

5:12-144.1 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 5:12-144.1 et al

(Casinos—Reinvestment
Obligations for 1984—allow
letter of credit)

LAWS OF: 1985

CHAPTER: 183

Bill No: A3614

Sponsor(s): Fortunato and others

Date Introduced: April 29, 1985

Committee: Assembly: Independent Authorities and Commissions

Senate: -----

Amended during passage: Yes Substituted for S2906 (not attached since identical to A3614. Amendments during passage denoted by asterisks.

Date of Passage: Assembly: May 6, 1985

Senate: May 13, 1985

Date of Approval: June 17, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clipping, "Bill seeks reinvest respite," Asbury Park Press, 4-30-85—attached.

Hearing, mentioned in newspaper clipping, was incorrectly referred to.

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 3614

STATE OF NEW JERSEY

INTRODUCED APRIL 29, 1985

By Assemblymen FORTUNATO, RILEY, SCHUBER and LOVEYS

AN ACT concerning certain reinvestments required of casino licensees and certain penalties to be imposed on casino licensees and amending and supplementing P. L. 1984, c. 218.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1984, c. 218 (C. 5:12-144.1) is amended to
2 read as follows:

3 3. a. (1) Commencing with the first annual tax return of a li-
4 censee for any calendar year beginning after December 31, 1983,
5 there is imposed an investment alternative tax on the gross reve-
6 nues as defined in section 24 of P. L. 1977, c. 110 (C. 5:12-24) of
7 the licensee in the amount of 2.5% of those gross revenues. The
8 tax imposed with respect to each calendar year shall be due and
9 payable on the last day of April next following the end of the
10 calendar year. The State Treasurer shall have a lien against the
11 property constituting the casino of a licensee for the amount of
12 any tax not paid when due. No tax shall be imposed, however, on
13 the gross revenues received by a licensee during the first 12 months
14 of the operation of any casino that commences operation after
15 January 1, 1984.

16 (2) A licensee shall pay to the State Treasurer on or before the
17 15th day of the first, fourth, seventh, and 10th months of each
18 year as partial payment of the investment alternative tax imposed
19 pursuant to paragraph (1) of this subsection an amount equal to
20 1.25% of the estimated gross revenues for the three-month period
21 immediately preceding the first day of those months. The moneys
22 received shall be placed in an escrow account and shall be held

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted May 6, 1985.

23 until the licensee directs that the moneys be transferred to the
24 Casino Reinvestment Development Authority for the purchase of
25 bonds issued by or offered through the Casino Reinvestment De-
26 velopment Authority or pursuant to a contract for such a purchase,
27 be made available to the licensee for a direct investment approved
28 by the authority, or be transferred to the Casino Revenue Fund
29 as partial payment of the investment alternative tax imposed pur-
30 suant to paragraph (1) of this subsection. Any interest derived
31 from the moneys in the escrow account shall be paid or made avail-
32 able to the Casino Revenue Fund. If a licensee fails to pay the
33 amount due or underpays by an unjustifiable amount, the Casino
34 Control Commission shall impose a fine of ~~1/2 of 1%~~ 5% of the
35 amount due or of the underpayment, as the case may be, for each
36 month or portion thereof the licensee is in default of payment, up
37 to 25% of the amount in default. Any fine imposed shall be paid to
38 the Casino Reinvestment Development Authority and shall be used
39 for the purposes of this 1984 amendatory and supplementary act.

40 b. Each licensee shall be entitled to an investment tax credit
41 against the tax imposed by subsection a. of this section (1) for the
42 first 10 years of a licensee's tax obligation, in an amount equal to
43 twice the purchase price of bonds issued by the Casino Reinvest-
44 ment Development Authority pursuant to sections 14 and 15 of this
45 1984 amendatory and supplementary act purchased by the licensee,
46 or twice the amount of the investments authorized in lieu thereof,
47 and (2) for the remainder of a licensee's tax obligation, in an
48 amount equal to twice the purchase price of bonds issued by the
49 Casino Reinvestment Development Authority pursuant to sections
50 14 and 15 of this 1984 amendatory and supplementary act pur-
51 chased by the licensee, or twice the amount of the investments au-
52 thorized in lieu thereof, and twice the amount of investments made
53 by a licensee in other approved eligible investments made pursuant
54 to section 25 of this act. The Casino Reinvestment Development
55 Authority shall have the power to enter into a contract or contracts
56 with a licensee pursuant to which the Casino Reinvestment Devel-
57 opment Authority agrees to issue and sell bonds to the licensee,
58 and the licensee agrees to purchase the bonds issued by or offered
59 through the Casino Reinvestment Development Authority, in an-
60 nual purchase price amounts as will constitute a credit against at
61 least 50% of the tax to become due in any future year or years.
62 The contract may contain those terms and conditions relating to
63 the terms of the bonds and to the issuance and sale of the bonds to
64 the licensee as the Casino Reinvestment Development Authority
65 shall deem necessary or desirable. The contract shall not be deemed

66 to be in violation of section 104 of P. L. 1977, c. 110 (C. 5:12-104).
67 After the first 10 years of a licensee's investment alternative tax
68 obligation, a licensee will have the option of entering into a con-
69 tract with the Casino Reinvestment Development Authority to have
70 its tax credit comprised of direct investments in approved eligible
71 projects. These direct investments shall not comprise more than
72 50% of a licensee's eligible tax credit in any one year.

73 The entering of a contract pursuant to this section shall be
74 sufficient to entitle a licensee to an investment tax credit for the
75 appropriate tax year.

76 c. A contract entered into between a licensee and the Casino Re-
77 investment Development Authority may provide for a deferral of
78 payment for and delivery of bonds required to be purchased and
79 for a deferral from making approved eligible investments in any
80 year, but no deferral shall occur more than two years consecutively.
81 A deferral of payment for any bonds required to be purchased by
82 a licensee and a deferral from making approved eligible investments
83 may be granted by the Casino Reinvestment Development Au-
84 thority only upon a determination by the Casino Control Commis-
85 sion that purchase of these bonds or making approved eligible in-
86 vestments would cause extreme financial hardship to the licensee
87 and a determination by the Casino Reinvestment Development Au-
88 thority that the deferral of the payment would not violate any
89 covenant or agreement or impair any financial obligation of the
90 Casino Reinvestment Development Authority. The contract may
91 establish a late payment charge to be paid in the event of deferral
92 or other late payment at a rate as shall be agreed to by the Casino
93 Reinvestment Development Authority. If a deferral of purchase or
94 investment is granted, the licensee shall be deemed to have made
95 the purchase or investment at the time required by the contract,
96 except that if the purchase is not made at the time to which the
97 purchase or investment was deferred, then the licensee shall be
98 deemed not to have made the purchase or investment. The Casino
99 Control Commission shall adopt regulations establishing a uniform
100 definition of extreme financial hardship applicable to all these con-
101 tracts. If a licensee petitions the Casino Reinvestment Develop-
102 ment Authority for a deferral, the Casino Reinvestment Develop-
103 ment Authority shall give notice of that petition to the Casino
104 Control Commission and to the Division of Gaming Enforcement
105 within three days of the filing of the petition. The Casino Control
106 Commission shall render a decision within 60 days of notice as to
107 whether the licensee has established extreme financial hardship
108 after consultation with the Division of Gaming Enforcement. The

109 Casino Reinvestment Development Authority shall render a deci-
110 sion as to the availability of the deferral within 10 days of the
111 receipt by it of the decision of the Casino Control Commission and
112 shall notify the Division of Gaming Enforcement and the Casino
113 Control Commission of that decision. If a deferral is granted, the
114 Casino Reinvestment Development Authority may determine
115 whether the purchases or investments shall be made in a lump sum,
116 made over a period of years, or whether the period of obligation
117 shall be extended an additional period of time equivalent to the
118 period of time deferred.

119 d. The license of any licensee which has defaulted in its obliga-
120 tion to make any purchase of bonds or investment in any approved
121 eligible project under a contract entered into pursuant to subsection
122 b. of this section for a period of 90 days may be suspended by the
123 Casino Control Commission until that purchase is made or deferred
124 in accordance with subsection b. of this section, or a fine or other
125 penalty may be imposed upon the licensee by the commission. If
126 the Casino Control Commission elects not to suspend the license of
127 a licensee after the licensee has first defaulted in its obligation but
128 instead imposes some lesser penalty and the licensee continues to
129 be in default of its obligation after a period of 30 additional days
130 and after any additional 30-day period, the commission may impose
131 another fine or penalty upon the licensee, which may include sus-
132 pension of that licensee's license. The fine shall be ~~1/2 of 1%~~ 5%
133 of the amount of the obligation owed for each month or portion
134 thereof a licensee is in default, up to 25% of that obligation; shall
135 be paid to the Casino Reinvestment Development Authority; and
136 shall be used for the purposes of this 1984 amendatory and sup-
137 plementary act.

138 e. A contract entered into by a licensee and the Casino Reinvest-
139 ment Development Authority pursuant to subsection b. of this sec-
140 tion may provide that after the first 10 years of a licensee's invest-
141 ment alternative tax obligation imposed by subsection a. of this
142 section, the Casino Reinvestment Development Authority may re-
143 purchase bonds previously sold to the licensee which were issued
144 after the tenth year of a licensee's investment alternative tax ob-
145 ligation by the Casino Reinvestment Development Authority if the
146 Casino Reinvestment Development Authority determines that the
147 repurchase will not violate any agreement or covenant or impair
148 any financial obligation of the Casino Reinvestment Development
149 Authority and that the licensee will reinvest the proceeds of the
150 resale in an eligible project approved by the Casino Reinvestment
151 Development Authority.

152 f. (1) During the 25 years a licensee is obligated to pay an in-
 153 vestment alternative tax pursuant to subsection k. of this section,
 154 the total of (a) the proceeds of all bonds purchased by a license
 155 from or through the Casino Reinvestment Development Authority
 156 and (b) all approved investments in eligible projects by a licensee
 157 shall be devoted to the financing of projects in the following areas
 158 and amounts:

	Areas	Years 1-3	Years 4-5	Years 6-10	Years 11-15	Years 16-20	Years 21-25
159	(a) Atlantic						
160	City	100%	90%	80%	50%	30%	20%
161	(b) South						
162	Jersey		8%	12%	28%	43%	45%
163	(c) North						
164	Jersey		2%	8%	22%	27%	35%

165 For the purpose of this paragraph, "South Jersey" means the
 166 counties of Atlantic, Burlington, Camden, Cape May, Cumber-
 167 land, Gloucester, Mercer, Ocean, and Salem; and "North Jersey"
 168 means the remaining 12 counties of the State. For the purposes
 169 of this 1984 amendatory and supplementary act, bond "proceeds"
 170 means all funds received from the sale of bonds and any funds
 171 generated or derived therefrom.

172 In the financing of projects outside Atlantic City, the Casino
 173 Reinvestment Development Authority shall give priority to the
 174 revitalization of the urban areas of this State in the ways specified
 175 in section 12 of this 1984 amendatory and supplementary act. Those
 176 areas shall include, but not be limited to, all municipalities qualify-
 177 ing for aid pursuant to P. L. 1978, c. 14 (C. 52:27D-178 et seq.).

178 Within nine months from the effective date of this 1984 amenda-
 179 tory and supplementary act, the Casino Reinvestment Development
 180 Authority shall determine the allocation of projected available
 181 moneys to municipalities in South Jersey for the first seven years
 182 of their receipt of funds, giving priority to the revitalization of the
 183 urban areas of the region. Municipalities receiving such an allo-
 184 cation shall present to the Casino Reinvestment Development Au-
 185 thority for its approval, comprehensive plans or projects for which
 186 the allocations shall be used. Any such comprehensive plan or
 187 project may be submitted to the Casino Reinvestment Development
 188 Authority for a determination of eligibility at any time prior to
 189 the year for which the funds are allocated, and the Casino Rein-
 190 vestment Development Authority shall make a determination of
 191 eligibility of the plan or project within a reasonable amount of
 192 time. If the Casino Reinvestment Development Authority makes

193 a positive determination of eligibility for any comprehensive plan
194 or project, or combination of comprehensive plans or projects, for
195 any municipality whose total cost exceeds the amount allocated to
196 that municipality for the first seven years of the receipt of funds
197 by South Jersey municipalities, the Casino Reinvestment Develop-
198 ment Authority shall make available sufficient funds in subsequent
199 years necessary to complete those plans or projects, or to complete
200 that portion of the plan or project originally agreed to be funded
201 through the Casino Reinvestment Development Authority, from
202 funds received by the Casino Reinvestment Development Authority
203 in the years following the seventh year of the receipt of funds by
204 South Jersey municipalities. If the comprehensive plan or project
205 is determined by the Casino Reinvestment Development Authority
206 not to be an eligible plan or project, the municipality may submit
207 any other comprehensive plan or project for a determination of
208 eligibility. If, however, the municipality fails to receive a positive
209 determination of eligibility for any comprehensive plan or project,
210 or combination of comprehensive plans or projects, sufficient to
211 exhaust the total allocation to that municipality for any year prior
212 to April 30 of the following year for which the allocation was made,
213 the allocation to that municipality for that year shall cease, and
214 the Casino Reinvestment Development Authority may apply those
215 excess funds to any other comprehensive plan or project in any other
216 municipality in the region whose comprehensive plan or project
217 has received a positive determination of eligibility by the Casino
218 Reinvestment Development Authority.

219 Within 36 months from the effective date of this 1984 amenda-
220 tory and supplementary act, the Casino Reinvestment Development
221 Authority shall determine the allocation of projected available
222 moneys to municipalities in North Jersey for the first five years
223 of their receipt of funds, giving priority to the revitalization of the
224 urban areas of the region. Municipalities receiving such an allo-
225 cation shall present to the Casino Reinvestment Development Au-
226 thority for its approval, comprehensive plans or projects for which
227 the allocations shall be used. Any such comprehensive plan or proj-
228 ect may be submitted to the Casino Reinvestment Development
229 Authority for a determination of eligibility at any time prior to
230 the year for which the funds are allocated, and the Casino Rein-
231 vestment Development Authority shall make a determination of
232 eligibility of the plan or project within a reasonable amount of
233 time. If the Casino Reinvestment Development Authority makes
234 a positive determination of eligibility for any comprehensive plan
235 or project, or combination of comprehensive plans or projects, for

236 any municipality whose total cost exceeds the amount allocated to
237 that municipality for the first five years of the receipt of funds by
238 North Jersey municipalities, the Casino Reinvestment Development
239 Authority shall make available sufficient funds in subsequent years
240 necessary to complete those plans or projects, or to complete that
241 portion of the plan or project originally agreed to be funded through
242 the Casino Reinvestment Development Authority, from funds re-
243 ceived by the Casino Reinvestment Development Authority in the
244 years following the fifth year of the receipt of funds by North Jersey
245 municipalities. If the comprehensive plan or project is determined
246 by the Casino Reinvestment Development Authority not to be an
247 eligible plan or project, the municipality may submit any other com-
248 prehensive plan or project for a determination of eligibility. If, how-
249 ever, the municipality fails to receive a positive determination of
250 eligibility for any comprehensive plan or project, or combination
251 of comprehensive plans or projects, sufficient to exhaust the total
252 allocation to that municipality for any year prior to April 30 of
253 the following year for which the allocation was made, the allocation
254 to that municipality for that year shall cease, and the Casino Re-
255 investment Development Authority may apply those excess funds
256 to any other comprehensive plan or project in any other munici-
257 pality in the region whose comprehensive plan or project has re-
258 ceived a positive determination of eligibility by the Casino Rein-
259 vestment Development Authority.

260 (2) Commencing with the first year in which a licensee incurs
261 a tax obligation pursuant to this section, and for the period of two
262 years thereafter, 100% of the proceeds of all bonds purchased by
263 a licensee from the Casino Reinvestment Development Authority
264 which are devoted to the financing of projects in the city of Atlantic
265 City pursuant to paragraph (1) of this subsection shall be used
266 exclusively to finance the rehabilitation, development, or construc-
267 tion of, or to provide mortgage financing of, housing facilities in
268 the city of Atlantic City for persons or families of low through
269 middle income, as defined in this subsection. For the purposes of
270 this subsection, the "rehabilitation, development, or construction
271 of housing facilities" shall include expenses attributable to site
272 preparation, infrastructure needs and housing-related community
273 facilities and services, including supporting commercial develop-
274 ment. Commencing with the fourth year in which a licensee incurs
275 a tax obligation pursuant to this subsection, 50% of the proceeds of
276 all bonds purchased by a licensee from the Casino Reinvestment
277 Development Authority which are devoted to the financing of proj-
278 ects in the city of Atlantic City shall be used exclusively to finance

279 the rehabilitation, development, or construction of housing facili-
280 ties in the city of Atlantic City for persons or families of low
281 through middle income. Commencing with the eleventh year in
282 which a licensee incurs a tax obligation pursuant to this section,
283 50% of the annual aggregate of the proceeds of bonds purchased
284 by a licensee from the Casino Reinvestment Development Authority
285 which are devoted to the financing of projects in the city of Atlan-
286 tic City and investments in approved eligible projects commenced
287 by a licensee in the city of Atlantic City shall be used exclusively
288 to finance the rehabilitation, development, or construction of, or
289 to provide mortgage financing of, housing facilities in the city of
290 Atlantic City for persons or families of low through middle in-
291 come.

292 (3) The Legislature finds that it is necessary to provide for a
293 balanced community and develop a comprehensive housing program.
294 The Casino Reinvestment Development Authority shall determine
295 the needs for housing in the city of Atlantic City in consultation
296 with the city of Atlantic City and specifically its zoning and plan-
297 ning boards. This shall include determining the types and classes
298 of housing to be constructed and the number of units of each type
299 and class of housing to be built. The Casino Reinvestment Devel-
300 opment Authority shall give priority to the housing needs of the
301 persons and their families residing in the city of Atlantic City in
302 1983 and continuing such residency through the effective date of
303 this 1984 amendatory and supplementary act. The actual percent-
304 age of the proceeds of bonds and investments in approved eligible
305 projects commenced by a licensee in the city of Atlantic City which
306 shall be used exclusively to finance the rehabilitation, development,
307 or construction of, or to provide mortgage financing of, housing fa-
308 cilities in the city of Atlantic City for persons or families of low
309 through middle income shall be based upon the authority's deter-
310 mination of the needs for housing in the city of Atlantic City con-
311 ducted pursuant to this subsection. Once the housing needs of the
312 persons residing in the city of Atlantic City in 1983 and continuing
313 such residency through the effective date of this 1984 amendatory
314 and supplementary act have been met as determined by the Casino
315 Reinvestment Development Authority pursuant to this subsection,
316 any required percentages for such housing in the city of Atlantic
317 City may, in its sole discretion, be waived by the Casino Reinvest-
318 ment Development Authority. To aid the Casino Reinvestment De-
319 velopment Authority in making these determinations, the Casino
320 Reinvestment Development Authority shall review the proposal for
321 a housing redevelopment program and strategy for the city of

322 Atlantic City approved and adopted by the Casino Control Com-
323 mission and shall give priority to same and any other plan or proj-
324 ect which is consistent with the standards of this subsection and
325 is acceptable to the Casino Reinvestment Development Authority
326 pursuant to section 25 of this 1984 amendatory and supplementary
327 act. The Casino Reinvestment Development Authority may deter-
328 mine whether the funds used to finance housing facilities in the city
329 of Atlantic City for persons or families of low, moderate, median
330 range, and middle income are derived from the proceeds of bonds
331 purchased by a licensee from the Casino Reinvestment Develop-
332 ment Authority to be devoted to the financing of projects in the
333 city of Atlantic City, investments in approved eligible projects
334 commenced by a licensee in the city of Atlantic City, or a combina-
335 tion of both. Any investment made by a licensee in excess of 100%
336 of its eligible investment tax credit during the first three years and
337 in excess of 50% thereafter in either the purchase of bonds or direct
338 investments in approved eligible projects for low, moderate, median
339 range, and middle income family housing facilities in the city of
340 Atlantic City may be carried forward and credited against the li-
341 censee's obligation to make a 100% investment during the first three
342 years and 50% thereafter in low, moderate, median range, and
343 middle income family housing in any future year with the approval
344 of the Casino Reinvestment Development Authority. For the pur-
345 poses of this act, "low income families" means families whose in-
346 come does not exceed 50% of the median income of the area, with
347 adjustments for smaller and larger families. "Moderate income
348 families" means families whose income does not exceed 80% and
349 is no less than 50% of the median income for the area, with adjust-
350 ments for smaller and larger families. "Median range income fami-
351 lies" means families whose income does not exceed 120% and is not
352 less than 80% of the median income for the area, with adjustments
353 for smaller and larger families. "Middle income families" means
354 families whose income does not exceed 150% and no less than 120%
355 of the median income for the area, with adjustments for smaller
356 and larger families. "Median income" means an income defined as
357 median within the Standard Metropolitan Statistical Area for
358 Atlantic City by the United States Department of Housing and
359 Urban Development.

360 In order to achieve a balanced community the authority shall
361 ensure that the development of housing for families of low and
362 moderate income shall proceed at the same time as housing for
363 families of median range and middle income, until such time as
364 there is no longer a need for such facilities in the city of Atlantic

365 City, as determined by the Casino Reinvestment Development Au-
366 thority.

367 (4) Notwithstanding any other law or section to the contrary,
368 particularly this subsection regarding the waiver of the required
369 percentages for housing in the city of Atlantic City, subsection i.
370 of section 14, and sections 26, 27, 28, 29, and 31 of this 1984 amenda-
371 tory and supplementary act, nothing shall be implemented or waived
372 by the Casino Reinvestment Development Authority which would
373 reduce, impair, or prevent the fulfillment of the priorities estab-
374 lished and contained in this subsection of this 1984 amendatory
375 and supplementary act.

376 g. If a person is a licensee with regard to more than one ap-
377 proved hotel pursuant to section 82 of P. L. 1977, c. 110 (C. 5:12-82),
378 the person shall separately account for the gross revenues, the
379 investment alternative tax obligations, and the investments for a
380 tax credit against the investment alternative tax for each approved
381 hotel, and the tax obligations of the licensee under this section shall
382 be determined separately for each approved hotel. The licensee
383 may apportion investments between its approved hotels provided
384 that no amount of investment shall be credited more than once.
385 If a licensee receives the prior approval of the Casino Reinvest-
386 ment Development Authority, the licensee may make eligible invest-
387 ments in excess of the investments necessary to receive a tax credit
388 against the investment alternative tax for a given calendar year,
389 and the licensee may carry forward this excess investment and have
390 it credited to its next investment alternative tax obligation. If the
391 Casino Reinvestment Development Authority approves of such ex-
392 cess investment and approves the carry forward of this excess in-
393 vestment, and a licensee elects to purchase bonds of the Casino Re-
394 investment Development Authority or makes direct investments in
395 approved eligible projects in excess of the investments necessary to
396 receive a tax credit against the investment alternative tax for its
397 current obligation, the licensee shall be entitled to a reduction of
398 the amount of investments necessary in future years, which amount
399 shall be determined annually by the Casino Reinvestment Develop-
400 ment Authority taking into account a current market discount rate
401 from the date of the purchase or investment to the date the pur-
402 chase or investment would have been required to be made.

403 h. Each casino licensee shall prepare and file, in a form pre-
404 scribed by the Casino Reinvestment Development Authority, an
405 annual return reporting that financial information as shall be
406 deemed necessary by the Casino Reinvestment Development Au-
407 thority to carry out the provisions of this act. This return shall be

408 filed with the Casino Reinvestment Development Authority and the
409 Casino Control Commission on or before April 30 following the
410 calendar year on which the return is based. The Casino Control
411 Commission shall verify to the Casino Reinvestment Development
412 Authority the information contained in the report to the fullest ex-
413 tent possible. Nothing in this subsection shall be deemed to affect
414 the due dates for making any investment or paying any tax under
415 this section.

416 i. Any purchase by a licensee of bonds issued by or offered
417 through the Casino Reinvestment Development Authority pursuant
418 to sections 14 and 15 of this act and subsection b. of this section
419 and all approved eligible investments made by a licensee pursuant
420 to section 25 of this act and subsection b. of this section are to be
421 considered investments and not taxes owed or grants to the State
422 or any political subdivision thereof. As such, a licensee shall have
423 the possibility of the return of principal and a return on the capital
424 invested as with other investment. Investors in the bonds issued
425 by or offered through the Casino Reinvestment Development Au-
426 thority shall be provided with an opinion from a recognized finan-
427 cial rating agency or a financial advisory firm with national stand-
428 ing that each loan of bond proceeds by the Casino Reinvestment
429 Development Authority has the minimum characteristics of an
430 investment, in that a degree of assurance exists that interest and
431 principal payments can be made and other terms of the proposed
432 investment be maintained over the period of the investment,
433 and that the loan of the bond proceeds would qualify for a bond
434 rating of "C" or better. If an opinion cannot be obtained from a
435 recognized financial rating agency or a financial advisory firm with
436 national standing, an opinion shall be obtained from an expert fi-
437 nancial analyst with national standing selected and hired by the
438 Casino Reinvestment Development Authority. In order to achieve
439 a balance portfolio, assure the viability of the authority and the
440 projects, facilities and programs undertaken pursuant to this 1984
441 amendatory and supplementary act, no more than 25% of the total
442 investments made by or through the Casino Reinvestment Develop-
443 ment Authority with the proceeds of bonds generated in each year
444 shall be investments which would qualify for a bond rating of
445 "C" unless all holders of obligations in each year agree to waive
446 the 25% limit for that year. Nothing herein shall be interpreted
447 as limiting the Casino Reinvestment Development Authority from
448 taking any steps it deems appropriate to protect the character-
449 istics of its investment in projects or any other investments from
450 not being real investments with a prospect for the return of prin-

451 cipal and a return on the capital invested. Anything contained in
452 this section shall not be considered a guarantee by the State or
453 any political subdivision thereof of any return of principal or
454 interest, but any purchase by a licensee of bonds or approved eligi-
455 ble investments made by a licensee pursuant to this act shall be at
456 the risk of the licensee. A licensee or the licensees purchasing an
457 issue of bonds issued by the Casino Reinvestment Development
458 Authority in any given year may arrange, at their option, for those
459 bonds or the investments made by or through the Casino Reinvest-
460 ment Development Authority with the proceeds of those bonds to
461 be insured. The cost of any such insurance purchased by a licensee
462 or licensees shall be paid by the licensee or licensees desiring such
463 insurance.

464 j. The Casino Reinvestment Development Authority shall pro-
465 mulgate rules and regulations deemed necessary to carry out the
466 purposes of this section.

467 k. The obligation of a licensee to pay an investment alternative
468 tax pursuant to subsection a. of this section shall end for each
469 licensed facility operated by the licensee 25 years after any invest-
470 ment alternative tax obligation is first incurred in connection with
471 each licensed facility operated by the licensee unless extended in
472 connection with a deferral granted by the Casino Reinvestment
473 Development Authority pursuant to subsection c. of this section.

1 2. (New section) Notwithstanding any provision of P. L. 1984,
2 c. 218 (C. 5:12-74 et al.) to the contrary, if a casino licensee wishes
3 to avail itself of the investment tax credit provisions of subsec-
4 tion b. of section 3 of P. L. 1984, c. 218 (C. 5:12-144.1) in order to
5 satisfy the payment of the investment alternative tax due under
6 paragraph (1) of subsection a. of section 3 of P. L. 1984, c. 218
7 (C. 5:12-144.1) for calendar year 1984, the licensee may submit to
8 the State Treasurer no later than five days following the effective
9 date of this 1985 amendatory and supplementary act a letter of
10 credit drawn on a State or federally chartered bank, savings bank
11 or savings and loan association approved by the State Treasurer
12 in the amount of one-half of the tax due. The letter of credit shall
13 be payable to the Casino Reinvestment Development Authority on
14 ***[September 30, 1985]*** *July 31, 1985*. In addition, the licensee
15 shall pay on that date an amount equal to 33 $\frac{1}{3}$ % of the interest
16 that would have been earned on the principal amount of the letter
17 of credit if that amount had been invested by the Director of the
18 Division of Investment pursuant to the provisions of subsection m.
19 of section 13 of P. L. 1984, c. 218 (C. 5:12-161) for the period April
20 30, 1985 to ***[September 30, 1985]*** *July 31, 1985*. No penalty

21 shall be imposed on a casino licensee for failure to satisfy the in-
22 vestment tax credit provisions of subsection b. of section 3 of P. L.
23 1984, c. 218 (C. 5:12-144.1) by April 30, 1985 if the licensee submits
24 a letter of credit as provided in this section. If a licensee fails to
25 submit such a letter or to satisfy the investment tax credit pro-
26 visions of subsection b. of section 3 of P. L. 1984, c. 218 (C.
27 5:12-144.1) or to pay the investment alternative tax required under
28 paragraph (1) of subsection a. of section 3 of P. L. 1984, c. 218
29 (C. 5:12-144.1), the Casino Control Commission shall impose a fine
30 of 5% of the amount due for each month or portion thereof follow-
31 ing April 30, 1985, up to 25% of the amount due. Any fine imposed
32 shall be paid to the Casino Reinvestment Development Authority
33 and shall be used for the purposes of P. L. 1984, c. 218 (C. 5:12-74
34 et al.).

1 3. This act shall take effect immediately.

20 September 30, 1985. No penalty shall be imposed on a casino li-
21 censee for failure to satisfy the investment tax credit provisions
22 of subsection b. of section 3 of P. L. 1984, c. 218 (C. 5:12-144.1)
23 by April 30, 1985 if the licensee submits a letter of credit as pro-
24 vided in this section. If a licensee fails to submit such a letter or
25 to satisfy the investment tax credit provisions of subsection b. of
26 section 3 of P. L. 1984, c. 218 (C. 5:12-144.1) or to pay the invest-
27 ment alternative tax required under paragraph (1) of subsection
28 a. of section 3 of P. L. 1984, c. 218 (C. 5:12-144.1), the Casino
29 Control Commission shall impose a fine of 5% of the amount due
30 for each month or portion thereof following April 30, 1985, up to
31 25% of the amount due. Any fine imposed shall be paid to the
32 Casino Reinvestment Development Authority and shall be used for
33 the purposes of P. L. 1984, c. 218 (C. 5:12-74 et al.).

1 3. This act shall take effect immediately.

STATEMENT

This bill permits a casino licensee to submit a letter of credit to the State Treasurer in lieu of cash to satisfy the casino licensee's reinvestment obligation for calendar year 1984, which obligation is due on April 30, 1985. The letter of credit shall be payable to the Casino Reinvestment Development Authority on September 30, 1985, together with interest. The bill specifies that no penalty will be imposed on a licensee for failure to meet the April 30 deadline if a letter of credit is provided.

Under the recently enacted casino reinvestment legislation, casino licensees would have been able to petition the Casino Reinvestment Development Authority for permission to defer the April 30 payment, but while the authority members have been appointed, they have not yet been confirmed by the Senate and the authority has not yet become operative.

This bill also changes from $\frac{1}{2}$ of 1% to 5% per month the fine to be imposed for failure to pay or for under paying the quarterly payments due concerning a casino licensee's reinvestment obligation or for defaulting on a contractual agreement with the Casino Reinvestment Development Authority to purchase authority bonds or make direct investments. The 5% fine is also to be imposed if a licensee fails to satisfy its 1984 obligation by submitting a letter of credit, paying cash, or paying the investment alternative tax. This change corrects an oversight in the original casino reinvestment legislation.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: PAUL WOLCOTT
292-8956

TRENTON, N.J. 08625

Release: WED., JUNE 12, 1985

Governor Thomas H. Kean has signed legislation which permits a casino licensee to submit a letter of credit to the State Treasurer in lieu of cash as a means of satisfying the licensee's obligation under the Casino Reinvestment statute.

The bill, A-3614/S-2906, was sponsored by Assemblyman A. Joseph Fortunato and State Senator Richard J. Codey, both D-Essex.

The bill permits the use of a letter of credit to satisfy individual casino's 1984 reinvestment obligations, and raises the fine for non-payment of quarterly payments from .5 percent to 5 percent per month.

The Governor also signed S-950, sponsored by State Senator John F. Russo, D-Ocean, which amends the death penalty statute.

Among the changes the bill makes are:

- A change in the burden of proof at sentencing requiring that, if any aggravating factor is found by the jury, the verdict must state whether it outweighs beyond a reasonable doubt any one or more mitigating factors.
- Elimination of the mandatory proportionality review by the State Supreme Court of every death penalty case.
- A change which will permit the use of a previous murder conviction in a subsequent murder trial even if the first conviction is still on appeal.

~~more~~