



ROTA CASINO ACT OF 2007



AN ACT TO PROVIDE FOR THE ESTABLISHMENT, REGULATION AND CONTROL OF CASINO GAMBLING IN THE FIRST SENATORIAL DISTRICT (ROTA) AND FOR OTHER PURPOSES.

BE IT ENACTED by local initiative to Article IX, Section 1 and Article XXI of the Constitution of the Commonwealth of the Northern Mariana Islands; and by the authority of the same, as follow:

Section 1. Act. This Act provides for and may be cited as the Rota Casino Act of 2007.

Section 2. Definition. As used in this Act, the term –

- (1) “Casino” means a place, area, structure, subject to license under Section 6(a) of this Act for the conduct and playing of one or more games, including associated activities, such as money counting, surveillance, accounting, and storage, related to such conduct and playing, Provided, that such term shall not include areas of a resort complex or other facility exclusively devoted to other activities, such as a hotel, golf course, etc., in which no game is conducted or played;
- (2) “Casino service provider” means a person subject to license under Section 6(b) of this title that offers goods or services directly related to gaming, including such persons as gaming equipment manufacturers, importers, distributors, or repairers; schools that teach gaming, including playing, dealing, or other techniques; and Casino security services;
- (3) “Commission” means the Rota Casino Gaming Commission established by Section 3 of this Act;
- (4) “Commissioner” means a Commission member of the Rota Casino Gaming Commission;
- (5) “Commission Officer” or “Employee” means any person appointed as a member, an officer or employee of the Rota Casino Gaming Commission whose duties and responsibilities are related to or are in support of the effectual administration of this Act;
- (6) “Commonwealth” means the Commonwealth of the Northern Mariana Islands;

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(7) "Council" means the Rota Municipal Council

(8) "Domicile" means that place in which a person maintains a residence with the intention of continuing that residence for an unlimited or indefinite period, and to which that person has the intention of returning whenever absent, even for an extended period. Recourse shall be had to the relevant provision of the Northern Mariana Islands Election Reform Act of 2000 for further assistance on the term "domicile."

(9) "Executive Director" means the Executive Director of the Rota Casino Gaming Commission;

(10) "Financial Year" means the period of 12 months ending on 30 September in any year or, where the Rota Casino Gaming Commission approves some other date as the terminating date of a financial year in a particular case, the period of 12 months ending on a date so approved.

(11) "Game" means any activity that includes elements of prize, consideration, and chance;

(12) "Gaming" means the playing of any game;

(13) "Mayor" means the Mayor of Rota;

(14) "Municipality" means the Municipality of Rota in the First Senatorial District, Commonwealth of the Northern Marianas;

(15) "Operator" means a person that actually provides the overall management of the operations of a Casino, whether by ownership, lease, contract, agreement, or otherwise; and

(16) "Person" includes a natural person, as well as a partnership, corporation, association, joint venture, or other business entity;

(17) "Rota Casino Gaming Commission" or "Commission" means the regulatory agency of local government established by this Act;

(18) "Technical Amendment" means changes in the Rota Casino Act necessary to bring into conformance with constitutional principles and/or Commonwealth wide law as interpreted by the Commonwealth Court System or necessary to remove ambiguities, which may be amended for clarification pursuant to the local law Act of 1983, as presently constituted or hereafter amended.

(19) "Treasurer" means the Rota Municipal Treasurer.

Section 3. Establishment of Commission.

(a) The Rota Casino Gaming Commission is hereby established and shall consist of five members appointed by the Mayor of Rota with the advice and consent of the Rota Municipal Council. Each member shall serve a term of four years, except that of the members first appointed, one shall serve a term of two years, two shall serve a term of three years, and two shall serve a term of four years, as determined by lottery. Each member shall be a citizen or national of the United States and shall be a bona fide resident of and eligible to vote on Rota. The terms of all the members first appointed shall be on from the first day of confirmation by the confirming authority. Any vacancy shall be filled in the same manner as the original appointment and for the un-expired term thereof. A member may be reappointed to the Commission.

(b) No member of the Commission shall otherwise be an employee or official of the Commonwealth, or of a municipality, agency, corporation, or other instrumentality or branch of the Commonwealth, or of any agency of local government of the Commonwealth, except that a member may serve without additional compensation on a task force or other temporary body the work of which is related to the functioning of the Commission. No individual may serve as a member of the Commission, if such individual, or a parent, child, or sibling of such individual, holds or is an applicant for any license under this title or holds any direct or indirect financial interest in any person that holds or is an applicant for any license under this title.

(c) A Commission member may be removed from office by the Mayor for cause, subject to appeal to the confirming authority, which may overrule the Mayor, provided, that, pending any such appeal, the Mayor may suspend the members, if the Mayor finds that the public health, safety, and/or welfare otherwise would be compromised significantly. Membership on the Commission shall automatically be forfeited upon violation of subsection (b) of this section, upon conviction of a felony, or upon conviction of a misdemeanor involving moral turpitude.

(d) The Mayor's removal for cause of a Commission member shall be effective 30 days after the Mayor notifies the Chairman of the Commission of the need for such removal, following the request by the Mayor. Removal of a Commission member before the expiration of his/her term shall occur only by majority vote of the Council, sitting as a duly constituted quorum, and on grounds of gross neglect or dereliction of duty, conviction of a misdemeanor or felony, mental or physical incapacity.

(e) The Commission, as established by Commonwealth law and as subject to the provisions of subsection (d) of this section, shall not be considered an agency of local government for purposes of Article VI, Section 8, of the Constitution.

(f) Eligibility Requirements for appointment as a Commission member:

(i) A registered voter in the Municipality of Rota, First Senatorial District and a domiciliary in Rota not less than Five (5) years preceding appointment;

(ii) A valid Police Clearance from the appointee's place of residence for the previous five (5) years preceding appointment.

(g) Members of the Commission shall each be compensated at the rate of \$60,000 per year, or which amount may be readjusted by an approved regulation only with the concurrence of the Rota Municipal Council and shall be reimbursed for their actual, necessary, and reasonable expenses incurred in the performance of their duties.

(h) The members of the Commission shall select one of their members to be Chairman for terms of two years each reckoned successively from the effective date of appointments of the first members. A Chairman may serve successive or other subsequent terms pursuant to established rules of procedure subsequently adopted by the Commission. Provided however, that all official meetings of the Commission and any of its committees shall take place in Rota following CNMI open public meeting or "Open Government Act laws."

(i) A majority decision of the five Commissioners being present shall determine any action of the Rota Casino Gaming Commission, provided however, that no Casino or interim Casino authorization may be issued without the approval of Four (4) members, with the exception of Section 3(d) Mayor's removal for cause provision which requires a duly constituted quorum, following the applicable provisions of the CNMI Open Government Act.

(j) In the event that a vacancy has existed in the Commission for more than 30 days, a majority of the full Commission, not less than Four (4) members may act with respect to any matter, including the issuance of a Casino license or interim Casino authorization.

Section 4. Powers and Duties.

(a) The Commission shall have all rightful powers necessary to carry out the purposes of this Act.

(b) The Commission may, among its other powers –

- (1) issue rules and regulations as provided in Section 5 of this Act;
- (2) issue licenses as provided in Section 6 of this Act;
- (3) conduct hearings, compel the attendance of witnesses, and administer oaths and affirmations;
- (4) impose license and other fees pursuant to this Act; and
- (5) issue and enforce administrative orders pertaining to one or more licenses under this Act.

(c) (1) The Commission shall hire an Executive Director, who shall serve at the pleasure of the Commission. The Commission shall fix the compensation of the Executive Director in accordance with the provisions of 1 CMC 8246. The Executive Director shall have such duties as may be assigned or delegated by the Commission.

(2) The Commission may hire and employ such other staff as may be necessary to carry out the purposes of this Act, and such staff shall serve at the pleasure of the Commission or as the Commission may provide by regulation or contract. The positions of such other staff shall be exempt from the Civil Service, Provided that such other staff shall be compensated at levels roughly comparable to equivalent positions in the classified Civil Service, taking into consideration their conditions of employment.

Section 5. Rules and Regulations.

(a) The Commission shall promulgate rules and regulations to carry out the purposes of this title. The Commission may, in addition to any other purpose, use such rules and regulations to interpret, enlarge upon, define, further define, or refine any provision of this title. Such rules and regulations shall take into consideration the needs for companies generally to be able to participate in the gaming industry in the Municipality without jeopardizing their ability to maintain or receive gaming licenses from other United States or foreign jurisdictions.

(b) Subject to the other provisions of this Act, the rules and regulations shall, at a minimum, provide for the following:

- (1) A code of ethics for the members of the Commission and its officers and employees.
- (2) Investigation or other means to ensure the suitability of owners, operators, and employees of Casinos and other persons licensed under this Act;

(3) Means to ensure insofar as possible the continuing fiscal capability of Casino owners and operators and to protect the public in the event that such capability is significantly diminished.

(4) Means to exclude from the gaming areas of a Casino individuals under 18 years of age.

(5) The exclusion and removal of undesirable persons from Casinos.

(6) Civil penalties for the violation of provisions of this title or of regulations issued pursuant to this title.

Section 6. Licenses.

(a) Casino Licenses.

(1) (A) The Commission shall, by regulation, set forth licensing criteria for the ownership and operation of Casinos on Rota, provided that such licensing criteria shall not be designed to give any Casino a competitive advantage over any other Casino.

(B) There shall be no restrictions on the total number of Casino licenses. However, the Commission may establish a cap in the number of licenses should it become necessary, in the interest of public health, safety, and/or welfare.

(C) There shall be no general restrictions on the number of Casinos that may be owned or operated by a single person or group of persons, provided that such restrictions may be imposed on a specific person or group if, as a result of an investigation or other circumstance, the Commission determines that such restrictions are warranted, in the interest of public health, safety and/or welfare.

(b) Casino Service Providers.

The Commission shall, by regulation, determine which types of Casino service providers shall require licensing under this title and shall, subject to Section 6 of this Act, provide for such licensing.

(c) Individual Licenses.

(1) The Commission may, consistent with and in addition to other applicable Commonwealth laws and regulations, license or otherwise regulate the employment of individuals by or in Casinos.

(2) The Commission may provide for the licensing of such types of employees of Casino service providers as the Commission determines should be licensed, and of other types of individuals (other than patrons) who the Commission determines should be licensed because of their association with or presence in a Casino.

(d) Term of Licenses.

(1) Once granted, a license shall remain in force until it is revoked or surrendered under conditions specified in regulations promulgated pursuant to this title, except during any period during which it is suspended as provided in such regulations.

(2) No property right shall accrue to any person in or by virtue of any license issued under this title.

(3) Notwithstanding the provisions of paragraphs (2) of this subsection, in order to induce investment in the Municipality, the Commission may enter into licensing agreements with applicants for Casinos to be located within large new development projects or large expansions of existing development pursuant to which the applicant, if it is granted a Casino licensing agreement, is guaranteed a minimum term of years during which any law passed pursuant to the Local Law Act of 1983, as amended, to terminate the operation of Casinos, or any law passed pursuant to the Local Law Act of 1983, as amended or duly promulgated regulation that would work to limit significantly the operation of that Casino, shall not apply to that Casino. The Commission shall determine the minimum level of new investment required to qualify for such a contract, which shall not be less than \$25 million in dollars, and may provide longer guaranteed terms for larger investments, except that no guarantee shall be for longer than 40 years.

(e) Inspection and Monitoring.

The Commission shall provide by regulation, as a condition of a Casino or Casino service provider license, that the Commission or its authorized representatives may inspect and monitor at any time and with or without notice of any part of a licensed Casino, its gaming operations, equipment, records, and related activities and any similar area or activity of a licensed Casino service provider, and that a law enforcement officer may enter any such area as provided in Section 12 of this title.

(f) Change of Licensee.

No license may be sold, assigned, pledged, transferred, or otherwise alienated or encumbered without the express written permission of the Commission or as the Commission may by regulation provide. A change in the ownership or control of a license shall be considered a transfer of a license under this subsection. No sale or lease of a Casino (or of a larger establishment of which Casino is a part) or contract for its operation or management may be entered into, except --

- (1) before a license is granted, if such sale, lease or contract was considered by the Commission in its decision whether to grant the license; or
- (2) after a license is granted and after any necessary investigation, with the express written permission of the Commission, which shall not be withheld unreasonably.

Section 7. Fees and Taxes.

Note: Public Law 16-37 Amended the Rota Casino Act of 2007, reference to Section 7(a)(2), and Section 7(c) as Amendment.

(a) Casino License Fees.

(1) The Commission may impose a Casino license application fee not to exceed \$100,000. Such fee shall not be refundable, except under the circumstances which the Commission may set forth by regulation, and shall be charged only once in connection with any Casino license.

(2) The Commission may impose annual license fees in connection with Casino licenses issued under this title. The first such fee shall be paid upon approval of the license application and the license shall issue as of the date such fee is paid. The license year for a Casino shall be reckoned from the date the license is issued, and the total license fee for any Casino shall not exceed \$200,000 for any one license year, except that the Commission may, by regulation, increase such maximum fee not sooner than one year after the first license is issued or one year after the last such increase, if it finds that the demand for licenses so warrants and that the increase will not have a significantly adverse affect on investment in Casinos on Rota, provided, that the fee in effect on the date a Casino a license becomes effective shall not be increased for that Casino during the first three years of that license. If any increase under this paragraph would cause a license fee to exceed \$200,000, such increase shall not be for more than 10 percent of the fee then in effect.

~~(b)~~ Other License Fees.

The Commission may establish annual fees for licenses and licensing agreements issued under subsection (b) or (c) of Section 6 Act this title.

(c) Rota Gaming Tax.

(1) A gross revenue surtax of one percent of gross revenue as provided in 1 CMC§ 1402(c) ~~(1) shall be paid each month~~ by each licenses.

(2) A gambling revenue tax pursuant to 1 CMC § 1402(c)(4) equal to ten percent per annum ~~of the~~ casino gross revenues, shall payable on or before the seventh day of each month.

(3) An annual gambling amusement machine tax pursuant to 1 CMC § 1402(c)(4) for all slot machines and poker machines located on the casino premises and poker machines located on the casino premises, shall be payable in an amount to be determined ~~by the~~ Commission by regulation.

~~(d)~~ Rota Municipal Treasurer:

There is hereby established a Rota Municipal Treasurer within the Office of the Mayor whose primary responsibility is to collect and hold all license and registration fees, any taxes levied on a Casino pursuant to the initiative and the regulation issued pursuant hereto, excluding taxes and fees levied by the Commonwealth Government. This position shall be a bonded position in an amount set by a duly promulgated regulation.

Section 8. Investigations.

(a) Prior to issuing any license under this title, the Commission shall investigate the applicant for such license and any related person, as the Commission determines, either by regulation or in an individual case, is necessary to protect the public interest. If such person holds a similar license from any other United States jurisdiction, the investigation shall be limited to determining the validity of that license and inquiring of the issuer of such license regarding any germane information relating to the issuance of such license(s) to such person. The Commission may request the assistance of the United States Federal Government for investigation, examination or other related questions for any Casino applicant, and any applicant shall waive in writing any objection to the release of information from any governmental entity pursuant to the investigation.

(b) The Commission shall, at the request of the holder of any license under this title, investigate any person involved in the potential sale, lease, transfer, change in ownership, or other change related to the license as necessary to protect the public interest in future activities under such license.

(c) The Commission may require that the applicant reimburse the Commission for its expenses incurred in the conduct of an investigation under subsection (a) or (b) of this section, provided that no expense for any member or staff of the Commission, including any travel or transportation expense of such a member or staff, shall be reimbursed. The Commission may require the applicant to deposit the estimated amount of such expenses with the Commission before the investigation begins and shall return any unused balance to the applicant when the investigation is completed or otherwise terminated. The Commission may require additional deposits, if previous deposits are insufficient to cover the actual cost of the investigation. Any amount reimbursed under this subsection shall be deposited as a credit against the applicable appropriation account and shall once gain is available for obligation without further appropriation.

(d) The Commission may at any time investigate the holder of any license under this title or any related person, with or without notice to such holder or person, when it determines that such investigation is warranted, but the expenses of such an investigation shall not be subject to reimbursement.

Section 9. Detention of Violators.

The operator of a Casino, any employee or agent of such operator, or any person inspecting or monitoring a gaming establishment on behalf of the Commission, may, upon probable cause, detain in a suitable place in such gaming establishment (or elsewhere in a resort complex or other facility of which the gaming establishment is a part) any person who, on the premises of such gaming establishment, is or may be violating this title or any regulation promulgated pursuant to this title, or who is or may be committing a related crime (such as a crime against property set out in Part 2 of 6 CMC, Division 1), using such force as is reasonably necessary for that purpose, until the arrival of a law enforcement officer. The detaining person shall take such steps as are necessary to ensure that a law enforcement officer is summoned and arrives with as little delay as possible.

Section 10. Exclusion or Removal.

A Casino operator or any employee or agent of such operator may exclude or remove any undesirable person from a Casino pursuant to the regulations promulgated pursuant to Section 5 of this Act and may use reasonable force to carry out such exclusion or removal. A Casino may establish and enforce a dress code for its patrons, and any person who fails to comply with such code on the premises of such gaming establishment may, at the discretion of the Casino operator, be deemed an undesirable person for purposes of this section. Any action taken under this section shall comply with any applicable federal or Commonwealth law that prohibits discrimination against any protected class of individuals.

Section 11. Immunity for Detention, Exclusion, or Removal.

No civil or criminal action shall lie against any person for action reasonably taken pursuant to Section 9 or 10 of this Act.

Section 12. Entry by Law Enforcement Officers.

A law enforcement officer may, without warrant, notice, or explanation, enter any area of a Casino to which a patron of the Casino or the public has access and, for such purpose, such area is public place in which the officer may exercise any power or discharge any duty which may be exercised or discharged in a public place under this title or any other provision of law. A law enforcement officer may enter any other area of a Casino or any area of a Casino service provider at the request of any person inspecting or monitoring such area on behalf of the Commission under Section 6(e) of this title or as otherwise authorized by law.

Section 13. Gambling by Commission and Licenses Prohibited.

(a) No member, officer, employee, or agent of the Commission shall play any game in –

(1) any Casino under the jurisdiction of the Commission;

(2) any other gaming establishment reasonably associated with any such gaming establishment; or

(3) any gaming establishment the owner, lessee, operator, or manager of which is an applicant for a license from the Commission, or is a potential applicant that has entered into discussions with the Commission prior to such application and has not clearly abandoned its interest in a license, or is reasonably associated with such an applicant or potential applicant.

(b) No member, officer, employee, or agent of the Commission shall knowingly be an employee of or have any business or financial association with or interest in any Casino or Casino service provider licensee under this title or any business reasonably related to such licensee.

(c) No owner, lessee, operator, manager, officer, employee, agent, or other person associated with a Casino licensed under this title shall play any game in such Casino.

Section 14. Administrative Penalties.

The Commission may, by regulation, provide civil penalties for the violation of this title or of any regulation or order issued pursuant to this title. No penalty may exceed \$50,000, and a range of lesser penalties shall be provided for minor or intermediate violations. Such regulations may provide that each day that a violation continues constitutes a separate violation. Such regulations may specify conditions under which a natural person who causes any other person to commit a violation shall also be liable for such violation. The Commission may suspend, reduce, or compromise any penalty imposed pursuant to this section.

Section 15. Employee Benefits.

(a) As a condition of any Casino license issued under this title, each employee of any Casino so licensed shall be granted personal and sick leave at a rate equivalent to the grant of such leave to civil service employees of the Commonwealth. Such employee shall be given reasonable opportunity to use such leave or, at the option of the employee, shall be paid the then-current value of such leave at the end of the employment of the employee in the Commonwealth by the Casino, under the same terms and conditions of civil service employees of the Commonwealth.

(b) As a condition of any Casino license issued under this title, each employee of any Casino so licensed shall be provided with adequate health insurance or similar coverage similar (as determined by the Commission to the coverage provided to civil service employees of the Commonwealth. The Casino shall pay the entire cost of such coverage, except that a Casino may deduct from the wages of an employee not more than one third of the actual cost of such coverage, if the employee is compensated at not less than the United States minimum wage, provided, that if the Casino employs any nonresident worker subject to this provision and another law of the Commonwealth forbids such deduction for nonresident workers or limits such deduction to less than one- third, such provisions shall apply to all employees of the Casino including resident workers in the same job category as the nonresident worker. A Casino shall submit a plan of coverage to the Commission, as the Commission shall be regulation provide, and obtain the approval of such plan by the Commission.

(c) The Commission may, by regulation, provide for the exemption of certain high level employees from any other provision of this section, except as may otherwise be required by law, provided, that if such law provides for such provision to be applicable for high-level nonresident workers, any exemption provided pursuant to this subsection shall not apply to similar resident workers.

Section 16. Local Appropriations.

Note: Public Law 16-4 Amended the Rota Casino Act of 2007, reference to Section 4 and Section 5 as Amendment.

Section 4. Amendment. Section 16(a) of the Rota Casino Act of 2007 is repealed and reenacted as follows:” Section 16. Local Appropriations.

(a) All license fees and gambling revenue taxes derived under this title shall be local revenues to be expended for local public purposes, as specified herein. The Mayor of Rota shall submit a budget for consideration and approval of the Rota Municipal Council, which shall thereafter transmit said budget with any amendments to the Rota Legislative Delegation for consideration, amendment and enactment pursuant to the "Local Law Act of 1983" - 1 CMC, Div. 1 (as amended)."

Section 5. Amendment. Section 1405(a) of Title 1 of the Commonwealth Code is hereby amended as follows:

"(a) No local bill or local appropriation or revenue bill may be enacted by a legislative delegation until the mayor from the respective senatorial district has had an opportunity to review and comment on it. The mayor or his designee shall have 30 days in which to review and comment on all local bills. If the mayor fails to comment with the applicable period, the legislative delegation may act on the matter without input from the mayor. Provided, however, that the provisions of this subsection shall not apply to the Tinian Legislative Delegation in enacting an appropriation of casino gaming revenues pursuant to section 50 (5) of the Revised Tinian Casino Gaming Control Act of 1989; provided further that the provisions of this subsection shall not apply to the Rota Legislative Delegation in enacting an appropriation of casino gaming revenues pursuant to the Rota Casino Act as it was enacted by popular initiative or as it may be amended."

(a) Notwithstanding any provision of 1 CMC 1408, the revenues derived under this title shall be subject to appropriation only by the Rota Municipal Council with the approval of the Mayor (or without the approval of the Mayor, if the Council unanimously reenacts the appropriation after disapproval by the Mayor.

(b) The revenues derived under this title shall first be appropriated for the operations of the Commission and for repayment of any start-up appropriations pursuant to the Local Law Act of 1983.

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(c) Of the revenues remaining after the appropriation of funds under subsection (b) of this section, the lesser of five percent or \$200,000 shall be appropriated for health programs, including grants to one or more nongovernmental organizations (including faith-based organizations and mental health providers), to ameliorate any negative social effects of gambling or for other health and welfare purposes.

(d) Of revenues remaining after the appropriation of funds under previous subsections of this section, if any, not less than one-half shall be appropriated for the benefit of the people of Rota only for the purposes of:

- (1) Medical health insurance coverage for all legal domiciliary of Rota as defined in Section 2(8) of this Act;
- (2) Scholarships;
- (3) Youth and Senior Citizens programs.
- (4) Housing or utilities assistance.
- (5) Business development loans.

(e) The remaining half of the revenues referred to in subsection

(f) of this section may be appropriated for any public purposes, as defined, following the issuance of duly promulgated regulations.

Section 17. Amendment.

This Act may be subject to “technical amendment” as defined herein, by the First Senatorial Delegation, acting pursuant to the Local Law Act of 1983, as that Local Law Act is presently constituted or hereafter amended.

Section 18. Savings Clause.

This Act or any repealer contained in this Act shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation, or order adopted under such statutes. Repealers contained in this title shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this title shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the effective date of this title.

Section 19. Effective Date:

This Act shall become effective when approved by the voters and the results certified in the manner prescribed by law.

Reviewed for Legal Sufficiency:

Amended by PL 16-4, 08 May 2008

Note: Public Law 16-4 Amended the Rota Casino Act of 2007, reference to Section 4 and Section 5 as Amendment.

Amended by PL 16-37, 15 April 2009

Note: Public Law 16-37 Amended the Rota Casino Act of 2007, reference to Section 7(a) (2), and Section 7(c) as Amendment.