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## CHAPTER 116

**AN ACT** concerning the Casino Control Act and certain agreements and taxes and fees concerning casinos, amending P.L.1993, c.159 and amending and supplementing P.L.1977, c.110.

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

1. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read as follows:

C.5:12-82 Casino licence -- 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, provided that the provisions of this paragraph shall not apply to agreements relating to the operation of a multi-casino progressive slot machine system between a group of casino licensees and a casino service industry licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, and that, with regard to such agreements, the casino service industry licensee or applicant may operate and administer the multi-casino progressive slot machine system, including, but not limited to, the operation of a monitor room and the payment of the progressive jackpots from a fund of contributions from participating casino licensees, provided that the consideration charged to the casino licensees for the operation and administration of the monitor room shall not exceed the actual direct costs of operating and administering the monitor room;

(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) Notwithstanding any other provision of P.L.1977, c.110 (C.5:12-1 et seq.) to the contrary, 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 or for the operation of a multi-casino progressive slot machine system, 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 or the operation of a multi-casino progressive slot machine system; 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.

2. Section 104 of P.L.1977, c.110 (C.5:12-104) is amended to read as follows:

C.5:12-104 Casino licensee leases and contracts.

104. a. Unless otherwise provided in this subsection, no agreement shall be lawful which provides for the payment, however defined, of any direct or indirect interest, percentage or share of: any money or property gambled at a casino or simulcasting facility; any money or property derived from casino gaming activity or wagering at a simulcasting facility; or any revenues, profits or earnings of a casino or simulcasting facility. Notwithstanding the foregoing:

(1) 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.

(2) Agreements between a casino licensee and a junket enterprise or junket representative licensed, qualified or registered in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations of the commission which provide for the compensation of the junket enterprise or junket representative by the casino licensee based upon the actual casino gaming or simulcast wagering activities of a patron procured or referred by the junket enterprise or junket representative shall be lawful if filed with the division prior to the conduct of any junket that is governed by the agreement.

(3) Agreements between a casino licensee and its employees which provide for casino employee or casino key employee profit sharing shall be lawful if the agreement is in writing and filed with the commission prior to its effective date. Such agreements may be reviewed by the commission under any relevant provision of P.L.1977, c.110 (C.5:12-1 et seq.).

(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 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 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 this subsection.

(9) Written agreements relating to the operation of multi-casino progressive slot machine systems between one or more casino licensees 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), or an eligible applicant for such license, which provide for an interest, percentage or share of the casino licensee's revenues, profits or earnings from the operation of such multi-casino progressive slot machines to be paid to the casino service industry licensee or applicant shall not be subject to the provisions of this subsection if the agreements are filed with and approved by the commission.

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.

C.5:12-148.1 Tax on certain comps provided by casinos at no cost, reduce price.

3. a. There is imposed on each casino licensee a tax on the value of rooms, food, beverages, or entertainment provided at no cost or at a reduced price, as required to be reported to the Casino Control Commission pursuant to section 102 of P.L.1977, c.110 (C.5:12-102), which tax shall be computed as follows:

(1) if rooms, food, beverages or entertainment are provided at no cost, the tax shall be at a rate of 4.25% on the value of rooms, food, beverages and entertainment;

(2) if rooms, food, beverages or entertainment are provided at reduced cost, the tax shall be at a rate of 4.25% on the value, which taxable value shall be reduced by any consideration paid by the person to whom the rooms, food, beverages or entertainment are provided; provided however, that the imposition of the excise tax as provided in this section is in addition to any tax due under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), on the receipts from the sale of food and beverages, or from amounts paid as a charge for entertainment, or the rents for occupancy of hotel rooms, at reduced cost;

(3) no excise tax shall be imposed on the value of any service or property upon which a sales or use tax has been paid by a casino licensee;

(4) for the purpose of computing the tax, the value of a room complimentary shall be \$67, provided that the commission shall review the room value within 90 days of the effective date of this act, and shall adjust the statutory room value to a rate that, along with the tax imposed pursuant to this section on food, beverages and entertainment, is sufficient to generate \$26 million in State fiscal year 2004, and the commission's review and adjustment shall take into account tax paid under this section by a casino licensee commencing operations in calendar year 2003 in determining whether the adjusted statutory room value would generate \$26 million in State fiscal year 2004, and in addition, the commission shall establish an inflation factor for the room value and the amount raised in each State fiscal year by the tax imposed pursuant to this section;

(5) for the purpose of computing the tax, the value of food, beverages and entertainment complimentaries shall be determined pursuant to section 2 of P.L.1983, c.41 (C.5:12-14a), provided that the value of a beverage complimentary served in a casino room shall be the cost to the casino licensee of providing the beverage; and

(6) for each casino licensee, the amount of tax imposed by this section shall not be less than the tax that the licensee would have paid if the tax had been in effect for calendar year 2002.

b. Each casino licensee shall file a return, on a form as prescribed by the Director of the Division of Taxation in the Department of the Treasury, and pay the amount of tax due pursuant to this section in the manner and at a frequency as the Director of the Division of Taxation prescribes, but no more frequently than monthly. In prescribing the periods to be covered by the return or intervals or classifications for payment of tax liability, the Director of the Division of Taxation may take into account the dollar volume of tax involved, as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The Director of the Division of Taxation shall determine and certify to the State Treasurer on at least a quarterly basis the amount of tax collected pursuant to this section. The Director of the Division of Taxation may promulgate such rules and regulations as the director determines are necessary to effectuate the provisions of this act.

d. The tax imposed by this section shall be governed in all respects by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq, except only to the extent that a specific provision of this section may be in conflict therewith.

e. The tax imposed by this section, and any interest or penalties collected by the Director of the Division of Taxation relating to that tax, shall be deposited into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

#### C.5:12-148.2 Tax of 8% imposed on multi-casino progressive slot machine revenue.

4. a. A tax at the rate of 8% is imposed on casino service industry multi-casino progressive slot machine revenue. The tax shall not be considered a tax collectable under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. As used in this section, "casino service industry multi-casino progressive slot machine revenue" means sums received by 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), or an eligible applicant for such license, net of any money accrued for return to patrons in the form of jackpots, that are directly or indirectly related to: (1) the conduct of multi-casino progressive slot machine system operations in a casino; or (2) the sale, lease, servicing or management of a multi-casino progressive slot machine system. Notwithstanding the foregoing, "casino service industry multi-casino progressive slot machine revenue" shall not be construed to apply to revenue derived from transactions between a casino licensee and its holding company or intermediary companies or their affiliates.



c. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax imposed by this section, and any interest or penalties collected by the Director of the Division of Taxation relating to that tax, shall be deposited into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. A casino service industry licensee or applicant required to pay the tax imposed pursuant to this section shall, on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the Director of the Division of Taxation the tax owed on casino service industry multi-casino progressive slot machine revenue received by the casino service industry licensee or applicant in the preceding month and make and file a return for the preceding month with the Director of the Division of Taxation on any form and containing any information as the Director of the Division of Taxation shall prescribe by rule or regulation as necessary to determine liability for the tax in the preceding month during which the person was required to pay the tax.

e. The Director of the Division of Taxation may permit or require returns to be made covering other periods and upon any dates as the Director of the Division of Taxation may specify. In addition, the Director of the Division of Taxation may require payments of tax liability at any intervals and based upon any classifications as the Director of the Division of Taxation may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the Director of the Division of Taxation may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

f. The Director of the Division of Taxation may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

g. The tax imposed under this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

C.5:12-148.3 Tax of 7.5% imposed on certain adjusted net income of casino licensees.

5. a. In State fiscal years 2004 through 2006, a tax at the rate of 7.5% is imposed on the adjusted net income of a casino licensee in calendar year 2002, determined pursuant to information provided by casino licensees to the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70) and published on April 2, 2003 in the commission's statement of casino licensee income for the twelve-month period ending on December 31, 2002, without regard to subsequent adjustment to such filing. For a casino licensee that was not in operation in calendar year 2002, the amount of the tax shall be 7.5% of its adjusted net income in State fiscal year 2004, as filed by the licensee with the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70). As used in this section, "adjusted net income" means annual net income plus management fees.

The aggregate amount of tax imposed by this section shall not exceed \$10 million annually for a holder of more than one casino license, and for each casino licensee the tax imposed by this section shall not be less than \$350,000 annually.

b. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all of the powers granted in P.L.1945, c.162 (C.54:10A-1 et seq.). For a casino licensee that was in operation in calendar year 2002, the tax shall be due and payable in four equal payments on September 15, December 15, March 15, and June 15 of each State fiscal year. For a casino licensee that was not in operation in calendar year 2002, the tax in State fiscal year 2004 shall be due and payable in four quarterly estimated payments on the basis of adjusted net income in the current quarter, and the licensee shall file an annual return for State fiscal year 2004 no later than October 15, 2004. In State fiscal years 2005 and 2006 for such casino licensee, the tax shall be due and payable in four equal payments on September 15, December 15, March 15 and June 15.

c. The tax imposed by this section, and any interest or penalties collected by the Director

of the Division of Taxation in the Department of the Treasury relating to that tax, shall be deposited into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. The Director of the Division of Taxation in the Department of the Treasury shall certify on September 30, 2003 and annually thereafter the amount of tax collected pursuant to this section. The Director of the Division of Taxation may promulgate such rules and regulations as the Director of the Division of Taxation determines are necessary to effectuate the provisions of this section.

e. The tax imposed under this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

C.5:12-145.8 Fee of \$3.00 imposed daily on occupied hotel rooms in casino hotel facility.

6. Notwithstanding the provisions of any other law to the contrary and in addition to any other tax or fee imposed by law, there is imposed a fee of \$3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item. The amounts generated by this section shall be paid to the State Treasurer for deposit in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, \$2.00 of the fee shall be deposited by the State Treasurer into the Casino Revenue Fund and \$1.00 shall be transferred by the State Treasurer to the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) for its purposes pursuant to law, as approved by the membership of the authority.

7. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to read as follows:

C.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); the taxes and fees imposed by sections 3, 4 and 6 of P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and any interest and penalties collected by the Director of the Division of Taxation in the Department of the Treasury in addition to those taxes; 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 and Senior Services, \$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 and Senior Services 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.

8. Section 1 of P.L.1993, c.159 (C.5:12-173.1) is amended to read as follows:

C.5:12-173.1 Findings, declarations relative to redevelopment in Atlantic City.

1. The Legislature finds that the single most significant factor contributing to the cost of constructing, maintaining, operating and supporting highways, roads and infrastructure, in Atlantic City, and particularly in the "corridor" region of the city, is the heavy volume of motor vehicular traffic occasioned by the attraction of casino gambling in Atlantic City. This traffic is encouraged by the provision of free parking by casino operations, by the relative underdevelopment of public transportation services, and by the shortage of hotel accommodations in the city. While the Legislature has taken various measures, most notably the "South Jersey Transportation Authority Act," P.L.1991, c.252 (C.27:25A-1 et al.), to provide and improve public transportation services in the South Jersey region as an alternative to the use of motor vehicles, the heavy capital costs associated with reconstruction of the corridor region's infrastructure require a continuous source of public funding. The Legislature declares, therefore, that it is in the public interest to require a standard minimum charge for casino parking within Atlantic City, and to impose fees on amounts received from those charges, with the proceeds of those fees to be used by the Casino Reinvestment Development Authority for projects which are related to improving the highways, roads, infrastructure, traffic regulation and public safety of the city, or which are otherwise necessary or useful to the economic development and redevelopment of the city in this regard. It is also in the public interest to establish a special temporary fund for the use of existing moneys of the authority for the provision of financial assistance to casino licensees to construct, reconstruct or rehabilitate hotel rooms in Atlantic City.

The Legislature declares that it is the public purpose of this amendatory act, P.L.1996, c.118 (C.5:12-173.3a et al.), that financial assistance to casino licensees to construct, reconstruct or rehabilitate hotel rooms in Atlantic City shall be determined after excluding costs reasonably related to space used for the conduct of casino gaming. It was, and continues to be, the public purpose of P.L.1993, c.159 (C.5:12-173.1 et seq.) that financial assistance may be provided to a project which includes, incorporates, facilitates or supports space used for the conduct of casino gaming in a casino hotel facility, but only for costs reasonably related to hotel rooms and their appurtenant facilities in the project.

The Legislature declares that it is the public purpose of this amendatory and supplementary act, P.L.2003, c.116 (C.5:12-148.1 et al.), that the proceeds of the increase in the fee imposed on the minimum charge for casino hotel parking within Atlantic City be deposited into the Casino Revenue Fund in State fiscal years 2004 through 2006, in order to assist the Casino Revenue Fund, and thereafter for use for the purposes specified.

9. Section 2 of P.L.1993, c.159 (C.5:12-173.2) is amended to read as follows:

C.5:12-173.2 Minimum charge of \$3.00 imposed for use of casino parking facility.

2. On and after July 1, 1993, there is established a minimum amount which shall be charged in the City of Atlantic City for the use of a parking space for the purpose of parking, garaging or storing a motor vehicle in a parking facility or property owned or leased by a casino hotel licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a casino hotel. The charge shall be not less than \$3.00 per day for each motor vehicle parked, garaged or stored in the parking space. The charge shall be made for all motor vehicles so parked, garaged or stored, except for motor vehicles owned or leased by the owner or operator of the parking facility or property, or by an employee of the casino hotel which owns or leases the parking facility or property. A parking space is considered to be that of a licensed casino hotel if the facility or property in which the space is located is owned, wholly or in part, or leased by the casino hotel, and is utilized in whole or in part in conjunction with the

operations of the casino hotel. A parking space shall be considered to be on behalf of a casino hotel if spaces within the facility or property are kept under lease or contract for the use of visitors or guests of the casino hotel. No motor vehicle shall be required, upon proof of payment of the \$3.00 charge, to pay the charge again in the same calendar day, either for use of a parking space in the same parking facility or property, or for use of a parking space in another casino hotel parking facility or property.

10. Section 3 of P.L.1993, c.159 (C.5:12-173.3) is amended to read as follows:

C.5:12-173.3 Minimum fee of \$3.00 imposed for use of casino parking space.

3. On and after July 1, 1993, there is imposed in the City of Atlantic City a fee upon the use of spaces for the parking, garaging or storing of motor vehicles in a parking facility or property owned or leased by a casino hotel licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a casino hotel. The fee so imposed is \$3.00 of the amount received by the casino hotel or person from each charge made for the use of a parking space; provided, however, that if the casino hotel or person shall fail to collect, or shall rebate, all or a portion of the charge required herein to be imposed for the use of any parking space, the full amount of the fee shall be payable by the casino hotel or person.

11. Section 4 of P.L.1993, c.159 (C.5:12-173.4) is amended to read as follows:

C.5:12-173.4 Special fund, use of fees.

4. a. The State Treasurer shall deposit the first \$1.50 of the fee collected pursuant to section 3 of this act, P.L.1993, c.159 (C.5:12-173.3) into a special fund established and held by the State Treasurer and made available for the exclusive use of the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153), and shall deposit the remaining \$1.50 of the fee into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, the State Treasurer shall deposit the remaining \$1.50 of the fee as follows: \$0.50 into the Casino Revenue Fund and \$1.00 to the authority for its purposes pursuant to law, as approved by the membership of the authority, provided that the authority shall use the portion of this \$1.00 that is necessary to carry out the purpose of section 13 of P.L.2003, c.116 (C.5:12-173.22).

b. Amounts in the special fund shall be expended by the authority for eligible projects in the corridor region of the City of Atlantic City in Atlantic County as defined by regulation of the authority, which are related to improving the highways, roads, infrastructure, traffic regulation and public safety of that city or which are otherwise necessary or useful to the economic development and redevelopment of the city in this regard. The State Treasurer may require that a financial plan demonstrating the need, schedule and use for moneys placed in the special fund be approved by the State Treasurer prior to allocation. Pending application of moneys held in this special fund for these purposes, the moneys shall be invested in accordance with applicable law and income therefrom shall be credited exclusively to the special fund.

12. Section 5 of P.L.1993, c.159 (C.5:12-173.5) is amended to read as follows:

C.5:12-173.5 Responsibility for collection of fees.

5. Each person subject to the provisions of section 3 of P.L.1993, c.159 (C.5:12-173.3) shall be responsible for the collection of the fees imposed pursuant thereto, which shall be collected as part of the charge made for the use of a parking space. Amounts so collected shall be forwarded to the Director of the Division of Taxation in the Department of the Treasury. The director, in administering the provisions of P.L.1993, c.159, shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues collected by the director pursuant to this section which are payable as directed by section 4 of P.L.1993, c.159 (C.5:12-173.4). The State Treasurer, upon certification of the director and upon warrant of the State Comptroller, and

subject to the pertinent requirements of section 4 of P.L.1993, c.159 (C.5:12-173.4) shall pay and distribute on a monthly basis pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4) the amount so certified.

C.5:12-173.22 Issuance of bonds by CRDA, establishment of Casino Capital Construction Fund.

13. a. Notwithstanding any other law to the contrary, the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) shall issue bonds sufficient to generate \$30 million for deposit into the Casino Capital Construction Fund created by this section, so that \$10 million shall be available in each State fiscal year for designation and reserve pursuant to subsection d. of this section, except that the authority shall issue bonds to generate an amount greater than \$30 million and make available more than \$10 million annually as may be necessary to ensure that for each casino licensee there is designated and reserved the maximum share provided for in subsection d. of this section. The principal and interest of such bonds shall be repaid exclusively from the revenue dedicated to the authority for this purpose pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4), as amended by section 11 of P.L.2003, c.116.

b. The authority shall establish a Casino Capital Construction Fund, into which the authority shall hold and make available for the exclusive use of casino licensees for eligible projects approved by the authority, the amount directed to be deposited into the fund pursuant to subsection a. of this section.

c. Amounts in this fund shall be distributed to a casino licensee for eligible capital construction projects approved by the membership of the authority for the following types of expansion: to increase the square footage of retail space, parking spaces or casino hotel rooms or to create a significant physical amenity or improvement. The authority shall promulgate regulations establishing criteria governing the approval of eligible projects.

d. Of the amounts available in the fund in each State fiscal year pursuant to subsection a. of this section, the authority shall designate and reserve in State fiscal years 2004 through 2006 for each casino licensee a maximum share of the available \$10 million or such greater amount as may be necessary, which maximum share shall be calculated as follows: the greater of (1) the casino licensee's total payment of the adjusted net income tax imposed pursuant to section 5 of P.L.2003, c.116 (C.5:12-148.3) in State fiscal year 2004, 2005 or 2006, as appropriate, divided by the sum of payments by all casino licensees of that tax in State fiscal year 2004, 2005 or 2006, as appropriate, or (2) an amount equal to one half of the amount of tax paid in State fiscal year 2004, 2005, or 2006 as appropriate. A casino licensee may receive a distribution up to the licensee's maximum share in each State fiscal year and the share of the fund so designated and reserved for a casino licensee that has not been distributed by June 30, 2014 shall be forfeited to the authority for use for its purposes pursuant to law for projects located within the boundaries of the City of Atlantic City, County of Atlantic, as approved by the membership of the authority.

e. Notwithstanding any provisions of P.L.1984, c.218 (C.5:12-153 et seq.) or any other law to the contrary, the authority shall issue bonds, the principal, interest or redemption premiums on which are to be payable in all from amounts to be deposited in the fund established pursuant to this section in the manner provided in sections 6 and 7 of P.L.1993, c.159 (C.5:12-173.6 and 173.7)

14. Section 24 of P.L.1977, c.110 (C.5:12-24) is amended to read as follows:

C.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; provided, however, that the cash equivalent value of any merchandise or thing of value included in a jackpot or payout shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenue. "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.

15. This act shall take effect immediately.

Approved July 1, 2003.

# ASSEMBLY, No. 3713

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## STATE OF NEW JERSEY

### 210th LEGISLATURE

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INTRODUCED JUNE 16, 2003

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Camden)**

**SYNOPSIS**

Makes various changes to Casino Control Act to increase certain fees, impose certain taxes and permit certain agreements.

**CURRENT VERSION OF TEXT**

As introduced.



A3713 GREENWALD

2

1 AN ACT concerning the Casino Control Act, amending P.L.1993,  
2 c.159 and amending and supplementing P.L.1977, c.110.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read  
8 as follows:

9 82. a. No casino shall operate unless all necessary licenses and  
10 approvals therefor have been obtained in accordance with law.

11 b. Only the following persons shall be eligible to hold a casino  
12 license; and, unless otherwise determined by the commission with the  
13 concurrence of the Attorney General which may not be unreasonably  
14 withheld in accordance with subsection c. of this section, each of the  
15 following persons shall be required to hold a casino license prior to the  
16 operation of a casino in the casino hotel with respect to which the  
17 casino license has been applied for:

18 (1) Any person who either owns an approved casino hotel or owns  
19 or has a contract to purchase or construct a casino hotel which in the  
20 judgment of the commission can become an approved casino hotel  
21 within 30 months or within such additional time period as the  
22 commission may, upon a showing of good cause therefor, establish;

23 (2) Any person who, whether as lessor or lessee, either leases an  
24 approved casino hotel or leases or has an agreement to lease a casino  
25 hotel which in the judgment of the commission can become an  
26 approved casino hotel within 30 months or within such additional time  
27 period as the commission may, upon a showing of good cause  
28 therefor, establish;

29 (3) Any person who has a written agreement with a casino licensee  
30 or with an eligible applicant for a casino license for the complete  
31 management of a casino and, if applicable, any authorized games in a  
32 casino simulcasting facility; and

33 (4) Any other person who has control over either an approved  
34 casino hotel or the land thereunder or the operation of a casino.

35 c. Prior to the operation of a casino and, if applicable, a casino  
36 simulcasting facility, every agreement to lease an approved casino  
37 hotel or the land thereunder and every agreement for the management  
38 of the casino and, if applicable, any authorized games in a casino  
39 simulcasting facility, shall be in writing and filed with the commission.  
40 No such agreement shall be effective unless expressly approved by the  
41 commission. The commission may require that any such agreement  
42 include within its terms any provision reasonably necessary to best  
43 accomplish the policies of this act. Consistent with the policies of this

**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 underlined thus is new matter.**



**A3713 GREENWALD**

1 act:

2 (1) The commission, with the concurrence of the Attorney General  
3 which may not be unreasonably withheld, may determine that any  
4 person who does not have the ability to exercise any significant control  
5 over either the approved casino hotel or the operation of the casino  
6 contained therein shall not be eligible to hold or required to hold a  
7 casino license;

8 (2) The commission, with the concurrence of the Attorney General  
9 which may not be unreasonably withheld, may determine that any  
10 owner, lessor or lessee of an approved casino hotel or the land  
11 thereunder who does not own or lease the entire approved casino hotel  
12 shall not be eligible to hold or required to hold a casino license;

13 (3) The commission shall require that any person or persons  
14 eligible to apply for a casino license organize itself or themselves into  
15 such form or forms of business association as the commission shall  
16 deem necessary or desirable in the circumstances to carry out the  
17 policies of this act;

18 (4) The commission may issue separate casino licenses to any  
19 persons eligible to apply therefor;

20 (5) As to agreements to lease an approved casino hotel or the land  
21 thereunder, unless it expressly and by formal vote for good cause  
22 determines otherwise, the commission shall require that each party  
23 thereto hold either a casino license or casino service industry license  
24 and that such an agreement be for a durational term exceeding 30  
25 years, concern 100% of the entire approved casino hotel or of the land  
26 upon which same is located, and include within its terms a buy-out  
27 provision conferring upon the casino licensee-lessee who controls the  
28 operation of the approved casino hotel the absolute right to purchase  
29 for an expressly set forth fixed sum the entire interest of the lessor or  
30 any person associated with the lessor in the approved casino hotel or  
31 the land thereunder in the event that said lessor or said person  
32 associated with the lessor is found by the commission to be unsuitable  
33 to be associated with a casino enterprise;

34 (6) The commission shall not permit an agreement for the leasing  
35 of an approved casino hotel or the land thereunder to provide for the  
36 payment of an interest, percentage or share of money gambled at the  
37 casino or derived from casino gaming activity or of revenues or profits  
38 of the casino unless the party receiving payment of such interest,  
39 percentage or share is a party to the approved lease agreement; unless  
40 each party to the lease agreement holds either a casino license or  
41 casino service industry license and unless the agreement is for a  
42 durational term exceeding 30 years, concerns a significant portion of  
43 the entire approved casino hotel or of the land upon which same is  
44 located, and includes within its terms a buy-out provision conforming  
45 to that described in paragraph (5) above;

46 (7) As to agreements for the management of a casino and, if

1 applicable, the authorized games in a casino simulcasting facility, the  
2 commission shall require that each party thereto hold a casino license,  
3 that the party thereto who is to manage the casino gaming operations  
4 own at least 10% of all outstanding equity securities of any casino  
5 licensee or of any eligible applicant for a casino license if the said  
6 licensee or applicant is a corporation and the ownership of an  
7 equivalent interest in any casino licensee or in any eligible applicant for  
8 a casino license if same is not a corporation, and that such an  
9 agreement be for the complete management of all casino space in the  
10 casino hotel and, if applicable, all authorized games in a casino  
11 simulcasting facility, provide for the sole and unrestricted power to  
12 direct the casino gaming operations of the casino hotel which is the  
13 subject of the agreement, and be for such a durational term as to  
14 assure reasonable continuity, stability and independence in the  
15 management of the casino gaming operations, provided that the  
16 provisions of this paragraph shall not apply to agreements relating to  
17 the operation of a multi-casino progressive slot machine system  
18 between a group of casino licensees and a casino service industry  
19 licensed pursuant to subsection a. of section 92 of P.L.1977, c.110  
20 (C.5:12-92) and that, with regard to such agreements, the casino  
21 service industry licensee may operate and administer the multi-casino  
22 progressive slot machine system, including, but not limited to, the  
23 operation of a monitor room and the payment of the progressive  
24 jackpots from a fund of contributions from participating casino  
25 licensees;

26 (8) The commission may permit an agreement for the management  
27 of a casino and, if applicable, the authorized games in a casino  
28 simulcasting facility to provide for the payment to the managing party  
29 of an interest, percentage or share of money gambled at all authorized  
30 games or derived from casino gaming activity or of revenues or profits  
31 of casino gaming operations;

32 (9) The commission may permit an agreement between a casino  
33 licensee and a casino service industry licensed pursuant to the  
34 provisions of subsection a. of section 92 of P.L.1977, c.110  
35 (C.5:12-92) for the conduct of casino simulcasting in a simulcasting  
36 facility or for the operation of a multi-casino progressive slot machine  
37 system, to provide for the payment to the casino service industry of an  
38 interest, percentage or share of the money derived from the casino  
39 licensee's share of proceeds from simulcast wagering activity or the  
40 operation of a multi-casino progressive slot machine system; and

41 (10) As to agreements to lease an approved casino hotel or the land  
42 thereunder, agreements to jointly own an approved casino hotel or the  
43 land thereunder and agreements for the management of casino gaming  
44 operations or for the conduct of casino simulcasting in a simulcasting  
45 facility, the commission shall require that each party thereto, except  
46 for a banking or other chartered or licensed lending institution or any

1 subsidiary thereof, or any chartered or licensed life insurance company  
2 or property and casualty insurance company, or the State of New  
3 Jersey or any political subdivision thereof or any agency or  
4 instrumentality of the State or any political subdivision thereof, shall  
5 be jointly and severally liable for all acts, omissions and violations of  
6 this act by any party thereto regardless of actual knowledge of such  
7 act, omission or violation and notwithstanding any provision in such  
8 agreement to the contrary.

9 d. No corporation shall be eligible to apply for a casino license  
10 unless:

11 (1) The corporation shall be incorporated in the State of New  
12 Jersey, although such corporation may be a wholly or partially owned  
13 subsidiary of a corporation which is organized pursuant to the laws of  
14 another state of the United States or of a foreign country;

15 (2) The corporation shall maintain an office of the corporation in  
16 the casino hotel licensed or to be licensed;

17 (3) The corporation shall comply with all the requirements of the  
18 laws of the State of New Jersey pertaining to corporations;

19 (4) The corporation shall maintain a ledger in the principal office  
20 of the corporation in New Jersey which shall at all times reflect the  
21 current ownership of every class of security issued by the corporation  
22 and shall be available for inspection by the commission or the division  
23 and authorized agents of the commission and the division at all  
24 reasonable times without notice;

25 (5) The corporation shall maintain all operating accounts required  
26 by the commission in a bank in New Jersey, except that a casino  
27 licensee may establish deposit-only accounts in any jurisdiction in  
28 order to obtain payment of any check described in section 101 of  
29 P.L.1977, c.110 (C.5:12-101);

30 (6) The corporation shall include among the purposes stated in its  
31 certificate of incorporation the conduct of casino gaming and provide  
32 that the certificate of incorporation includes all provisions required by  
33 this act;

34 (7) The corporation, if it is not a publicly traded corporation, shall  
35 file with the commission such adopted corporate charter provisions as  
36 may be necessary to establish the right of prior approval by the  
37 commission with regard to transfers of securities, shares, and other  
38 interests in the applicant corporation; and, if it is a publicly traded  
39 corporation, provide in its corporate charter that any securities of such  
40 corporation are held subject to the condition that if a holder thereof is  
41 found to be disqualified by the commission pursuant to the provisions  
42 of this act, such holder shall dispose of his interest in the corporation;  
43 provided, however, that, notwithstanding the provisions of  
44 N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be  
45 deemed to require that any security of such corporation bear any  
46 legend to this effect;

1 (8) The corporation, if it is not a publicly traded corporation, shall  
2 establish to the satisfaction of the commission that appropriate charter  
3 provisions create the absolute right of such non-publicly traded  
4 corporations and companies to repurchase at the market price or the  
5 purchase price, whichever is the lesser, any security, share or other  
6 interest in the corporation in the event that the commission  
7 disapproves a transfer in accordance with the provisions of this act;

8 (9) Any publicly traded holding, intermediary, or subsidiary  
9 company of the corporation, whether the corporation is publicly traded  
10 or not, shall contain in its corporate charter the same provisions  
11 required under paragraph (7) for a publicly traded corporation to be  
12 eligible to apply for a casino license; and

13 (10) Any non-publicly traded holding, intermediary or subsidiary  
14 company of the corporation, whether the corporation is publicly traded  
15 or not, shall establish to the satisfaction of the commission that its  
16 charter provisions are the same as those required under paragraphs (7)  
17 and (8) for a non-publicly traded corporation to be eligible to apply for  
18 a casino license.

19 Notwithstanding the foregoing, any corporation or company which  
20 had bylaw provisions approved by the commission prior to the  
21 effective date of this 1987 amendatory act shall have one year from the  
22 effective date of this 1987 amendatory act to adopt appropriate charter  
23 provisions in accordance with the requirements of this subsection.

24 The provisions of this subsection shall apply with the same force  
25 and effect with regard to casino license applicants and casino licensees  
26 which have a legal existence that is other than corporate to the extent  
27 which is appropriate.

28 e. No person shall be issued or be the holder of a casino license if  
29 the issuance or the holding results in undue economic concentration in  
30 Atlantic City casino operations by that person. The commission shall,  
31 after conducting public hearings thereon, promulgate rules and  
32 regulations in accordance with the "Administrative Procedure Act,"  
33 P.L.1968, c.410 (C.52:14B-1 et seq.) defining the criteria the  
34 commission will use in determining what constitutes undue economic  
35 concentration. For the purpose of this subsection a person shall be  
36 considered the holder of a casino license if such license is issued to  
37 such person or if such license is held by any holding, intermediary or  
38 subsidiary company thereof, or by any officer, director, casino key  
39 employee or principal employee of such person, or of any holding,  
40 intermediary or subsidiary company thereof.

41 (cf: P.L.1996, c.84, s.3)

42

43 2. Section 104 of P.L.1977, c.110 (C.5:12-104) is amended to read  
44 as follows:

45 104. a. Unless otherwise provided in this subsection, no agreement  
46 shall be lawful which provides for the payment, however defined, of

1 any direct or indirect interest, percentage or share of: any money or  
2 property gambled at a casino or simulcasting facility; any money or  
3 property derived from casino gaming activity or wagering at a  
4 simulcasting facility; or any revenues, profits or earnings of a casino  
5 or simulcasting facility. Notwithstanding the foregoing:

6 (1) Agreements which provide only for the payment of a fixed sum  
7 which is in no way affected by the amount of any such money,  
8 property, revenues, profits or earnings shall not be subject to the  
9 provisions of this subsection; and receipts, rentals or charges for real  
10 property, personal property or services shall not lose their character  
11 as payments of a fixed sum because of contract, lease, or license  
12 provisions for adjustments in charges, rentals or fees on account of  
13 changes in taxes or assessments, cost-of-living index escalations,  
14 expansion or improvement of facilities, or changes in services supplied.

15 (2) Agreements between a casino licensee and a junket enterprise  
16 or junket representative licensed, qualified or registered in accordance  
17 with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the  
18 regulations of the commission which provide for the compensation of  
19 the junket enterprise or junket representative by the casino licensee  
20 based upon the actual casino gaming or simulcast wagering activities  
21 of a patron procured or referred by the junket enterprise or junket  
22 representative shall be lawful if filed with the division prior to the  
23 conduct of any junket that is governed by the agreement.

24 (3) Agreements between a casino licensee and its employees which  
25 provide for casino employee or casino key employee profit sharing  
26 shall be lawful if the agreement is in writing and filed with the  
27 commission prior to its effective date. Such agreements may be  
28 reviewed by the commission under any relevant provision of P.L.1977,  
29 c.110 (C.5:12-1 et seq.).

30 (4) Agreements to lease an approved casino hotel or the land  
31 thereunder and agreements for the complete management of all casino  
32 gaming operations in a casino hotel shall not be subject to the  
33 provisions of this subsection but shall rather be subject to the  
34 provisions of subsections b. and c. of section 82 of this act.

35 (5) Agreements which provide for percentage charges between the  
36 casino licensee and a holding company or intermediary company of the  
37 casino licensee shall be in writing and filed with the commission but  
38 shall not be subject to the provisions of this subsection.

39 (6) Agreements relating to simulcast racing and wagering between  
40 a casino licensee and an in-State or out-of-State sending track licensed  
41 or exempt from licensure in accordance with subsection c. of section  
42 92 of P.L.1977, c.110 (C.5:12-92) shall be in writing, be filed with the  
43 commission, and be lawful and effective only if expressly approved as  
44 to their terms by the commission and the New Jersey Racing  
45 Commission, except that any such agreements which provide for a  
46 percentage of the parimutuel pool wagered at a simulcasting facility to

1 be paid to the sending track shall not be subject to the provisions of  
2 this subsection.

3 (7) Agreements relating to simulcast racing and wagering between  
4 a casino licensee and a casino service industry licensed pursuant to the  
5 provisions of subsection a. of section 92 of P.L.1977, c.110  
6 (C.5:12-92) as a hub facility, as defined in joint regulations of the  
7 Casino Control Commission and the New Jersey Racing Commission,  
8 shall be in writing, be filed with the commission, and be lawful and  
9 effective only if expressly approved as to their terms by the  
10 commission and the New Jersey Racing Commission, except that any  
11 such agreements which provide for a percentage of the casino  
12 licensee's share of the parimutuel pool wagered at a simulcasting  
13 facility to be paid to the hub facility shall not be subject to the  
14 provisions of this subsection.

15 (8) Agreements relating to simulcast racing and wagering between  
16 a casino licensee and a casino service industry licensed pursuant to the  
17 provisions of subsection a. of section 92 of P.L.1977, c.110  
18 (C.5:12-92) to conduct casino simulcasting in a simulcasting facility  
19 shall be in writing, be filed with the commission, and be lawful and  
20 effective only if expressly approved as to their terms by the  
21 commission, except that any such agreements which provide for a  
22 percentage of the casino licensee's share of the parimutuel pool  
23 wagered at a simulcasting facility to be paid to the casino service  
24 industry shall not be subject to the provisions of this subsection.

25 (9) [Existing agreements or any renewals thereof] Written  
26 agreements relating to the [operation of multi-casino progressive]  
27 purchase or lease of one or more slot [machine systems] machines  
28 between [one or more] a casino [licensees] licensee and a casino  
29 service industry licensed pursuant to the provisions of subsection a. of  
30 section 92 of P.L.1977, c.110 (C.5:12-92) [and provided such  
31 agreements are] which provide for an interest percentage or share of  
32 the casino licensee's revenues, profits or earnings from the operation  
33 of such slot machines to be paid to the casino service industry licensee  
34 shall not be subject to the provisions of this subsection if the  
35 agreements are filed with and approved by the commission.

36 b. Each casino applicant or licensee shall maintain, in accordance  
37 with the rules of the commission, a record of each written or unwritten  
38 agreement regarding the realty, construction, maintenance, or business  
39 of a proposed or existing casino hotel or related facility. The  
40 foregoing obligation shall apply regardless of whether the casino  
41 applicant or licensee is a party to the agreement. Any such agreement  
42 may be reviewed by the commission on the basis of the reasonableness  
43 of its terms, including the terms of compensation, and of the  
44 qualifications of the owners, officers, employees, and directors of any  
45 enterprise involved in the agreement, which qualifications shall be  
46 reviewed according to the standards enumerated in section 86 of this

1 act. If the commission disapproves such an agreement or the owners,  
2 officers, employees, or directors of any enterprise involved therein, the  
3 commission may require its termination.

4 Every agreement required to be maintained, and every related  
5 agreement the performance of which is dependent upon the  
6 performance of any such agreement, shall be deemed to include a  
7 provision to the effect that, if the commission shall require termination  
8 of an agreement pursuant to this subsection, such termination shall  
9 occur without liability on the part of the casino applicant or licensee  
10 or any qualified party to the agreement or any related agreement.  
11 Failure expressly to include such a provision in the agreement shall not  
12 constitute a defense in any action brought to terminate the agreement.  
13 If the agreement is not maintained or presented to the commission in  
14 accordance with commission regulations, or the disapproved  
15 agreement is not terminated, the commission may pursue any remedy  
16 or combination of remedies provided in this act.

17 For the purposes of this subsection, "casino applicant" includes any  
18 person required to hold a casino license pursuant to section 82 of  
19 P.L.1977, c.110 (C.5:12-82) who has applied to the commission for  
20 a casino license or any approval required under P.L.1977, c.110  
21 (C.5:12-1 et seq.).

22 c. Nothing in this act shall be deemed to permit the transfer of any  
23 license, or any interest in any license, or any certificate of compliance  
24 or any commitment or reservation.  
25 (cf: P.L.2002, c.65, s.26)  
26

27 3. Section 140 of P.L.1977, c.110 (C.5:12-140) is amended to read  
28 as follows:

29 140. a. In addition to any other tax or fee imposed by this act,  
30 there is also hereby imposed an annual license fee of ~~[\$500.00]~~ \$750  
31 upon every slot machine; maintained for use or in use in any licensed  
32 casino establishment in this State.

33 b. License fees imposed under the provisions of this section shall be  
34 imposed as of the first day of July of each year with regard to all slot  
35 machines maintained for use or in use on that date, and on a pro rata  
36 basis thereafter during the year with regard to all slot machines  
37 maintained for use or placed in use after July 1.  
38 (cf: P.L.1979, c.198, s.1)  
39

40 4. (New section) a. Notwithstanding any other law to the contrary,  
41 the commission shall increase existing fees, or establish new fees, in an  
42 amount that is projected to raise, in the aggregate, \$5,000,000 more  
43 than the projected operating expenses of the division and the  
44 commission in each fiscal year, beginning in State fiscal year 2004 and  
45 ending at the close of State fiscal year 2007. Notwithstanding section  
46 143 of P.L.1977, c.110 (C.5:12-143) or any other law to the contrary,

1 in State fiscal years 2004 through 2007, the \$5,000,000 generated  
2 pursuant to the provisions of this subsection shall be deposited into the  
3 Casino Revenue Fund established pursuant to section 145 of P.L.1977,  
4 c.110 (C.5:12-145).

5 b. Notwithstanding section 143 of P.L.1977, c.110 (C.5:12-143)  
6 or any other law to the contrary, in State fiscal years 2004 through  
7 2007 the proceeds from the increase in the annual license fee on slot  
8 machines imposed pursuant to section 140 of P.L.1977, c.110 (C.5:12-  
9 140) shall be deposited into the Casino Revenue Fund established  
10 pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

11  
12 5. (New section) a. A tax at the rate of 9.25% is imposed on  
13 casino service industry slot machine revenue. The tax shall be the  
14 liability of and solely payable by the casino service industry licensee  
15 that receives such revenue and shall not be considered a tax collectable  
16 under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et  
17 seq.).

18 b. As used in this section, "casino service industry slot machine  
19 revenue" means sums received by a casino service industry, licensed  
20 pursuant to the provisions of subsection a. of section 92 of P.L.1977,  
21 c.110 (C.5:12-92), as the result of a commercial transaction which  
22 provides for the periodic payment of a lease or license fee for slot  
23 machines furnished by the casino service industry licensee to a casino  
24 licensee or applicant or group of casino licensees or applicants for use  
25 in a casino, whether such sums are received from a casino licensee or  
26 applicant or any other source located in this State, except that "casino  
27 service industry slot machine revenue" shall not be construed to apply  
28 to: (1) a bona fide transaction which provides for the purchase  
29 financing of gaming or related equipment notwithstanding that a lease  
30 or similar instrument is entered into; and (2) transactions between a  
31 casino licensee or applicant and its holding or intermediary companies  
32 or their affiliates.

33 c. The Director of the Division of Taxation in the Department of  
34 the Treasury shall collect and administer the tax imposed pursuant to  
35 this section. In carrying out the provisions of this section, the Director  
36 of the Division of Taxation shall have all the powers granted in  
37 P.L.1966, c.30 (C.54:32B-1 et seq.). The tax imposed by this section,  
38 and any interest or penalties collected by the Director of the Division  
39 of Taxation relating to that tax, shall be deposited into the Casino  
40 Revenue Fund established pursuant to section 145 of P.L.1977, c.110  
41 (C.5:12-145).

42 d. A casino service industry licensee required to pay the tax  
43 imposed pursuant to this section shall, on or before the dates required  
44 pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to  
45 the Director of the Division of Taxation the tax owed on casino  
46 service industry slot machine revenue received by the casino service



1 industry licensee in the preceding month and make and file a return for  
2 the preceding month with the Director of the Division of Taxation on  
3 any form and containing any information as the Director of the  
4 Division of Taxation shall prescribe by rule or regulation as necessary  
5 to determine liability for the tax in the preceding month during which  
6 the person was required to pay the tax.

7 e. The Director of the Division of Taxation may permit or require  
8 returns to be made covering other periods and upon any dates as the  
9 Director of the Division of Taxation may specify. In addition, the  
10 Director of the Division of Taxation may require payments of tax  
11 liability at any intervals and based upon any classifications as the  
12 Director of the Division of Taxation may designate. In prescribing any  
13 other periods to be covered by the return or intervals or classifications  
14 for payment of tax liability, the Director of the Division of Taxation  
15 may take into account the dollar volume of tax involved as well as the  
16 need for ensuring the prompt and orderly collection of the tax  
17 imposed.

18 f. The Director of the Division of Taxation may require amended  
19 returns to be filed within 20 days after notice and to contain the  
20 information specified in the notice.

21 g. The tax imposed under this section shall be governed by the  
22 provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1  
23 et seq.

24

25 6. (New section) a. A tax at the rate of 26% is imposed on the  
26 annual adjusted net income of a casino licensee in calendar years 2003  
27 through 2006. As used in this section, "annual adjusted net income"  
28 means annual net income plus management fees, determined pursuant  
29 to information provided by casino licensees to the commission  
30 pursuant to regulations promulgated in accordance with subsection n.  
31 of section 70 of P.L.1977, c.110 (C.5:12-70) and published in the  
32 commission's statement of casino licensee income for the twelve month  
33 period ending on December 31 of each calendar year. The commission  
34 shall make such adjustments to its regulations as may be necessary to  
35 effectuate the purposes of this section.

36 b. The Director of the Division of Taxation in the Department of  
37 the Treasury shall collect and administer the tax imposed pursuant to  
38 this section. In carrying out the provisions of this section, the director  
39 shall have all of the powers granted in P.L.1945, c.162 (C.54:10A-1  
40 et seq.). The tax shall be due and payable annually on or before the  
41 15th day of April following the close of the calendar year and shall be  
42 based upon adjusted net income derived during the previous calendar  
43 year. For each casino licensee, the amount of tax imposed by this  
44 section shall not be less than the tax that the licensee would have paid  
45 if the tax had been in effect for calendar year 2002.

46 c. The tax imposed by this section, and any interest or penalties

1 collected by the Director of the Division of Taxation in the  
2 Department of the Treasury relating to that tax, shall be deposited into  
3 the Casino Revenue Fund established pursuant to section 145 of  
4 P.L.1977, c.110 (C.5:12-145).

5 d. The Director of the Division of Taxation in the Department of  
6 the Treasury shall certify on September 30, 2004 and annually  
7 thereafter the amount of tax collected pursuant to this section. The  
8 Director of the Division of Taxation may promulgate such rules and  
9 regulations as the Director of the Division of Taxation determines are  
10 necessary to effectuate the provisions of this section.

11 e. The tax imposed under this section shall be governed by the  
12 provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1  
13 et seq.

14

15 7. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to read  
16 as follows:

17 145. Casino revenue fund. a. There is hereby created and  
18 established in the Department of the Treasury a separate special  
19 account to be known as the "Casino Revenue Fund," into which shall  
20 be deposited all revenues from the tax imposed by section 144 of this  
21 act; the investment alternative tax imposed by section 3 of P.L.1984,  
22 c.218 (C.5:12-144.1); the tax imposed by sections 5 of P.L. , c.  
23 (C. ) (now before the Legislature as this bill) and any interest and  
24 penalties collected by the Director of the Division of Taxation in the  
25 Department of the Treasury in addition to that tax; the portion of the  
26 casino hotel parking fee directed to be deposited in the fund by section  
27 4 of P.L.1993, c.159 (C.5:12-173.4) and all penalties levied and  
28 collected by the commission pursuant to P.L.1977, c.110 (C.5:12-1 et  
29 seq.) and the regulations promulgated thereunder, except that the first  
30 \$600,000 in penalties collected each fiscal year shall be paid into the  
31 General Fund for appropriation by the Legislature to the Department  
32 of Health, \$500,000 of which is to provide funds to the Council on  
33 Compulsive Gambling of New Jersey and \$100,000 of which is to  
34 provide funds for compulsive gambling treatment programs in the  
35 State. In the event that less than \$600,000 in penalties are collected,  
36 the Department of Health shall determine the allocation of funds  
37 between the Council and the treatment programs eligible under the  
38 criteria developed pursuant to section 2 of P.L.1993, c.229  
39 (C.26:2-169).

40 b. The commission shall require at least monthly deposits by the  
41 licensee of the tax established pursuant to subsection a. of section 144  
42 of P.L.1977, c.110 (C.5:12-144), at such times, under such conditions,  
43 and in such depositories as shall be prescribed by the State Treasurer.  
44 The deposits shall be deposited to the credit of the Casino Revenue  
45 Fund. The commission may require a monthly report and  
46 reconciliation statement to be filed with it on or before the 10th day of

1 each month, with respect to gross revenues and deposits received and  
2 made, respectively, during the preceding month.

3 c. Moneys in the Casino Revenue Fund shall be appropriated  
4 exclusively for reductions in property taxes, rentals, telephone, gas,  
5 electric, and municipal utilities charges of eligible senior citizens and  
6 disabled residents of the State, and for additional or expanded health  
7 services or benefits or transportation services or benefits to eligible  
8 senior citizens and disabled residents, as shall be provided by law. On  
9 or about March 15 and September 15 of each year, the State Treasurer  
10 shall publish in at least 10 newspapers circulating generally in the State  
11 a report accounting for the total revenues received in the Casino  
12 Revenue Fund and the specific amounts of money appropriated  
13 therefrom for specific expenditures during the preceding six months  
14 ending December 31 and June 30.

15 (cf: P.L.1993, c.229, s.1)

16

17 8. Section 1 of P.L.1993, c.159 (C.5:12-173.1) is amended to read  
18 as follows:

19 1. The Legislature finds that the single most significant factor  
20 contributing to the cost of constructing, maintaining, operating and  
21 supporting highways, roads and infrastructure, in Atlantic City, and  
22 particularly in the "corridor" region of the city, is the heavy volume of  
23 motor vehicular traffic occasioned by the attraction of casino gambling  
24 in Atlantic City. This traffic is encouraged by the provision of free  
25 parking by casino operations, by the relative underdevelopment of  
26 public transportation services, and by the shortage of hotel  
27 accommodations in the city. While the Legislature has taken various  
28 measures, most notably the "South Jersey Transportation Authority  
29 Act," P.L.1991, c.252 (C.27:25A-1 et al.), to provide and improve  
30 public transportation services in the South Jersey region as an  
31 alternative to the use of motor vehicles, the heavy capital costs  
32 associated with reconstruction of the corridor region's infrastructure  
33 require a continuous source of public funding. The Legislature  
34 declares, therefore, that it is in the public interest to require a standard  
35 minimum charge for casino parking within Atlantic City, and to impose  
36 fees on amounts received from those charges, with the proceeds of  
37 those fees to be used by the Casino Reinvestment Development  
38 Authority for projects which are related to improving the highways,  
39 roads, infrastructure, traffic regulation and public safety of the city, or  
40 which are otherwise necessary or useful to the economic development  
41 and redevelopment of the city in this regard. It is also in the public  
42 interest to establish a special temporary fund for the use of existing  
43 moneys of the authority for the provision of financial assistance to  
44 casino licensees to construct, reconstruct or rehabilitate hotel rooms  
45 in Atlantic City.

46 The Legislature declares that it is the public purpose of this

1 amendatory act, P.L.1996, c.118 (C.5:12-173.3a et al.), that financial  
2 assistance to casino licensees to construct, reconstruct or rehabilitate  
3 hotel rooms in Atlantic City shall be determined after excluding costs  
4 reasonably related to space used for the conduct of casino gaming. It  
5 was, and continues to be, the public purpose of P.L.1993, c.159  
6 (C.5:12-173.1 et seq.) that financial assistance may be provided to a  
7 project which includes, incorporates, facilitates or supports space used  
8 for the conduct of casino gaming in a casino hotel facility, but only for  
9 costs reasonably related to hotel rooms and their appurtenant facilities  
10 in the project.

11 The Legislature declares that it is the public purpose of this  
12 amendatory act, P.L. , c. (C. )(now before the Legislature as this  
13 bill), that the proceeds of the increase in the fee imposed on the  
14 minimum charge for casino hotel parking within Atlantic City be  
15 deposited into the Casino Revenue Fund for appropriation to programs  
16 designed to benefit senior citizens and disabled residents.

17 (cf: P.L.1996, c.118, s.1)

18

19 9. Section 3 of P.L.1993, c.159 (C.5:12-173.3) is amended to read  
20 as follows:

21 3. On and after July 1, 1993, there is imposed in the City of  
22 Atlantic City a fee upon the use of spaces for the parking, garaging or  
23 storing of motor vehicles in a parking facility or property owned or  
24 leased by a casino hotel licensed under the "Casino Control Act,"  
25 P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a  
26 casino hotel. The fee so imposed is ~~[\$1.50]~~ \$2.00 of the amount  
27 received by the casino hotel or person from each charge made for the  
28 use of a parking space; provided, however, that if the casino hotel or  
29 person shall fail to collect, or shall rebate, all or a portion of the  
30 charge required herein to be imposed for the use of any parking space,  
31 the full amount of the fee shall be payable by the casino hotel or  
32 person.

33 (cf: P.L.1993, c.159, s.3)

34

35 10. Section 4 of P.L.1993, c.159 (C.5:12-173.4) is amended to  
36 read as follows:

37 4. ~~[Proceeds from]~~ The State Treasurer shall pay 75% of the fees  
38 collected pursuant to section 3 of this act, P.L.1993, c.159  
39 (C.5:12-173.3) [shall be paid by the State Treasurer] into a special  
40 fund established and held by the State Treasurer and made available  
41 for the exclusive use of the Casino Reinvestment Development  
42 Authority established pursuant to section 5 of P.L.1984, c.218  
43 (C.5:12-153) , and 25% into the Casino Revenue Fund established  
44 pursuant to section 145 of P.L.1977, c.110 (C.5:12-145). Amounts  
45 in ~~[this]~~ the special fund for use by the Casino Reinvestment  
46 Development Authority shall be expended by [that] the authority for

1 eligible projects in the corridor region of the City of Atlantic City in  
2 Atlantic County as defined by regulation of the authority, which are  
3 related to improving the highways, roads, infrastructure, traffic  
4 regulation and public safety of that city or which are otherwise  
5 necessary or useful to the economic development and redevelopment  
6 of the city in this regard. The State Treasurer may require that a  
7 financial plan demonstrating the need, schedule and use for moneys  
8 placed in the special fund be approved by the State Treasurer prior to  
9 allocation. Pending application of moneys held in this special fund for  
10 these purposes, the moneys shall be invested in accordance with  
11 applicable law and income therefrom shall be credited exclusively to  
12 the special fund.

13 (cf: P.L.1993, c.159, s.4)

14

15 11. Section 5 of P.L.1993, c.159 (C.5:12-173.5) is amended to  
16 read as follows:

17 5. Each person subject to the provisions of section 3 of [this act,]  
18 P.L.1993, c.159 (C.5:12-173.3) [,] shall be responsible for the  
19 collection of the fees imposed pursuant thereto, which shall be  
20 collected as part of the charge made for the use of a parking space.  
21 Amounts so collected shall be forwarded to the Director of the  
22 Division of Taxation in the Department of the Treasury. The director,  
23 in administering the provisions of [this act] P.L.1993, c.159, shall  
24 have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.).  
25 The director shall determine and certify to the State Treasurer on a  
26 monthly basis the amount of revenues collected by the director  
27 pursuant to this section which are payable to the special fund  
28 established by [this act] section 4 of P.L.1993, c.159 (C.5:12-173.4),  
29 and to the Casino Revenue Fund pursuant to that section. The State  
30 Treasurer, upon certification of the director and upon warrant of the  
31 State Comptroller, and subject to the pertinent requirements of section  
32 4 of [this act,] P.L.1993, c.159 (C.5:12-173.4) shall pay and  
33 distribute on a monthly basis to the special fund [established by this  
34 act] and to the Casino Revenue Fund the amount so certified.

35 (cf: P.L.1993, c.159, s.5)

36

37 12. This act shall take effect immediately, and section 3 shall be  
38 retroactive to January 1, 2003.

39

40

41

#### STATEMENT

42

43 This bill makes various changes to the Casino Control Act. In  
44 particular, the bill:

45 C provides that licensed gaming-related casino service industries that  
46 are not a party to the casino license may enter into agreements with

**A3713 GREENWALD**

16

- 1 a group of casino licensees to operate multi-casino progressive slot  
2 machine systems;
- 3 C provides that slot machine manufacturers may charge a casino  
4 licensee an explicit percentage fee for the purchase or lease of slot  
5 machines;
- 6 C increases the annual licensee fee on slot machines from \$500 to  
7 \$750 per machine, and in fiscal years 2004 through 2007, directs  
8 the proceeds from this increase to be deposited into Casino  
9 Revenue Fund;
- 10 C directs the Casino Control Commission to increase existing fees, or  
11 establish new fees, in an amount that is projected to generate, in the  
12 aggregate, \$5,000,000 more than the projected operating expenses  
13 of the Division of Gaming Enforcement and the commission in each  
14 fiscal year, beginning in fiscal year 2004 and ending at the close of  
15 fiscal year 2007. The bill directs the \$5,000,000 generated in these  
16 fiscal years to be deposited into the Casino Revenue Fund;
- 17 C imposes a 9.25% tax on casino service industry slot machine  
18 revenue;
- 19 C imposes a 25% tax on annual adjusted net income of licensed  
20 casinos in calendar years 2003 through 2006; and
- 21 C directs the licensed casinos' share of 50 cents of each \$2 casino  
22 hotel parking fee to be deposited into the Casino Revenue Fund.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3713

# STATE OF NEW JERSEY

DATED: JUNE 19, 2003

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3713.

This Assembly Committee Substitute Assembly Bill No. 3713 makes various changes to the Casino Control Act. In particular, the substitute:

- C provides that licensed gaming-related casino service industries that are not a party to the casino license may enter into agreements with a group of casino licensees to operate multi-casino progressive slot machine systems.
- C provides that slot machine manufacturers may charge a casino licensee an explicit percentage fee for the purchase or lease of slot machines.
- C increases the annual licensee fee on slot machines from \$500 to \$750 per machine, and directs the proceeds from this increase to be deposited into Casino Revenue Fund.
- C directs the Casino Control Commission to impose an annual fee of \$5,000,000, proportionally applied among casino licensees and eligible applicants, with proceeds to be deposited into the Casino Revenue Fund.
- C imposes a 9.25% tax on casino service industry slot machine revenue, with proceeds to be deposited into the Casino Revenue Fund.
- C imposes a 22.5% tax on annual adjusted net income of licensed casinos in calendar years 2003 through 2006, with proceeds to be deposited into the Casino Revenue Fund.
- C directs the licensed casinos' share of 50 cents of each \$2 casino hotel parking fee to be deposited into the Casino Revenue Fund.

#### FISCAL IMPACT:

According to information supplied by the Executive Branch, this substitute will increase revenues by approximately \$90 million annually. Of this annual amount: \$58 million will be from adjusted net income of casinos; \$10 million from slot machine licenses; \$10 million from casino service industry slot machine revenue; \$7 million from parking fees; and \$5 million Casino Control Commissions fees.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3713**

# **STATE OF NEW JERSEY**

DATED: JULY 1, 2003

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3713 (ACS).

This substitute makes various changes to the Casino Control Act. In particular, the substitute:

- \* provides that licensed gaming-related casino service industries that are not a party to the casino license may enter into agreements with a group of casino licensees to operate multi-casino progressive slot machine systems.
- \* provides that slot machine manufacturers may charge a casino licensee an explicit percentage fee for the purchase or lease of multi-casino progressive slot machines.
- \* imposes 4.25% tax on casino complementaries, with proceeds deposited to the Casino Revenue Fund.
- \* imposes an 8% tax on casino service industry multi-casino progressive slot machine revenue, with the proceeds deposited to the Casino Revenue Fund.
- \* imposes a 7.5% tax on adjusted net income of licensed casinos in State fiscal years 2004 through 2006, with the proceeds deposited to the Casino Revenue Fund.
- \* imposes a fee of \$3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item, with the proceeds deposited into the Casino Revenue Fund in State fiscal years 2004 through 2006, and beginning in State fiscal year 2007 and thereafter, \$2.00 of the fee deposited into the Casino Revenue Fund and \$1.00 transferred to the Casino Reinvestment Development Authority (CRDA) for its purposes pursuant to law.
- \* increases the minimum casino hotel parking charge from \$2 to \$3, and directs \$1.50 of the fee to be deposited into the Casino Revenue Fund in State fiscal years 2004 through 2006, and beginning in State fiscal year 2007 and thereafter, directs \$0.50



to be deposited into the Casino Revenue Fund, and \$1.00 to transferred to the CRDA for its purposes pursuant to law, and for use by the CRDA to bond for \$30 million for deposit into the Casino Capital Construction Fund.

- \* creates Casino Capital Construction Fund, for the exclusive use of casino licensees for eligible projects approved by the authority.
- \* eliminates deduction from casino licensee calculation of gross revenue for uncollectible gaming debt.

STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3713**

with Assembly Floor Amendments  
(Proposed By Assemblyman GREENWALD)

ADOPTED: JUNE 23, 2003

These amendments add a section imposing a 3% tax on complimentary rooms, food, beverages and entertainment, with the proceeds dedicated to the Casino Revenue Fund, and provide for a credit against the adjusted net income tax imposed to recognize growth, and eliminate sections that would have increased the slot machine license fee from \$500 to \$750, required the casino control commission to assess \$5 million worth of additional fees in each State fiscal year, and increased the fee on the minimum \$2 casino hotel parking charge from \$1.50 to \$2.00.

**REPLACE SYNOPSIS TO READ:**

Makes various changes to Casino Control Act to impose certain taxes and permit certain agreements.

# SENATE, No. 3001

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 23, 2003

**Sponsored by:**

**Senator WAYNE R. BRYANT**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Makes various changes to Casino Control Act to increase certain fees, impose certain taxes and permit certain agreements.

**CURRENT VERSION OF TEXT**

As introduced.



S3001 BRYANT

2

1 AN ACT concerning the Casino Control Act, amending P.L.1993,  
2 c.159 and amending and supplementing P.L.1977, c.110.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read  
8 as follows:

9 82. a. No casino shall operate unless all necessary licenses and  
10 approvals therefor have been obtained in accordance with law.

11 b. Only the following persons shall be eligible to hold a casino  
12 license; and, unless otherwise determined by the commission with the  
13 concurrence of the Attorney General which may not be unreasonably  
14 withheld in accordance with subsection c. of this section, each of the  
15 following persons shall be required to hold a casino license prior to the  
16 operation of a casino in the casino hotel with respect to which the  
17 casino license has been applied for:

18 (1) Any person who either owns an approved casino hotel or owns  
19 or has a contract to purchase or construct a casino hotel which in the  
20 judgment of the commission can become an approved casino hotel  
21 within 30 months or within such additional time period as the  
22 commission may, upon a showing of good cause therefor, establish;

23 (2) Any person who, whether as lessor or lessee, either leases an  
24 approved casino hotel or leases or has an agreement to lease a casino  
25 hotel which in the judgment of the commission can become an  
26 approved casino hotel within 30 months or within such additional time  
27 period as the commission may, upon a showing of good cause  
28 therefor, establish;

29 (3) Any person who has a written agreement with a casino licensee  
30 or with an eligible applicant for a casino license for the complete  
31 management of a casino and, if applicable, any authorized games in a  
32 casino simulcasting facility; and

33 (4) Any other person who has control over either an approved  
34 casino hotel or the land thereunder or the operation of a casino.

35 c. Prior to the operation of a casino and, if applicable, a casino  
36 simulcasting facility, every agreement to lease an approved casino  
37 hotel or the land thereunder and every agreement for the management  
38 of the casino and, if applicable, any authorized games in a casino  
39 simulcasting facility, shall be in writing and filed with the commission.  
40 No such agreement shall be effective unless expressly approved by the  
41 commission. The commission may require that any such agreement  
42 include within its terms any provision reasonably necessary to best  
43 accomplish the policies of this act. Consistent with the policies of this

**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 underlined thus is new matter.**

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1 act:

2 (1) The commission, with the concurrence of the Attorney General  
3 which may not be unreasonably withheld, may determine that any  
4 person who does not have the ability to exercise any significant control  
5 over either the approved casino hotel or the operation of the casino  
6 contained therein shall not be eligible to hold or required to hold a  
7 casino license;

8 (2) The commission, with the concurrence of the Attorney General  
9 which may not be unreasonably withheld, may determine that any  
10 owner, lessor or lessee of an approved casino hotel or the land  
11 thereunder who does not own or lease the entire approved casino hotel  
12 shall not be eligible to hold or required to hold a casino license;

13 (3) The commission shall require that any person or persons  
14 eligible to apply for a casino license organize itself or themselves into  
15 such form or forms of business association as the commission shall  
16 deem necessary or desirable in the circumstances to carry out the  
17 policies of this act;

18 (4) The commission may issue separate casino licenses to any  
19 persons eligible to apply therefor;

20 (5) As to agreements to lease an approved casino hotel or the land  
21 thereunder, unless it expressly and by formal vote for good cause  
22 determines otherwise, the commission shall require that each party  
23 thereto hold either a casino license or casino service industry license  
24 and that such an agreement be for a durational term exceeding 30  
25 years, concern 100% of the entire approved casino hotel or of the land  
26 upon which same is located, and include within its terms a buy-out  
27 provision conferring upon the casino licensee-lessee who controls the  
28 operation of the approved casino hotel the absolute right to purchase  
29 for an expressly set forth fixed sum the entire interest of the lessor or  
30 any person associated with the lessor in the approved casino hotel or  
31 the land thereunder in the event that said lessor or said person  
32 associated with the lessor is found by the commission to be unsuitable  
33 to be associated with a casino enterprise;

34 (6) The commission shall not permit an agreement for the leasing  
35 of an approved casino hotel or the land thereunder to provide for the  
36 payment of an interest, percentage or share of money gambled at the  
37 casino or derived from casino gaming activity or of revenues or profits  
38 of the casino unless the party receiving payment of such interest,  
39 percentage or share is a party to the approved lease agreement; unless  
40 each party to the lease agreement holds either a casino license or  
41 casino service industry license and unless the agreement is for a  
42 durational term exceeding 30 years, concerns a significant portion of  
43 the entire approved casino hotel or of the land upon which same is  
44 located, and includes within its terms a buy-out provision conforming  
45 to that described in paragraph (5) above;

46 (7) As to agreements for the management of a casino and, if

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1 applicable, the authorized games in a casino simulcasting facility, the  
2 commission shall require that each party thereto hold a casino license,  
3 that the party thereto who is to manage the casino gaming operations  
4 own at least 10% of all outstanding equity securities of any casino  
5 licensee or of any eligible applicant for a casino license if the said  
6 licensee or applicant is a corporation and the ownership of an  
7 equivalent interest in any casino licensee or in any eligible applicant for  
8 a casino license if same is not a corporation, and that such an  
9 agreement be for the complete management of all casino space in the  
10 casino hotel and, if applicable, all authorized games in a casino  
11 simulcasting facility, provide for the sole and unrestricted power to  
12 direct the casino gaming operations of the casino hotel which is the  
13 subject of the agreement, and be for such a durational term as to  
14 assure reasonable continuity, stability and independence in the  
15 management of the casino gaming operations, provided that the  
16 provisions of this paragraph shall not apply to agreements relating to  
17 the operation of a multi-casino progressive slot machine system  
18 between a group of casino licensees and a casino service industry  
19 licensed pursuant to subsection a. of section 92 of P.L.1977, c.110  
20 (C.5:12-92) and that, with regard to such agreements, the casino  
21 service industry licensee may operate and administer the multi-casino  
22 progressive slot machine system, including, but not limited to, the  
23 operation of a monitor room and the payment of the progressive  
24 jackpots from a fund of contributions from participating casino  
25 licensees;

26 (8) The commission may permit an agreement for the management  
27 of a casino and, if applicable, the authorized games in a casino  
28 simulcasting facility to provide for the payment to the managing party  
29 of an interest, percentage or share of money gambled at all authorized  
30 games or derived from casino gaming activity or of revenues or profits  
31 of casino gaming operations;

32 (9) The commission may permit an agreement between a casino  
33 licensee and a casino service industry licensed pursuant to the  
34 provisions of subsection a. of section 92 of P.L.1977, c.110  
35 (C.5:12-92) for the conduct of casino simulcasting in a simulcasting  
36 facility or for the operation of a multi-casino progressive slot machine  
37 system, to provide for the payment to the casino service industry of an  
38 interest, percentage or share of the money derived from the casino  
39 licensee's share of proceeds from simulcast wagering activity or the  
40 operation of a multi-casino progressive slot machine system; and

41 (10) As to agreements to lease an approved casino hotel or the  
42 land thereunder, agreements to jointly own an approved casino hotel  
43 or the land thereunder and agreements for the management of casino  
44 gaming operations or for the conduct of casino simulcasting in a  
45 simulcasting facility, the commission shall require that each party  
46 thereto, except for a banking or other chartered or licensed lending

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1 institution or any subsidiary thereof, or any chartered or licensed life  
2 insurance company or property and casualty insurance company, or the  
3 State of New Jersey or any political subdivision thereof or any agency  
4 or instrumentality of the State or any political subdivision thereof,  
5 shall be jointly and severally liable for all acts, omissions and violations  
6 of this act by any party thereto regardless of actual knowledge of such  
7 act, omission or violation and notwithstanding any provision in such  
8 agreement to the contrary.

9 d. No corporation shall be eligible to apply for a casino license  
10 unless:

11 (1) The corporation shall be incorporated in the State of New  
12 Jersey, although such corporation may be a wholly or partially owned  
13 subsidiary of a corporation which is organized pursuant to the laws of  
14 another state of the United States or of a foreign country;

15 (2) The corporation shall maintain an office of the corporation in  
16 the casino hotel licensed or to be licensed;

17 (3) The corporation shall comply with all the requirements of the  
18 laws of the State of New Jersey pertaining to corporations;

19 (4) The corporation shall maintain a ledger in the principal office  
20 of the corporation in New Jersey which shall at all times reflect the  
21 current ownership of every class of security issued by the corporation  
22 and shall be available for inspection by the commission or the division  
23 and authorized agents of the commission and the division at all  
24 reasonable times without notice;

25 (5) The corporation shall maintain all operating accounts required  
26 by the commission in a bank in New Jersey, except that a casino  
27 licensee may establish deposit-only accounts in any jurisdiction in  
28 order to obtain payment of any check described in section 101 of  
29 P.L.1977, c.110 (C.5:12-101);

30 (6) The corporation shall include among the purposes stated in its  
31 certificate of incorporation the conduct of casino gaming and provide  
32 that the certificate of incorporation includes all provisions required by  
33 this act;

34 (7) The corporation, if it is not a publicly traded corporation, shall  
35 file with the commission such adopted corporate charter provisions as  
36 may be necessary to establish the right of prior approval by the  
37 commission with regard to transfers of securities, shares, and other  
38 interests in the applicant corporation; and, if it is a publicly traded  
39 corporation, provide in its corporate charter that any securities of such  
40 corporation are held subject to the condition that if a holder thereof is  
41 found to be disqualified by the commission pursuant to the provisions  
42 of this act, such holder shall dispose of his interest in the corporation;  
43 provided, however, that, notwithstanding the provisions of  
44 N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be  
45 deemed to require that any security of such corporation bear any  
46 legend to this effect;

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1 (8) The corporation, if it is not a publicly traded corporation, shall  
2 establish to the satisfaction of the commission that appropriate charter  
3 provisions create the absolute right of such non-publicly traded  
4 corporations and companies to repurchase at the market price or the  
5 purchase price, whichever is the lesser, any security, share or other  
6 interest in the corporation in the event that the commission  
7 disapproves a transfer in accordance with the provisions of this act;

8 (9) Any publicly traded holding, intermediary, or subsidiary  
9 company of the corporation, whether the corporation is publicly traded  
10 or not, shall contain in its corporate charter the same provisions  
11 required under paragraph (7) for a publicly traded corporation to be  
12 eligible to apply for a casino license; and

13 (10) Any non-publicly traded holding, intermediary or subsidiary  
14 company of the corporation, whether the corporation is publicly traded  
15 or not, shall establish to the satisfaction of the commission that its  
16 charter provisions are the same as those required under paragraphs (7)  
17 and (8) for a non-publicly traded corporation to be eligible to apply for  
18 a casino license.

19 Notwithstanding the foregoing, any corporation or company which  
20 had bylaw provisions approved by the commission prior to the  
21 effective date of this 1987 amendatory act shall have one year from the  
22 effective date of this 1987 amendatory act to adopt appropriate charter  
23 provisions in accordance with the requirements of this subsection.

24 The provisions of this subsection shall apply with the same force  
25 and effect with regard to casino license applicants and casino licensees  
26 which have a legal existence that is other than corporate to the extent  
27 which is appropriate.

28 e. No person shall be issued or be the holder of a casino license if  
29 the issuance or the holding results in undue economic concentration in  
30 Atlantic City casino operations by that person. The commission shall,  
31 after conducting public hearings thereon, promulgate rules and  
32 regulations in accordance with the "Administrative Procedure Act,"  
33 P.L.1968, c.410 (C.52:14B-1 et seq.) defining the criteria the  
34 commission will use in determining what constitutes undue economic  
35 concentration. For the purpose of this subsection a person shall be  
36 considered the holder of a casino license if such license is issued to  
37 such person or if such license is held by any holding, intermediary or  
38 subsidiary company thereof, or by any officer, director, casino key  
39 employee or principal employee of such person, or of any holding,  
40 intermediary or subsidiary company thereof.

41 (cf: P.L.1996, c.84, s.3)

42

43 2. Section 104 of P.L.1977, c.110 (C.5:12-104) is amended to read  
44 as follows:

45 104. a. Unless otherwise provided in this subsection, no agreement  
46 shall be lawful which provides for the payment, however defined, of



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1 any direct or indirect interest, percentage or share of: any money or  
2 property gambled at a casino or simulcasting facility; any money or  
3 property derived from casino gaming activity or wagering at a  
4 simulcasting facility; or any revenues, profits or earnings of a casino  
5 or simulcasting facility. Notwithstanding the foregoing:

6 (1) Agreements which provide only for the payment of a fixed sum  
7 which is in no way affected by the amount of any such money,  
8 property, revenues, profits or earnings shall not be subject to the  
9 provisions of this subsection; and receipts, rentals or charges for real  
10 property, personal property or services shall not lose their character  
11 as payments of a fixed sum because of contract, lease, or license  
12 provisions for adjustments in charges, rentals or fees on account of  
13 changes in taxes or assessments, cost-of-living index escalations,  
14 expansion or improvement of facilities, or changes in services supplied.

15 (2) Agreements between a casino licensee and a junket enterprise  
16 or junket representative licensed, qualified or registered in accordance  
17 with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the  
18 regulations of the commission which provide for the compensation of  
19 the junket enterprise or junket representative by the casino licensee  
20 based upon the actual casino gaming or simulcast wagering activities  
21 of a patron procured or referred by the junket enterprise or junket  
22 representative shall be lawful if filed with the division prior to the  
23 conduct of any junket that is governed by the agreement.

24 (3) Agreements between a casino licensee and its employees which  
25 provide for casino employee or casino key employee profit sharing  
26 shall be lawful if the agreement is in writing and filed with the  
27 commission prior to its effective date. Such agreements may be  
28 reviewed by the commission under any relevant provision of P.L.1977,  
29 c.110 (C.5:12-1 et seq.).

30 (4) Agreements to lease an approved casino hotel or the land  
31 thereunder and agreements for the complete management of all casino  
32 gaming operations in a casino hotel shall not be subject to the  
33 provisions of this subsection but shall rather be subject to the  
34 provisions of subsections b. and c. of section 82 of this act.

35 (5) Agreements which provide for percentage charges between the  
36 casino licensee and a holding company or intermediary company of the  
37 casino licensee shall be in writing and filed with the commission but  
38 shall not be subject to the provisions of this subsection.

39 (6) Agreements relating to simulcast racing and wagering between  
40 a casino licensee and an in-State or out-of-State sending track licensed  
41 or exempt from licensure in accordance with subsection c. of section  
42 92 of P.L.1977, c.110 (C.5:12-92) shall be in writing, be filed with the  
43 commission, and be lawful and effective only if expressly approved as  
44 to their terms by the commission and the New Jersey Racing  
45 Commission, except that any such agreements which provide for a  
46 percentage of the parimutuel pool wagered at a simulcasting facility to

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1 be paid to the sending track shall not be subject to the provisions of  
2 this subsection.

3 (7) Agreements relating to simulcast racing and wagering between  
4 a casino licensee and a casino service industry licensed pursuant to the  
5 provisions of subsection a. of section 92 of P.L.1977, c.110  
6 (C.5:12-92) as a hub facility, as defined in joint regulations of the  
7 Casino Control Commission and the New Jersey Racing Commission,  
8 shall be in writing, be filed with the commission, and be lawful and  
9 effective only if expressly approved as to their terms by the  
10 commission and the New Jersey Racing Commission, except that any  
11 such agreements which provide for a percentage of the casino  
12 licensee's share of the parimutuel pool wagered at a simulcasting  
13 facility to be paid to the hub facility shall not be subject to the  
14 provisions of this subsection.

15 (8) Agreements relating to simulcast racing and wagering between  
16 a casino licensee and a casino service industry licensed pursuant to the  
17 provisions of subsection a. of section 92 of P.L.1977, c.110  
18 (C.5:12-92) to conduct casino simulcasting in a simulcasting facility  
19 shall be in writing, be filed with the commission, and be lawful and  
20 effective only if expressly approved as to their terms by the  
21 commission, except that any such agreements which provide for a  
22 percentage of the casino licensee's share of the parimutuel pool  
23 wagered at a simulcasting facility to be paid to the casino service  
24 industry shall not be subject to the provisions of this subsection.

25 (9) [Existing agreements or any renewals thereof] Written  
26 agreements relating to the [operation of multi-casino progressive]  
27 purchase or lease of one or more slot [machine systems] machines  
28 between [one or more] a casino [licensees] licensee and a casino  
29 service industry licensed pursuant to the provisions of subsection a. of  
30 section 92 of P.L.1977, c.110 (C.5:12-92) [and provided such  
31 agreements are] which provide for an interest percentage or share of  
32 the casino licensee's revenues, profits or earnings from the operation  
33 of such slot machines to be paid to the casino service industry licensee  
34 shall not be subject to the provisions of this subsection if the  
35 agreements are filed with and approved by the commission.

36 b. Each casino applicant or licensee shall maintain, in accordance  
37 with the rules of the commission, a record of each written or unwritten  
38 agreement regarding the realty, construction, maintenance, or business  
39 of a proposed or existing casino hotel or related facility. The  
40 foregoing obligation shall apply regardless of whether the casino  
41 applicant or licensee is a party to the agreement. Any such agreement  
42 may be reviewed by the commission on the basis of the reasonableness  
43 of its terms, including the terms of compensation, and of the  
44 qualifications of the owners, officers, employees, and directors of any  
45 enterprise involved in the agreement, which qualifications shall be  
46 reviewed according to the standards enumerated in section 86 of this

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1 act. If the commission disapproves such an agreement or the owners,  
2 officers, employees, or directors of any enterprise involved therein, the  
3 commission may require its termination.

4 Every agreement required to be maintained, and every related  
5 agreement the performance of which is dependent upon the  
6 performance of any such agreement, shall be deemed to include a  
7 provision to the effect that, if the commission shall require termination  
8 of an agreement pursuant to this subsection, such termination shall  
9 occur without liability on the part of the casino applicant or licensee  
10 or any qualified party to the agreement or any related agreement.  
11 Failure expressly to include such a provision in the agreement shall not  
12 constitute a defense in any action brought to terminate the agreement.  
13 If the agreement is not maintained or presented to the commission in  
14 accordance with commission regulations, or the disapproved  
15 agreement is not terminated, the commission may pursue any remedy  
16 or combination of remedies provided in this act.

17 For the purposes of this subsection, "casino applicant" includes any  
18 person required to hold a casino license pursuant to section 82 of  
19 P.L.1977, c.110 (C.5:12-82) who has applied to the commission for  
20 a casino license or any approval required under P.L.1977, c.110  
21 (C.5:12-1 et seq.).

22 c. Nothing in this act shall be deemed to permit the transfer of any  
23 license, or any interest in any license, or any certificate of compliance  
24 or any commitment or reservation.  
25 (cf: P.L.2002, c.65, s.26)

26

27 3. Section 140 of P.L.1977, c.110 (C.5:12-140) is amended to read  
28 as follows:

29 140. a. In addition to any other tax or fee imposed by this act,  
30 there is also hereby imposed an annual license fee of ~~[\$500.00]~~ \$750  
31 upon every slot machine; maintained for use or in use in any licensed  
32 casino establishment in this State.

33 b. License fees imposed under the provisions of this section shall  
34 be imposed as of the first day of July of each year with regard to all  
35 slot machines maintained for use or in use on that date, and on a pro  
36 rata basis thereafter during the year with regard to all slot machines  
37 maintained for use or placed in use after July 1.

38 (cf: P.L.1979, c.198, s.1)

39

40 4. (New section) a. Notwithstanding any other law to the  
41 contrary, the commission shall increase existing fees, or establish new  
42 fees, in an amount that is projected to raise, in the aggregate,  
43 \$5,000,000 more than the projected operating expenses of the division  
44 and the commission in each fiscal year. Notwithstanding section 143  
45 of P.L.1977, c.110 (C.5:12-143) or any other law to the contrary, the  
46 \$5,000,000 generated pursuant to the provisions of this subsection

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10

1 shall be deposited into the Casino Revenue Fund established pursuant  
2 to section 145 of P.L.1977, c.110 (C.5:12-145).

3 b. Notwithstanding section 143 of P.L.1977, c.110 (C.5:12-143)  
4 or any other law to the contrary the proceeds from the increase in the  
5 annual license fee on slot machines imposed pursuant to section 140  
6 of P.L.1977, c.110 (C.5:12-140) shall be deposited into the Casino  
7 Revenue Fund established pursuant to section 145 of P.L.1977, c.110  
8 (C.5:12-145).

9

10 5. (New section) a. A tax at the rate of 9.25% is imposed on  
11 casino service industry slot machine revenue. The tax shall be the  
12 liability of and solely payable by the casino service industry licensee  
13 that receives such revenue and shall not be considered a tax collectable  
14 under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et  
15 seq.).

16 b. As used in this section, "casino service industry slot machine  
17 revenue" means sums received by a casino service industry, licensed  
18 pursuant to the provisions of subsection a. of section 92 of P.L.1977,  
19 c.110 (C.5:12-92), as the result of a commercial transaction which  
20 provides for the periodic payment of a lease or license fee for slot  
21 machines furnished by the casino service industry licensee to a casino  
22 licensee or applicant or group of casino licensees or applicants for use  
23 in a casino, whether such sums are received from a casino licensee or  
24 applicant or any other source located in this State, except that "casino  
25 service industry slot machine revenue" shall not be construed to apply  
26 to: (1) a bona fide transaction which provides for the purchase  
27 financing of gaming or related equipment notwithstanding that a lease  
28 or similar instrument is entered into; and (2) transactions between a  
29 casino licensee or applicant and its holding or intermediary companies  
30 or their affiliates.

31 c. The Director of the Division of Taxation in the Department of  
32 the Treasury shall collect and administer the tax imposed pursuant to  
33 this section. In carrying out the provisions of this section, the Director  
34 of the Division of Taxation shall have all the powers granted in  
35 P.L.1966, c.30 (C.54:32B-1 et seq.). The tax imposed by this section,  
36 and any interest or penalties collected by the Director of the Division  
37 of Taxation relating to that tax, shall be deposited into the Casino  
38 Revenue Fund established pursuant to section 145 of P.L.1977, c.110  
39 (C.5:12-145).

40 d. A casino service industry licensee required to pay the tax  
41 imposed pursuant to this section shall, on or before the dates required  
42 pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to  
43 the Director of the Division of Taxation the tax owed on casino  
44 service industry slot machine revenue received by the casino service  
45 industry licensee in the preceding month and make and file a return for  
46 the preceding month with the Director of the Division of Taxation on

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11

1 any form and containing any information as the Director of the  
2 Division of Taxation shall prescribe by rule or regulation as necessary  
3 to determine liability for the tax in the preceding month during which  
4 the person was required to pay the tax.

5 e. The Director of the Division of Taxation may permit or require  
6 returns to be made covering other periods and upon any dates as the  
7 Director of the Division of Taxation may specify. In addition, the  
8 Director of the Division of Taxation may require payments of tax  
9 liability at any intervals and based upon any classifications as the  
10 Director of the Division of Taxation may designate. In prescribing any  
11 other periods to be covered by the return or intervals or classifications  
12 for payment of tax liability, the Director of the Division of Taxation  
13 may take into account the dollar volume of tax involved as well as the  
14 need for ensuring the prompt and orderly collection of the tax  
15 imposed.

16 f. The Director of the Division of Taxation may require amended  
17 returns to be filed within 20 days after notice and to contain the  
18 information specified in the notice.

19 g. The tax imposed under this section shall be governed by the  
20 provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et  
21 seq.

22  
23 6. (New section) a. A tax at the rate of 26% is imposed on the  
24 annual adjusted net income of a casino licensee in calendar years 2003  
25 through 2006. As used in this section, "annual adjusted net income"  
26 means annual net income plus management fees, determined pursuant  
27 to information provided by casino licensees to the commission  
28 pursuant to regulations promulgated in accordance with subsection n.  
29 of section 70 of P.L.1977, c.110 (C.5:12-70) and published in the  
30 commission's statement of casino licensee income for the twelve month  
31 period ending on December 31 of each calendar year. The commission  
32 shall make such adjustments to its regulations as may be necessary to  
33 effectuate the purposes of this section.

34 b. The Director of the Division of Taxation in the Department of  
35 the Treasury shall collect and administer the tax imposed pursuant to  
36 this section. In carrying out the provisions of this section, the director  
37 shall have all of the powers granted in P.L.1945, c.162 (C.54:10A-1  
38 et seq.). The tax shall be due and payable annually on or before the  
39 15th day of April following the close of the calendar year and shall be  
40 based upon adjusted net income derived during the previous calendar  
41 year. For each casino licensee, the amount of tax imposed by this  
42 section shall not be less than the tax that the licensee would have paid  
43 if the tax had been in effect for calendar year 2002.

44 c. The tax imposed by this section, and any interest or penalties  
45 collected by the Director of the Division of Taxation in the  
46 Department of the Treasury relating to that tax, shall be deposited into

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12

1 the Casino Revenue Fund established pursuant to section 145 of  
2 P.L.1977, c.110 (C.5:12-145).

3 d. The Director of the Division of Taxation in the Department of  
4 the Treasury shall certify on September 30, 2004 and annually  
5 thereafter the amount of tax collected pursuant to this section. The  
6 Director of the Division of Taxation may promulgate such rules and  
7 regulations as the Director of the Division of Taxation determines are  
8 necessary to effectuate the provisions of this section.

9 e. The tax imposed under this section shall be governed by the  
10 provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et  
11 seq.

12

13 7. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to read  
14 as follows:

15 145. Casino revenue fund. a. There is hereby created and  
16 established in the Department of the Treasury a separate special  
17 account to be known as the "Casino Revenue Fund," into which shall  
18 be deposited all revenues from the tax imposed by section 144 of this  
19 act; the investment alternative tax imposed by section 3 of P.L.1984,  
20 c.218 (C.5:12-144.1); the tax imposed by sections 5 of P.L. \_\_\_\_\_, c.  
21 (C. \_\_\_\_\_)(now before the Legislature as this bill) and any interest and  
22 penalties collected by the Director of the Division of Taxation in the  
23 Department of the Treasury in addition to that tax; the portion of the  
24 casino hotel parking fee directed to be deposited in the fund by section  
25 4 of P.L.1993, c.159 (C.5:12-173.4) and all penalties levied and  
26 collected by the commission pursuant to P.L.1977, c.110 (C.5:12-1 et  
27 seq.) and the regulations promulgated thereunder, except that the first  
28 \$600,000 in penalties collected each fiscal year shall be paid into the  
29 General Fund for appropriation by the Legislature to the Department  
30 of Health, \$500,000 of which is to provide funds to the Council on  
31 Compulsive Gambling of New Jersey and \$100,000 of which is to  
32 provide funds for compulsive gambling treatment programs in the  
33 State. In the event that less than \$600,000 in penalties are collected,  
34 the Department of Health shall determine the allocation of funds  
35 between the Council and the treatment programs eligible under the  
36 criteria developed pursuant to section 2 of P.L.1993, c.229  
37 (C.26:2-169).

38 b. The commission shall require at least monthly deposits by the  
39 licensee of the tax established pursuant to subsection a. of section 144  
40 of P.L.1977, c.110 (C.5:12-144), at such times, under such conditions,  
41 and in such depositories as shall be prescribed by the State Treasurer.  
42 The deposits shall be deposited to the credit of the Casino Revenue  
43 Fund. The commission may require a monthly report and  
44 reconciliation statement to be filed with it on or before the 10th day of  
45 each month, with respect to gross revenues and deposits received and  
46 made, respectively, during the preceding month.

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13

1 c. Moneys in the Casino Revenue Fund shall be appropriated  
2 exclusively for reductions in property taxes, rentals, telephone, gas,  
3 electric, and municipal utilities charges of eligible senior citizens and  
4 disabled residents of the State, and for additional or expanded health  
5 services or benefits or transportation services or benefits to eligible  
6 senior citizens and disabled residents, as shall be provided by law. On  
7 or about March 15 and September 15 of each year, the State Treasurer  
8 shall publish in at least 10 newspapers circulating generally in the State  
9 a report accounting for the total revenues received in the Casino  
10 Revenue Fund and the specific amounts of money appropriated  
11 therefrom for specific expenditures during the preceding six months  
12 ending December 31 and June 30.

13 (cf: P.L.1993, c.229, s.1)

14

15 8. Section 1 of P.L.1993, c.159 (C.5:12-173.1) is amended to read  
16 as follows:

17 1. The Legislature finds that the single most significant factor  
18 contributing to the cost of constructing, maintaining, operating and  
19 supporting highways, roads and infrastructure, in Atlantic City, and  
20 particularly in the "corridor" region of the city, is the heavy volume of  
21 motor vehicular traffic occasioned by the attraction of casino gambling  
22 in Atlantic City. This traffic is encouraged by the provision of free  
23 parking by casino operations, by the relative underdevelopment of  
24 public transportation services, and by the shortage of hotel  
25 accommodations in the city. While the Legislature has taken various  
26 measures, most notably the "South Jersey Transportation Authority  
27 Act," P.L.1991, c.252 (C.27:25A-1 et al.), to provide and improve  
28 public transportation services in the South Jersey region as an  
29 alternative to the use of motor vehicles, the heavy capital costs  
30 associated with reconstruction of the corridor region's infrastructure  
31 require a continuous source of public funding. The Legislature  
32 declares, therefore, that it is in the public interest to require a standard  
33 minimum charge for casino parking within Atlantic City, and to impose  
34 fees on amounts received from those charges, with the proceeds of  
35 those fees to be used by the Casino Reinvestment Development  
36 Authority for projects which are related to improving the highways,  
37 roads, infrastructure, traffic regulation and public safety of the city, or  
38 which are otherwise necessary or useful to the economic development  
39 and redevelopment of the city in this regard. It is also in the public  
40 interest to establish a special temporary fund for the use of existing  
41 moneys of the authority for the provision of financial assistance to  
42 casino licensees to construct, reconstruct or rehabilitate hotel rooms  
43 in Atlantic City.

44 The Legislature declares that it is the public purpose of this  
45 amendatory act, P.L.1996, c.118 (C.5:12-173.3a et al.), that financial  
46 assistance to casino licensees to construct, reconstruct or rehabilitate

1 hotel rooms in Atlantic City shall be determined after excluding costs  
2 reasonably related to space used for the conduct of casino gaming. It  
3 was, and continues to be, the public purpose of P.L.1993, c.159  
4 (C.5:12-173.1 et seq.) that financial assistance may be provided to a  
5 project which includes, incorporates, facilitates or supports space used  
6 for the conduct of casino gaming in a casino hotel facility, but only for  
7 costs reasonably related to hotel rooms and their appurtenant facilities  
8 in the project.

9 The Legislature declares that it is the public purpose of this  
10 amendatory act, P.L. , c. (C. )(now before the Legislature as this  
11 bill), that the proceeds of the increase in the fee imposed on the  
12 minimum charge for casino hotel parking within Atlantic City be  
13 deposited into the Casino Revenue Fund for appropriation to programs  
14 designed to benefit senior citizens and disabled residents.  
15 (cf: P.L.1996, c.118, s.1)

16

17 9. Section 3 of P.L.1993, c.159 (C.5:12-173.3) is amended to read  
18 as follows:

19 3. On and after July 1, 1993, there is imposed in the City of  
20 Atlantic City a fee upon the use of spaces for the parking, garaging or  
21 storing of motor vehicles in a parking facility or property owned or  
22 leased by a casino hotel licensed under the "Casino Control Act,"  
23 P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a  
24 casino hotel. The fee so imposed is ~~[\$1.50]~~ \$2.00 of the amount  
25 received by the casino hotel or person from each charge made for the  
26 use of a parking space; provided, however, that if the casino hotel or  
27 person shall fail to collect, or shall rebate, all or a portion of the  
28 charge required herein to be imposed for the use of any parking space,  
29 the full amount of the fee shall be payable by the casino hotel or  
30 person.

31 (cf: P.L.1993, c.159, s.3)

32

33 10. Section 4 of P.L.1993, c.159 (C.5:12-173.4) is amended to  
34 read as follows:

35 4. ~~[Proceeds from]~~ The State Treasurer shall pay 75% of the fees  
36 collected pursuant to section 3 of this act, P.L.1993, c.159  
37 (C.5:12-173.3) [shall be paid by the State Treasurer] into a special  
38 fund established and held by the State Treasurer and made available  
39 for the exclusive use of the Casino Reinvestment Development  
40 Authority established pursuant to section 5 of P.L.1984, c.218  
41 (C.5:12-153) , and 25% into the Casino Revenue Fund established  
42 pursuant to section 145 of P.L.1977, c.110 (C.5:12-145). Amounts  
43 in ~~[this]~~ the special fund for use by the Casino Reinvestment  
44 Development Authority shall be expended by ~~[that]~~ the authority for  
45 eligible projects in the corridor region of the City of Atlantic City in  
46 Atlantic County as defined by regulation of the authority, which are



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1 related to improving the highways, roads, infrastructure, traffic  
2 regulation and public safety of that city or which are otherwise  
3 necessary or useful to the economic development and redevelopment  
4 of the city in this regard. The State Treasurer may require that a  
5 financial plan demonstrating the need, schedule and use for moneys  
6 placed in the special fund be approved by the State Treasurer prior to  
7 allocation. Pending application of moneys held in this special fund for  
8 these purposes, the moneys shall be invested in accordance with  
9 applicable law and income therefrom shall be credited exclusively to  
10 the special fund.

11 (cf: P.L.1993, c.159, s.4)

12

13 11. Section 5 of P.L.1993, c.159 (C.5:12-173.5) is amended to  
14 read as follows:

15 5. Each person subject to the provisions of section 3 of [this act,]  
16 P.L.1993, c.159 (C.5:12-173.3) [,] shall be responsible for the  
17 collection of the fees imposed pursuant thereto, which shall be  
18 collected as part of the charge made for the use of a parking space.  
19 Amounts so collected shall be forwarded to the Director of the  
20 Division of Taxation in the Department of the Treasury. The director,  
21 in administering the provisions of [this act] P.L.1993, c.159, shall  
22 have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.).  
23 The director shall determine and certify to the State Treasurer on a  
24 monthly basis the amount of revenues collected by the director  
25 pursuant to this section which are payable to the special fund  
26 established by [this act] section 4 of P.L.1993, c.159 (C.5:12-173.4),  
27 and to the Casino Revenue Fund pursuant to that section. The State  
28 Treasurer, upon certification of the director and upon warrant of the  
29 State Comptroller, and subject to the pertinent requirements of section  
30 4 of [this act,] P.L.1993, c.159 (C.5:12-173.4) shall pay and  
31 distribute on a monthly basis to the special fund [established by this  
32 act] and to the Casino Revenue Fund the amount so certified.

33 (cf: P.L.1993, c.159, s.5)

34

35 12. This act shall take effect immediately, and section 3 shall be  
36 retroactive to January 1, 2003.

37

38

39

STATEMENT

40

41 This bill makes various changes to the Casino Control Act. In  
42 particular, the bill:

43 C provides that licensed gaming-related casino service industries that  
44 are not a party to the casino license may enter into agreements with  
45 a group of casino licensees to operate multi-casino progressive slot  
46 machine systems;

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16

- 1 C provides that slot machine manufacturers may charge a casino
- 2 licensee an explicit percentage fee for the purchase or lease of slot
- 3 machines;
- 4 C increases the annual licensee fee on slot machines from \$500 to
- 5 \$750 per machine, and directs the proceeds from this increase to be
- 6 deposited into Casino Revenue Fund;
- 7 C directs the Casino Control Commission to increase existing fees, or
- 8 establish new fees, in an amount that is projected to generate, in the
- 9 aggregate, \$5,000,000 more than the projected operating expenses
- 10 of the Division of Gaming Enforcement and the commission in each
- 11 fiscal year. The bill directs the \$5,000,000 generated in these fiscal
- 12 years to be deposited into the Casino Revenue Fund;
- 13 C imposes a 9.25% tax on casino service industry slot machine
- 14 revenue;
- 15 C imposes a 26% tax on annual adjusted net income of licensed
- 16 casinos in calendar years 2003 through 2006; and
- 17 C directs the licensed casinos' share of 50 cents of each \$2 casino
- 18 hotel parking fee to be deposited into the Casino Revenue Fund.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 3001**

# **STATE OF NEW JERSEY**

DATED: JUNE 30, 2003

The Senate Budget and Appropriations Committee reports favorably a committee substitute for Senate Bill No. 3001.

This substitute bill makes various changes to the Casino Control Act. In particular, the bill:

- \* Provides that licensed gaming-related casino service industries that are not a party to the casino license may enter into agreements with a group of casino licensees to operate multi-casino progressive slot machine systems;
- \* Provides that slot machine manufacturers may charge a casino licensee an explicit percentage fee for the purchase or lease of multi-casino progressive slot machines;
- \* Imposes 4.25% tax on casino complementaries, with proceeds deposited to the Casino Revenue Fund;
- \* Imposes an 8% tax on casino service industry multi-casino progressive slot machine revenue, with the proceeds deposited to the Casino Revenue Fund;
- \* Imposes a 7.5% tax on adjusted net income of licensed casinos in State fiscal years 2004 through 2006, with the proceeds deposited to the Casino Revenue Fund;
- \* Imposes a fee of \$3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item, with the proceeds deposited into the Casino Revenue Fund in State fiscal years 2004 through 2006, and beginning in State fiscal year 2007 and thereafter, \$2.00 of the fee deposited into the Casino Revenue Fund and \$1.00 transferred to the Casino Reinvestment Development Authority (CRDA) for its purposes pursuant to law;
- \* Increases the minimum casino hotel parking charge from \$2 to \$3, and directs \$1.50 of the fee to be deposited into the Casino Revenue Fund in State fiscal years 2004 through 2006, and beginning in State fiscal year 2007 and thereafter, directs \$0.50 to be deposited into the Casino Revenue Fund, and \$1.00 to be transferred to the CRDA for its purposes pursuant to law, and for use by the CRDA to bond for \$30 million for deposit into a Casino Capital Construction Fund;

- \* Creates the Casino Capital Construction Fund, for the exclusive use of casino licensees for eligible projects approved by the authority; and
- \* Eliminates the deduction, from casino licensee calculation of gross revenue, for uncollectible gaming debt.

The provisions of this substitute bill are identical to those of Assembly Bill No. 3713 ACS ACS.

**FISCAL IMPACT**

The taxes and fees imposed under the legislation are estimated to provide a total of \$90 million of State revenue to the Casino Revenue Fund in FY2004, as follows:

- < Tax on casino complementaries - \$26 million;
- < Tax on adjusted net income - \$20 million;
- < Tax on multi-casino progressive slot machine revenue - \$10 million;
- < Fee for casino hotel room occupancy - \$14;
- < Increase in charge for casino hotel parking - \$18 million; and
- < Disallowance of deduction for uncollectible gaming debt from taxable gross revenue - \$2 million.