabled, shall be taken into account only to the extent that such amounts do not exceed the maximum limitation provided in subsection (C) herein which would (but for the provisions of this subsection) apply to the taxpayer for the taxable year;

(b) If the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, amounts paid by him during the taxable year for his medical care shall be taken into account only to the extent that such amounts do not exceed \$20,000.00; and

(c) If the spouse of the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, amounts paid by the taxpayer during the taxable year for the medical care of his spouse shall be taken into account only to the extent that such amounts do not exceed \$20,000.00.

(iii) For purposes of paragraph (i) hereunder, an individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be disabled unless he furnishes proof of the existence thereof in such form and manner as the Division of Taxation may require.

(iv) For purposes of paragraph (i) hereunder, the determination as to whether the taxpayer or his spouse is disabled shall be made as of the close of the taxable year of the taxpayer, except that if his spouse dies during such taxable year such determination shall be made with respect to his spouse as of the time of such death.

(6) Deduction shall be allowed for expenses paid during the taxable year by a taxpayer who is a woman or a widower or is a husband whose wife is incapacitated or is institutionalized, for the care of the taxpayer's child or stepchild under the age of 13 years or is physically or mentally incapable of caring for himself, but only if such care is for the purpose of enabling the taxpayer to be gainfully employed but such deduction shall not exceed \$600.00 for any taxable year. The \$600.00 limit herein shall be increased (to an amount not above \$900.00) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had two or more dependents.

In the case of a married woman, and in the case of a husband whose wife is incapacitated, this deduction shall be allowed only if a joint return is filed, and shall be reduced by the amount (if any) by which the adjusted gross income of the taxpayer and his spouse exceeds \$6,000.00.

(7) Deduction for amounts paid by a husband to his wife for alimony, support or separate maintenance pursuant to a court decree or for support or maintenance pursuant to a written separation agreement.

(8) Deductions shall be allowed for moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee at a new principal place of work.

(A) No deduction shall be allowed unless

(i) The taxpayer's new principal place of work

(a) Is at least 20 miles farther from his former residence than was his former principal place of work or

(b) If he had no former principal place of work, is at least 20 miles from his former residence, and

(ii) During the 12-month period immediately following his arrival at the general location of his new principal place of work, the taxpayer is a full-time employee, in such general location, during at least 39 weeks.

(B) Moving expenses means only the reasonable expenses

(i) Of moving household goods and personal effects from the former residence to the new residence and

(ii) Of traveling (including meals and lodging) from the former residence to the new place of residence.

In the case of any individual other than the taxpayer, expenses referred to herein shall be taken into account only if such individual has both the former residence and the new residence as his principal place of abode and is a member of the taxpayer's household.

(C) No deductions shall be allowed under this section for any item to the extent that the taxpayer received reimbursement or other expense allowance for such item which is not included in his gross income.

(9) In addition to any deduction taken under section 35(a) of this act or in the computation of Federal adjusted gross income in the case of a taxpayer who has computed his gross income in accordance with the provisions of section 36 of this act, there shall be allowed a deduction for all the ordinary and necessary expenses paid or incurred by a taxpayer, including traveling expenses while away from home, as an employer or an employee during the taxable year in carrying on or working at any trade or business.

(10) Deduction for net premiums paid or incurred by a taxpayer during the taxable year with respect to any life insurance or endowment policy upon his life, but such deduction shall not exceed \$150.00 in the aggregate; provided, however, for taxable years beginning on or after January 1, 1971 such amount shall not exceed \$100.00 in the aggregate; and for taxable years beginning on or after January 1, 1972, such amount shall not exceed \$50.00 in the aggregate; and for taxable years beginning on or after January 1, 1973, no such deduction shall be allowed.

(c) Any taxpayer who elects to take the itemized deductions allowed in this section shall be permitted to take the full amount of the deduction permitted in section 35(b) and in this section except that if (a) his gross income, as defined in section 7, is exceeded by (b) his entire gross income by more than \$100.00, his itemized deductions allowed in section 35(b) and this section shall be limited by the percentage which (a) is of (b). The manner for determining a taxpayer's entire gross income shall be provided by regulation. Such regulations may authorize the use of Federal adjusted gross income for this purpose.

L.1961, c. 32, p. 144, s. 37, eff. May 29, 1961. Amended by L.1961, c. 129, p. 779, s. 23; L.1964, c. 279, s. 3; L.1970, c. 304, s. 7.

## **TITLE 54A. NEW JERSEY GROSS INCOME TAX ACT**

### **CHAPTER 5. GROSS INCOME**

#### **54:8A-37. Additional deductions**

(a) In addition to the deductions authorized in section 35(b), any taxpayer shall be allowed the deductions itemized in this section to the same extent that such deductions are allowed to New Jersey residents who are subject to the income tax laws of a critical area state other than New Jersey. To the extent that any deduction itemized in this section has been taken by a taxpayer to compute his Federal adjusted gross income, such deductions shall not be allowed to a taxpayer computing his gross income in accordance with the provisions of section 36 of this act.

(b) Subject to the limitations expressed in subsection (a) hereof and any other limitations set forth in this act, the following deductions shall be allowed:

(1) Deduction of interest paid or accrued within the taxable year on indebtedness, except interest on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is exempt from tax under this act.

(2) Deduction of taxes paid or accrued within the taxable year except--

(A) Income taxes imposed by this State or any other taxing jurisdiction,

(B) Federal import duties, excise and stamp taxes,

(C) Estate, inheritance, legacy, succession and gift taxes,

(D) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and

(E) License fees payable for operation or ownership of motor vehicles; State and local license fees; taxes on cigarettes, other tobacco products and alcoholic beverages.

(3) Deduction of losses sustained during the taxable year, not compensated by insurance or otherwise, except--

(A) Losses, not incurred in a trade or business or in any transaction entered into for profit, shall be allowed only if they arise from fire, storm, shipwreck or other casualty or from theft, and only to the extent that the amount of loss to an individual arising from each casualty, or from each theft, exceeds \$100.00;

(B) Losses from gambling activities shall be allowed only to the extent of the gains from such activities;

(4) Deduction of any charitable contribution payment of which is made within the taxable year to the extent that the aggregate of such contributions does not exceed 20% of the taxpayer's gross income.

In addition, there shall be allowed a deduction of any charitable contribution not in excess of 10% of the taxpayer's gross income which is made by the taxpayer within the taxable year to a religious organization, an educational organization which normally maintains a regular faculty and has a regularly enrolled body of students in attendance, an organization, the principal purposes or functions of which are the providing of medical or hospital care or medical education or medical or agricultural research, a governmental unit or an organization referred to in subparagraph (B) below which normally receives a substantial part of its support from a governmental unit described in subparagraph (A) below or from direct or indirect contributions from

the general public.

In the case of an individual, if the amount of charitable contributions described above, payment of which is made within a taxable year beginning after December 31, 1963, exceeds 30% of the taxpayer's adjusted gross income for such year (computed without regard to any net operating loss carryback to such year), such excess shall be treated as a charitable contribution paid in each of the 5 succeeding taxable years in order of time.

For the purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of

(A) A state, territory, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(B) A corporation, trust, community chest, fund or foundation--

(i) Created or organized in the United States or in any possession thereof, or under the law of the United States, any state or territory, the District of Columbia, or any possession of the United States;

(ii) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals;

(iii) No part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(iv) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

(C) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization--

(i) Organized in the United States or any of its possessions, and

(ii) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(D) A domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(E) A cemetery company owned and operated exclusively for the benefit of its members or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

(5)(A) Deduction of expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse or a dependent as follows:

(i) If neither the taxpayer nor his spouse has attained the age of 65 before the close of the taxable year--

(a) The amount of such expenses for the care of any dependent who--

(1) Is the mother or father of the taxpayer or of his spouse, and

(2) Has attained the age of 65 before the close of the taxable year, and

(b) The amount by which such expenses for the care of the taxpayer, his spouse, and such dependents (other than any dependent described in paragraph (a) of this subsection) exceed 3% of gross income.

(ii) If either the taxpayer or his spouse has attained the age of 65 before the close of the taxable year--

(a) The amount of such expenses for the care of the taxpayer and his spouse,

(b) The amount of such expenses for the care of any dependent described in paragraph (i)(a), and

(c) The amount by which such expenses for the care of such dependents (other than any dependent described in paragraph (i)(a)) exceeds 3% of the gross income.

(B) Amounts paid during the taxable year for medicine and drugs which (but for this paragraph) would be taken into account in computing the deduction under subsection (A) shall be taken into account only to the extent that the aggregate of such amounts exceeds 1% of gross income, except that the gross income limitation herein shall not apply to amounts paid for the care of the taxpayer and his spouse, if either of them has attained the age of 65 before the close of the taxable year, or for the care of the mother or father of the taxpayer or of his spouse, and has attained the age of 65 before the close of the taxable year.

(C) Except as provided in subsection (E), the deduction under this section shall not exceed \$5,000.00, multiplied by the number of \$600.00 exemptions allowed for the taxable year as a deduction under section 10 of this act (other than exemptions relating to additional exemptions for age or blindness); except that the maximum deduction under this section shall be--

(i) \$10,000.00, if the taxpayer is single and not the head of a household and not a surviving spouse or is married but files a separate return; or

(ii) \$20,000.00, if the taxpayer files a joint return with his spouse or is the head of a household or a surviving spouse.

(D) For purposes of subsection (A), expenses for the medical care of the taxpayer which are paid out of his estate during the 1-year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred.

(E)(i) Subject to the provisions of paragraph (ii) hereunder the deduction under this subsection shall not exceed--

(a) \$20,000.00, if the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, or if his spouse has attained the age of 65 before the close of the taxable year and is disabled and if his spouse does not make a separate return for the taxable year, or

(b) \$40,000.00, if both the taxpayer and his spouse have attained the age of 65 before the close of the taxable year and are disabled and if the taxpayer files a joint return with his spouse.

(ii) For purposes of paragraph (i) hereunder

(a) Amounts paid by the taxpayer during the taxable year for medical care, other than amounts paid for--

(1) His medical care, if he has attained the age of 65 before the close of the taxable year and is disabled, or

(2) The medical care of his spouse, if his spouse has attained the age of 65 before the close of the taxable year and is disabled, shall be taken into account only to the extent that such amounts do not exceed the maximum limitation provided in subsection (C) herein which would (but for the provisions of this subsection) apply to the taxpayer for the taxable year;

(b) If the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, amounts

paid by him during the taxable year for his medical care shall be taken into account only to the extent that such amounts do not exceed \$20,000.00; and

(c) If the spouse of the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, amounts paid by the taxpayer during the taxable year for the medical care of his spouse shall be taken into account only to the extent that such amounts do not exceed \$20,000.00.

(iii) For purposes of paragraph (i) hereunder, an individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be disabled unless he furnishes proof of the existence thereof in such form and manner as the Division of Taxation may require.

(iv) For purposes of paragraph (i) hereunder, the determination as to whether the taxpayer or his spouse is disabled shall be made as of the close of the taxable year of the taxpayer, except that if his spouse dies during such taxable year such determination shall be made with respect to his spouse as of the time of such death.

(6) Deduction shall be allowed for expenses paid during the taxable year by a taxpayer who is a woman or a widower or is a husband whose wife is incapacitated or is institutionalized, for the care of the taxpayer's child or stepchild under the age of 13 years or is physically or mentally incapable of caring for himself, but only if such care is for the purpose of enabling the taxpayer to be gainfully employed but such deduction shall not exceed \$600.00 for any taxable year. The \$600.00 limit herein shall be increased (to an amount not above \$900.00) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had two or more dependents.

In the case of a married woman, and in the case of a husband whose wife is incapacitated, this deduction shall be allowed only if a joint return is filed, and shall be reduced by the amount (if any) by which the adjusted gross income of the taxpayer and his spouse exceeds \$6,000.00.

(7) Deduction for amounts paid by a husband to his wife for alimony, support or separate maintenance pursuant to a court decree or for support or maintenance pursuant to a written separation agreement.

(8) Deductions shall be allowed for moving expenses paid or incurred during the taxable year in connection with the commencement of work by the taxpayer as an employee at a new principal place of work.

(A) No deduction shall be allowed unless

(i) The taxpayer's new principal place of work

(a) Is at least 20 miles farther from his former residence than was his former principal place of work or

(b) If he had no former principal place of work, is at least 20 miles from his former residence, and

(ii) During the 12-month period immediately following his arrival at the general location of his new principal place of work, the taxpayer is a full-time employee, in such general location, during at least 39 weeks.

(B) Moving expenses means only the reasonable expenses

(i) Of moving household goods and personal effects from the former residence to the new residence and

(ii) Of traveling (including meals and lodging) from the former residence to the new place of residence.

In the case of any individual other than the taxpayer, expenses referred to herein shall be taken into account only if such individual has both the former residence and the new residence as his principal place of abode

and is a member of the taxpayer's household.

(C) No deductions shall be allowed under this section for any item to the extent that the taxpayer received reimbursement or other expense allowance for such item which is not included in his gross income.

(9) In addition to any deduction taken under section 35(a) of this act or in the computation of Federal adjusted gross income in the case of a taxpayer who has computed his gross income in accordance with the provisions of section 36 of this act, there shall be allowed a deduction for all the ordinary and necessary expenses paid or incurred by a taxpayer, including traveling expenses while away from home, as an employer or an employee during the taxable year in carrying on or working at any trade or business.

(10) Deduction for net premiums paid or incurred by a taxpayer during the taxable year with respect to any life insurance or endowment policy upon his life, but such deduction shall not exceed \$150.00 in the aggregate; provided, however, for taxable years beginning on or after January 1, 1971 such amount shall not exceed \$100.00 in the aggregate; and for taxable years beginning on or after January 1, 1972, such amount shall not exceed \$50.00 in the aggregate; and for taxable years beginning on or after January 1, 1973, no such deduction shall be allowed.

(c) Any taxpayer who elects to take the itemized deductions allowed in this section shall be permitted to take the full amount of the deduction permitted in section 35(b) and in this section except that if (a) his gross income, as defined in section 7, is exceeded by (b) his entire gross income by more than \$100.00, his itemized deductions allowed in section 35(b) and this section shall be limited by the percentage which (a) is of (b). The manner for determining a taxpayer's entire gross income shall be provided by regulation. Such regulations may authorize the use of Federal adjusted gross income for this purpose.

L.1961, c. 32, p. 144, s. 37, eff. May 29, 1961. Amended by L.1961, c. 129, p. 779, s. 23; L.1964, c. 279, s. 3; L.1970, c. 304, s. 7.

## **CHAPTER 7. WITHHOLDING**

### **54A:7-1. Requirement of withholding tax from wages**

Requirement of withholding tax from wages. (a) General.--From and after the first day of the first month following at least a full calendar month after the enactment of this act, every employer maintaining an office or transacting business within this State and making payment of any wages subject to New Jersey personal income tax to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period a tax computed in such manner as to result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due resulting from the inclusion in the employee's New Jersey income of his wages received during such calendar year. The method of determining the amount to be withheld shall be prescribed by regulations of the director, with due regard to the withholding exemptions of the employee.

(b) Withholding exemptions.--For purposes of this section:

An employee shall be entitled to the equivalent of the same number of New Jersey withholding exemptions as the number of withholding exemptions to which he is entitled for Federal income tax withholding purposes. An employer may rely upon the number of Federal withholding exemptions claimed by the employee.

(c) The payor of New Jersey gambling winnings shall withhold New Jersey gross income tax on those winnings at a rate of 3% in all instances where the payor is required to withhold for federal income tax purposes under subsection (q) of section 3402 of the federal Internal Revenue Code of 1986 (26 U.S.C. s. 3402), as amended, except that this subsection shall not apply to the New Jersey State Lottery.

Amended by L. 1987, c. 76, s. 57.

