

CHAPTER 441a. SLOT MACHINE LICENSES

- Sec.
- 441a.1. Definitions.
 - 441a.2. Slot machine application deadlines.
 - 441a.3. Slot machine license application.
 - 441a.4. Alternative Category 1 licensing standards.
 - 441a.5. License fee payment bond or letter of credit requirements.
 - 441a.6. Public input.
 - 441a.7. Licensing hearings for slot machine licenses.
 - 441a.8. Divestiture.
 - 441a.9. Approval of a slot machine license.
 - 441a.10. Notification of anticipated or actual changes in principals or key employees.
 - 441a.11. Notification of new financial sources.
 - 441a.11a. Duty to maintain financial suitability.
 - 441a.12. Maintaining agreements; filing of agreements.
 - 441a.13. Board approval of agreements.
 - 441a.14. Master purchasing and disbursement report.
 - 441a.15. Slot machine license issuance bond requirement.
 - 441a.16. Slot machine license term and renewal.
 - 441a.17. Change in ownership or control of slot machine licensee and multiple slot machine license prohibition.
 - 441a.18. Employee status report.
 - 441a.19. Notice of employee misconduct and offenses and employee resignations.
 - 441a.20. [Reserved].
 - 441a.20a. Changes to a slot machine licensee's initial or modified plan of development.
 - 441a.21. Liability for management companies.
 - 441a.22. Category 1 slot machine licensees.
 - 441a.23. Category 3 slot machine licensees.

Authority

The provisions of this Chapter 441a issued under 4 Pa.C.S. §§ 1202(b)(9), (12), (13)—(20), (23) and (30), 1205, 1209, 1301—1316, 1317.1, 1318, 1321, 1325—1331 and 1802, unless otherwise noted.

Source

The provisions of this Chapter 441a adopted November 30, 2007, effective December 1, 2007, 37 Pa.B. 6265, unless otherwise noted.

§ 441a.1. Definitions.

For purposes of this subpart, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

Amenities—Ancillary activities, services or facilities in which a registered guest or the transient public, in return for non-de minimis consideration, may participate at a resort hotel, including, but not limited to:

- (i) Sports and recreational activities and facilities such as a golf course, golf driving range, tennis court or swimming pool.
- (ii) Health spa.

- (iii) Convention, meeting and banquet facilities.
- (iv) Entertainment facilities.
- (v) Restaurant facilities.

Applicant—A person who applies to the Board to receive a slot machine license as defined in this section.

Developer—A person engaged by a slot machine applicant or licensee to construct a proposed licensed facility or to otherwise make land or buildings suitable for use as a licensed facility.

Guest rooms under common ownership—A room or group of rooms, including timeshare units, that are owned by a well-established resort hotel and that are available for rental.

Initial plan of development—The slot machine licensee's financing, construction schedule, comprehensive design plan and projected expenditure for the licensed facility as described by the licensee in its application and presented at the licensee's initial suitability hearing before the Board.

Licensing hearing—A hearing before the Board in which an applicant for a slot machine license will have an opportunity to present to the Board:

- (i) Evidence concerning its eligibility for a license.
- (ii) Evidence concerning its suitability for a license.
- (iii) Evidence of how its proposed facility and operation addresses the criteria identified in section 1325(c) of the act (relating to license or permit issuance).
- (iv) For applicants seeking licensure under section 1304 of the act (relating to Category 2 slot machine license), evidence which sets forth a comparison between the applicant and other applicants within the same category of licensure on the standards and criteria in the act.

Modified plan of development—An alteration to a slot machine licensee's initial plan of development.

Non-de minimis consideration—A payment of fair market value of at least \$10 per patron paid to the resort hotel for use of one or more amenities.

Organization—Legal business entities that are under common ownership or control, including, but not limited to, affiliates, subsidiaries, intermediaries and holding companies.

Patron of amenities—An individual who is a registered attendee of a convention, meeting or banquet event or a participant in a sport or recreational event or any other social, cultural or business event held at a resort hotel or who participates in one or more of the amenities provided to registered guests of the resort hotel.

Slot machine license—A Category 1 slot machine license under section 1302 of the act (relating to Category 1 slot machine license), a Conditional Category 1 slot machine license under section 1315 of the act (relating to conditional Category 1 licenses), a Category 2 slot machine license under section 1304 of

the act (relating to Category 2 slot machine license) and a Category 3 slot machine license under section 1305 of the act (relating to Category 3 slot machine license).

Well-established resort hotel—A resort hotel having at least 275 guest rooms under common ownership at the time of application for a Category 3 slot machine license and having substantial year-round recreational guest amenities.

Authority

The provisions of this § 441a.1 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.1 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (367895) to (367896).

Cross References

This section cited in 58 Pa. Code § 441a.20a (relating to changes to a slot machine licensee's initial or modified plan of development).

§ 441a.2. Slot machine application deadlines.

The Board will initiate the formal procedure for the acceptance, consideration and final resolution of applications for slot machine licenses by setting a filing period for filing of Category 1, 2 or 3 slot machine license applications. The filing period set by the Board will be posted on the Board's web site.

Authority

The provisions of this § 441a.2 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.2 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial page (331551).

§ 441a.3. Slot machine license application.

(a) An applicant for a slot machine license shall submit an application which includes the following:

- (1) An original and one copy of the Category 1, Category 2, or Category 3 Application and Disclosure Information Form.
- (2) The nonrefundable application fee posted on the Board's web site.
- (3) An application for each principal under Chapter 433a (relating to principal licenses).
- (4) Fingerprints for each principal.

(5) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity), which shall be signed by the chief executive officer of the applicant or authorized designee.

(6) If a temporary land-based facility is to be licensed, a plan for how the licensee will transition to a permanent facility, including a date for completion of the permanent facility. A permanent facility shall be the facility proposed by the applicant, which is designated, identified and made part of the evidentiary record by the applicant at the applicant's licensing hearing. Modifications to the approved permanent facility following the applicant's licensing hearing require approval of the Board in accordance with § 441a.20a (relating to changes to a slot machine licensee's initial or modified plan of development).

(7) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence).

(8) A statement demonstrating compliance with the geographical requirements of section 1302, 1304 or 1305 of the act (relating to Category 1 slot machine license; Category 2 slot machine license; and Category 3 slot machine license).

(b) Failure to provide the information required in subsection (a) may result in the application being deemed incomplete.

(c) In addition to the materials required under subsection (a), an applicant for a slot machine license shall comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(d) A copy of the local impact report required as part of the application shall be provided to the political subdivisions in which the licensed facility will be located at the same time as the filing of the application for a slot machine license. The applicant shall file a proof of service with the Bureau of Licensing within 5 business days after filing the application for a slot machine license.

Authority

The provisions of this § 441a.3 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.3 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (331551) to (331552).

Cross References

This section cited in 58 Pa. Code § 441a.4 (relating to alternative Category 1 licensing standards); and 58 Pa. Code § 441a.7 (relating to licensing hearings for slot machine licenses).

441a-4

§ 441a.4. Alternative Category 1 licensing standards.

(a) If an applicant for a Category 1 license, or its affiliate, intermediary, subsidiary or holding company holds a similar license in another jurisdiction in the United States or Canada, the applicant may submit a written request with its application required under § 441a.3 (relating to slot machine license application) for the Board to adopt an abbreviated licensing process under section 1314(b) of the act (relating to alternative Category 1 licensing standards).

(b) The Board may use the abbreviated process if:

(1) The Board determines, after investigation, that the licensing standards in the other jurisdiction in which the applicant or its affiliate, intermediary, subsidiary or holding company is licensed is similarly comprehensive and thorough and provides safeguards that are equal to or greater than those provided in the act and granting the request would be in the public interest.

(2) A completed application for a Category 1 license has been filed with the Bureau of Licensing which includes the name and address of the regulatory agency in the other jurisdiction.

(3) The Bureau of Licensing has received a copy of the completed application, renewal applications and accompanying documents filed in the other jurisdiction.

(4) The applicant has provided current, updated information to the Bureau of Licensing and the Bureau regarding the license in the other jurisdiction and information relating to its financial viability and suitability and good character.

(5) The applicant has no administrative or enforcement actions pending in other jurisdictions that could render the applicant ineligible or unsuitable for licensure or the applicant has disclosed and explained these actions to the satisfaction of the Board.

(6) There are no pending or ongoing investigations of possible violations by the applicant in other jurisdictions that could render the applicant ineligible or unsuitable for licensure or the applicant has disclosed and explained these investigations to the satisfaction of the Board.

(c) The abbreviated process does not waive fees associated with obtaining a Category 1 license.

(d) The Board may determine to use an abbreviated process requiring only that information determined by the Board to be necessary to consider the issuance of the license, including the financial viability of the applicant.

(e) Following the issuance of a Category 1 license under this section, the Bureau will initiate a complete review of the information submitted under this subpart. If the applicant does not meet the requirements of the act or this part, the Board may revoke, suspend or condition the license until the applicant meets the requirements of the act.

Authority

The provisions of this § 441a.4 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.4 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (331552) and (345165).

§ 441a.5. License fee payment bond or letter of credit requirements.

(a) An application for a slot machine license shall at all times throughout the period in which the application is on file with the Board include original payment bonds or original irrevocable letters of credit, or some combination thereof, that include draw instructions guaranteeing the applicant's payment of the slot machine license fee required by sections 1209(a) and 1305(d) of the act (relating to slot machine license fee; and Category 3 slot machine license) if the license is approved and issued.

(1) Payment bonds or irrevocable letters of credit shall be submitted to the Bureau of Licensing for review before an application may be accepted for filing. The review of the payment bond or irrevocable letter of credit will include an assessment of both the proposed terms and the surety or financial institution that will issue the payment bond or irrevocable letter of credit. An application will be deemed incomplete if at any time during the period the application is on file with the Board payment bonds or letters of credit in the amounts required in paragraph (2) are not in full force and effect.

(2) Payment bonds or irrevocable letters of credit must aggregate to the following amounts:

- (i) \$50,000,000 for each application for a Category 1 or Category 2 license.
- (ii) \$5,000,000 for each application for a Category 3 license.

(b) Unless otherwise permitted by the Board, a payment bond provided under this section must be issued by a surety company that is both licensed by the Insurance Department and assigned a credit rating within the three highest categories, without regard to numerics or other modifiers, by Moody's or Standard & Poor's, or upon the discontinuance of Moody's or Standard & Poor's, by another Nationally-recognized rating service. Proof that the surety is licensed by the Insurance Department and has been assigned the required credit rating must accompany any payment bond submitted under this section.

(c) Unless otherwise required by the Board, a letter of credit must be issued by a bank, trust company, National banking association or corporation which is both subject to regulation by the Federal Reserve System under the Bank Holding Company Act of 1956 (12 U.S.C.A. §§ 1841—1852) and assigned a credit rating within the three highest rating categories, without regard to numerics or other modifiers, by Moody's or Standard & Poor's, or upon the discontinuance

of Moody's or Standard & Poor's, by another Nationally-recognized rating service. Proof that the bank, trust company, National banking association or corporation is subject to regulation by the Federal Reserve System under the Bank Holding Company Act of 1956 and that the issuer has been assigned the required credit rating must accompany any letter of credit submitted under this section.

(d) The payment bond or irrevocable letter of credit provided under this section must state that it is payable to the "Commonwealth of Pennsylvania" as the obligee.

(e) The payment bond or irrevocable letter of credit provided under this section must provide that if the slot machine license has been approved by the Board and the license fee has not been paid in full within 5 business days following the deadline for payment set by the Board or Board staff, the Commonwealth will have the right to request immediate payment under the payment bond or irrevocable letter of credit for payment of the slot machine license fee.

(f) The payment bond or irrevocable letter of credit provided under this section must state that it will expire upon the earlier to occur of the following:

- (1) A specified expiry date or any automatically extended expiry date.
- (2) Receipt by the issuer of the Board's signed statement that:
 - (i) The application has been denied.
 - (ii) The slot machine license has been issued and 10 business days have elapsed following the issuance of the license.
 - (iii) The license fee has been paid.
 - (iv) The applicant has been permitted by the Board to withdraw its application under § 423a.5 (relating to application withdrawal and surrender).

(g) An expiry date applicable to a payment bond or letter of credit provided under this section must be at least 12 months from the date of issuance of the payment bond or letter of credit. Any provision automatically renewing or extending a payment bond or letter of credit must do so at intervals of at least 3 months. Notice provisions to the Board in a payment bond or letter of credit applicable to an election by an issuer not to renew or extend a then current expiry date must provide that the Board will receive at least 60 days written notice, by registered mail or overnight courier service, of an election not to renew or extend.

(h) This section does not preclude a slot machine license applicant from substituting or replacing a payment bond or letter of credit during the period the application is on file with the Board provided the replacement payment bond or letter of credit is reviewed by the Bureau of Licensing.

Authority

The provisions of this § 441a.5 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

441a-7

Source

The provisions of this § 441a.5 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (345165) to (345166) and (353445).

Cross References

This section cited in 58 Pa. Code § 441a.7 (relating to licensing hearings for slot machine licenses).

§ 441a.6. Public input.

(a) Prior to granting a slot machine license, the Board will conduct at least one public input hearing.

(b) Public input hearings relating to an application for a slot machine license shall be held in the municipality where the licensed facility will be located. The public input hearings will be organized in cooperation with the municipality.

(c) The Board will develop and post the procedures that will be used to conduct public input hearings on the Board's web site.

(d) The Board will make public a list of all witnesses scheduled to testify at a public input hearing at least 7 days prior to the hearing. The list of witnesses will be updated at least 3 days prior to the hearing. Additional witnesses will be posted on the Board's web site as they are added to the witness list.

Authority

The provisions of this § 441a.6 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.6 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial page (353445).

§ 441a.7. Licensing hearings for slot machine licenses.

(a) A schedule of licensing hearings for all slot machine license applicants will be posted on the Board's web site.

(b) The Board may schedule prehearing conferences under § 491a.9 (relating to prehearing and other conferences) to address issues related to licensing hearings.

(c) The Board will allot each applicant a specified time for its presentation. The length of the presentations, which shall be the same for each applicant within each category, will be established by the Board.

(d) At a licensing hearing, an applicant shall appear before the Board and at all times have the burden to establish and demonstrate, by clear and convincing evidence, its eligibility and suitability for licensure and to address the criteria identified in section 1325(c) of the act (relating to license or permit issuance).

(e) For the purposes of this section, an applicant's demonstration of eligibility must include a showing of compliance with:

- (1) Section 1302, 1303, 1304 or 1305 of the act, as applicable.
 - (2) The application requirements in § 441a.3 (relating to slot machine license application).
 - (3) The license fee payment bond or letter of credit requirements in § 441a.5 (relating to license fee payment bond or letter of credit requirements).
 - (4) The diversity requirements in Chapter 481a (relating to diversity) and section 1325(b) of the act.
- (f) For the purposes of this section, an applicant's demonstration of suitability must include a showing of:
- (1) Good character, honesty and integrity in compliance with section 1310 of the act (relating to slot machine license application character requirements).
 - (2) Financial fitness in compliance with section 1313 of the act (relating to slot machine license application financial fitness requirements).
 - (3) Operational viability, including:
 - (i) The quality of the proposed licensed facility, and temporary land-based facility, if applicable, including the number of slot machines and table games proposed and the ability of the proposed licensed facility to comply with statutory, regulatory and technical standards applicable to the design of the proposed licensed facility and the conduct of slot machine and table game operations therein.
 - (ii) The projected date of the start of operations of the proposed licensed facility and any accessory uses such as hotel, convention, retail and restaurant space proposed in conjunction therewith. Applicants shall provide the Board with a time line on the deliverability of proposed temporary land-based or phased permanent licensed facilities and the accessory uses proposed in conjunction therewith.
 - (iii) The ability of the applicant's proposed licensed facility to generate and sustain an acceptable level of growth of revenue.
- (g) For the purposes of this section, an applicant's demonstration of how it addresses the criteria identified in section 1325(c) of the act must include:
- (1) The location and quality of the proposed facility, including, but not limited to, road and transit access, parking and the facility's proximity to its anticipated market service area.
 - (2) The potential for new job creation and economic development which are expected to result from granting a license to an applicant.
 - (3) The applicant's good faith plan to recruit, train and enhance diversity in all employment classifications in the facility.
 - (4) The applicant's good faith plan for enhancing the representation of diverse groups in the operation of its facility through the ownership and operation of business enterprises associated with or utilized by its facility or through the provision of goods or services utilized by its facility and through the participation in the ownership of the applicant.

- (5) The applicant's good faith effort to assure that all persons are accorded equality of opportunity in employment and contracting by it and any contractors, subcontractors, assignees, lessees, agents, gaming service providers and suppliers the applicant may employ directly or indirectly.
- (6) The potential for enhancing tourism which is expected to result from granting a license to the applicant.
- (7) The history and success of the applicant in developing tourism facilities ancillary to gaming development in other locations if applicable to the applicant.
- (8) The degree to which the applicant presents a plan for the project which will likely lead to the creation of quality, living-wage jobs and full-time permanent jobs for residents of this Commonwealth generally and for residents of the host political subdivision in particular.
- (9) The record of the applicant and its developer in meeting commitments to local agencies, community-based organizations and employees in other locations.
- (10) The degree to which potential adverse effects which might result from the project, including costs of meeting the increased demand for public health care and treatment of problem gamblers and their families, child care, public transportation, affordable housing and social services, will be mitigated.
- (11) The record of the applicant and its developer regarding compliance with:
- (i) Federal, State and local discrimination, wage and hour, disability and occupational and environmental health and safety laws.
 - (ii) State and local labor relations and employment laws.
- (12) The record of the applicant in dealing with its employees and their representatives at other locations.
- (13) The applicant's business probity, experience and ability.
- (14) Areas of deficiency in the applicant's application previously identified by the Bureau or the Bureau of Licensing that have not been resolved.
- (h) The applicant's demonstration of how it addresses section 1325(c) of the act and subsection (g) may include information relating to its affiliates, intermediaries, subsidiaries or holding companies.
- (i) No later than 30 days before the first scheduled licensing hearing in the category of license for which the applicant has filed an application, the applicant shall file with the Board a memorandum identifying all evidence it intends to use in support of its presentation before the Board. At the same time, Category 1 and Category 3 applicants shall serve the memorandum on the other applicants in the same category. At the same time, Category 2 applicants shall serve the memorandum on all other applicants whose proposed facility meets the same location criteria as the applicant's proposed facility as specified in subsection (n)(1)(i)—(iii). The memorandum must include the following:

(1) The name of the applicant and docket number of the applicant's application to which the evidence will relate.

(2) Identification of each standard and criterion in subsections (d)—(f) to which the evidence will relate.

(3) As to each criterion identified, whether the evidence will be presented through oral testimony or the proffer of documents, or both. If any portion of the evidence will be presented through oral testimony, the notice must include the name, address and telephone number of each testifying witness, the identified criteria about which the witness will testify and a detailed summary of the witness' testimony. If any portion of the evidence will be presented through the proffer of documents, including reports and exhibits, the memorandum must include a copy of each document to be proffered and the name, address and telephone number of the persons who prepared the document.

(4) If any person identified in paragraph (3) will testify as an expert, the person's qualifications, including the person's education, experience and training, and a listing of the other jurisdictions where the person has been qualified as an expert witness within the last 5 years, shall be attached to the notice. A copy of the results or reports of any tests, experiments, examinations, studies or documents prepared or conducted by the expert or about which the expert will testify or which will be relied upon by the expert to render an opinion shall be attached to the notice.

(5) Documents required under paragraphs (3) and (4) that have already been submitted to the Board and made part of the public record may be referenced instead of being included with the memorandum identifying all evidence an applicant intends to use in support of its presentation before the Board.

(j) The Board will serve on all applicants within that category any expert reports developed for and requested by the Board that pertain to the applicants.

(k) Applicants, at the time of filing, shall provide the Board with an electronic version, in a format prescribed by the Board, of the reports and exhibits provided in paper form.

(l) If an applicant designates any submitted report or exhibit as confidential under § 401a.3 (relating to definitions) or section 1206(f) of the act (relating to Board minutes and records), the applicant shall:

(1) Clearly and conspicuously indicate that the report or exhibit is confidential in both the paper and electronic format and provide these exhibits separately from the nonconfidential exhibits.

(2) Request that the confidential information be presented to the Board in an executive session in accordance with 65 Pa.C.S. § 708(a)(5) (relating to executive sessions) and provide an explanation of the need for the designation of confidentiality and presentation during an executive session or authorize the release of the report or exhibit in compliance with section 1206(f)(5) of the act.

(m) Applicants are prohibited from relying upon or introducing new evidence, including witnesses' testimony, reports or exhibits, not identified under subsection (i) or (n), except in the following circumstances:

(1) Applicants may update or supplement evidence, including witnesses' testimony, reports or exhibits to respond to requests from the Board or Board staff.

(2) Applicants may update or supplement evidence, including witnesses' testimony, reports or exhibits to respond to issues raised subsequent to the filing of the memorandum required by subsection (i) at a prehearing conference if the issues could not have been reasonably anticipated by the applicant.

(n) For Category 2 and Category 3 applicants only, in addition to the applicant's presentation of evidence to the Board relative to its eligibility and suitability for a license, an applicant may, during its licensing hearing, present evidence which sets forth a comparison between the applicant and other applicants within the same category with respect to the standards and criteria in subsections (e)—(h).

(1) Comparisons must be limited to:

(i) For applicants seeking to locate a licensed facility in a city of the first class, other applicants for a licensed facility in a city of the first class.

(ii) For applicants seeking to locate a licensed facility in a city of the second class, other applicants for a licensed facility in a city of the second class.

(iii) For applicants seeking to locate a licensed facility in a revenue-enhanced or tourism-enhanced location, other applicants for a licensed facility in a revenue-enhanced or tourism-enhanced location.

(iv) For applicants seeking to locate a licensed facility in a well-established resort hotel, other applicants for a licensed facility in a well-established resort hotel.

(2) If an applicant desires to present comparative evidence under this subsection, the applicant shall, no later than 20 days prior to the commencement of the first scheduled licensing hearing in the category of license for which the applicant has filed an application, file with the Board Clerk a separate written notice evidencing the intent identifying each other applicant about whom the applicant desires to present evidence. A copy of the notice shall be served on the applicants about whom the evidence will be presented and on the Chief Enforcement Counsel. The notice must include:

(i) The name of the applicant and docket number of the applicant's application to which the evidence will relate.

(ii) Identification of the standards and criteria in subsections (e)—(h) to which the evidence will relate.

(iii) As to each criterion identified, a copy of any document or evidence that will be used to support the comparison to be presented in compliance with subsection (i).

(3) An applicant served with notice under paragraph (2) may present, during its licensing hearing, comparative evidence concerning it and the applicant from who notice was received with respect to the standards and criteria in subsections (e)—(h). The applicant so served shall have 10 days following services to file a reply notice with the Board which contains the information required by paragraph (2). A complete copy of the reply notice shall be served on the applicant who initially served notice under paragraph (2) and on the Chief Enforcement Counsel.

(4) If the applicant plans to present evidence to the Board concerning another applicant in an executive session, the applicant shall provide notice to the other applicant and provide any report or exhibit relied upon to the other applicant. The other applicant may be represented in the executive session.

(o) At the discretion of the Board, an applicant's presentation may include:

(1) Oral presentation.

(2) Documentary evidence submissions, including reports, photographs, audiovisual presentations, exhibits or testimony of witnesses.

(p) The Board, its designee and Chief Enforcement Counsel may:

(1) Examine or question the applicant and witnesses called by the applicant or the Board regarding their testimony and any aspect of the applicant's application and relevant background.

(2) Recall the applicant and other witnesses called by the applicant or the Board during the licensing hearing for further questioning.

(q) A person who testifies at the licensing hearing shall be sworn and testify under oath.

(r) Information obtained by the Bureau during an applicant's background investigation based upon public record or upon information otherwise in the public domain will be heard by the Board during the licensing hearing. Information submitted by an applicant under section 1310(a) of the act or obtained by the Board or Bureau as part of a background investigation from any source not in the public domain is considered confidential. The Board may not require an applicant to waive any confidentiality provided for in section 1206(f) of the act as a condition for the approval of a slot machine license or any other action of the Board. The Board may request that an applicant respond to inquiries related to confidential information during a licensing hearing to promote transparency in the regulation of gaming in this Commonwealth. An applicant who does not waive the right to confidentiality shall:

(1) Invoke the protection afforded the applicant under 4 Pa.C.S. § 1206(f) and have the matter heard in executive session.

(2) Provide the reason on the record explaining the basis for the invocation of confidentiality under § 407a.3(a) (relating to confidential information).

(s) At its discretion, the Board may terminate, recess, reconvene and continue the licensing hearing.

(t) An applicant may raise an objection to the conduct of the hearing, procedure, process or rulings of the Board as it relates to its own hearing or to the hearing of a competitive applicant as follows:

(1) An objection may be raised orally by stating the objection during the hearing of an applicant and the objection shall be stenographically recorded upon the record. The Board may request written briefing of the basis of the objection prior to issuing a ruling.

(2) An objection relating to the hearing of an applicant or to a hearing of a competitive applicant may be raised by means of written objection filed with the Clerk no later than 2 business days after the action or event giving rise to the objection. A written objection must clearly and concisely set forth the factual basis for the objection and be accompanied by a legal brief addressing the legal basis supporting the objection.

(3) If an applicant objects to an action or event in the hearing of another applicant, the caption of the objection must include the docket numbers of both proceedings conspicuously displayed and shall be served upon counsel for the other applicant by electronic means.

(4) In the event an objection is filed to the hearing of another applicant, counsel for that applicant may file a responsive brief within 2 business days of electronic service.

(5) An objection not raised as provided in paragraphs (1)—(3) will be deemed waived.

(u) Each Category 1 and Category 3 applicant may file a brief up to 25 pages in length within 10 days of the completion of the hearing with respect to all applications within its category. Each Category 2 applicant may file a brief up to 25 pages in length within 10 days of the completion of the hearing with respect to all applications that meet the same location criteria as the applicant as specified in subsection (n)(1)(i)—(iii). At the prehearing conferences, applicants in any category may waive the opportunity to file briefs.

(v) At the conclusion of the presentation of all testimony and evidence, the Board will cause the record to be transcribed. The transcript and evidence shall become part of the evidentiary record for the Board's consideration. For good cause shown, the Board may seal portions of the record.

(w) Following submission of the applicants' briefs, all applicants will have an opportunity to make final remarks in the form of oral argument before the Board in a manner and time prescribed by the Board. At the prehearing conferences, applicants in any category may waive the opportunity for oral argument.

(x) Upon the conclusion of the licensing hearings and upon review of the evidentiary record in its entirety, the Board will consider, approve, condition or deny the slot machine license applications. A final order, accompanied by the Board's written decision, will be served on the applicants for slot machine licenses.

(y) An applicant may appeal the denial of a slot machine license to the Pennsylvania Supreme Court as provided in the act.

(z) This subsection pertains exclusively to intervention in a licensing hearing for a slot machine license under this section and is not applicable to other hearings before the Board. The right to intervene in a hearing under this section is within the sole discretion of the Board.

(1) A person wishing to intervene in a licensing hearing for a slot machine license shall file a petition in accordance with this subsection.

(2) A person may file a petition to intervene under this subsection if the person has an interest in the proceeding which is substantial, direct and immediate and if the interest is not adequately represented in a licensing hearing.

(3) Petitions to intervene in a licensing hearing may be filed no later than 45 days prior to the commencement of the first scheduled licensing hearing, in the category of license for which the applicant, in whose hearing the petitioner seeks to intervene, has filed an application unless, in extraordinary circumstances for good cause shown, the Board authorizes a late filing. At the same time the petitioner files its petition with the Board, a complete copy of the petition to intervene shall be served on the Chief Enforcement Counsel and the applicant in whose licensing hearing the petitioner seeks to intervene.

(4) Petitions to intervene must set out clearly and concisely the facts demonstrating the nature of the alleged right or interest of the petitioner, the grounds of the proposed intervention, the position of the petitioner in the proceeding and a copy of the written statement to be offered under paragraph (6). The petitioner shall fully and completely advise the applicant and the Board of the specific issues of fact or law to be raised or controverted and cite provisions or other authority relied on.

(5) The applicant may file an answer to a petition to intervene, and in default thereof, will be deemed to have waived any objection to the granting of the petition. If made, answers shall be filed within 10 days after the date the petition is filed with the Board, unless for cause the Board prescribes a different time. A complete copy of the answer to the petition to intervene shall be served on the Chief Enforcement Counsel and the petitioner who seeks to intervene.

(6) Except when the Board determines that it is necessary to develop a comprehensive evidentiary record, the participation of a person granted the right to intervene in a licensing hearing will be limited to the presentation of evidence through the submission of written statements attested to under oath. The written statements shall be part of the evidentiary record.

(aa) This section supersedes any conflicting provisions of Subpart H (relating to practice and procedure) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

Authority

The provisions of this § 441a.7 amended under 4 Pa.C.S. §§ 1103, 1202(b)(9)—(23) and (30), 1205, 1206(f) and (g), 1207(1) and (2), 1208, 1209(b), 1212, 1213, 1317(c), 1317.1(c), 1317.2, 1326, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.7 amended July 10, 2009, effective July 11, 2009, 39 Pa.B. 3451; amended October 22, 2010, effective October 23, 2010, 40 Pa.B. 6083; amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (353445) to (353452) and (367897).

Cross References

This section cited in 58 Pa. Code § 491a.8 (relating to hearings generally); and 58 Pa. Code § 493a.12 (relating to intervention).

§ 441a.8. Divestiture.

(a) If the Board determines that a slot machine license application cannot be approved because the applicant, its principal or other person who holds a direct or indirect interest in the applicant or in an affiliate, intermediary, subsidiary or holding company of the applicant, does not meet a character or other eligibility criteria required under section 1310 of the act (relating to slot machine license application character requirements), or has an ownership or financial interest that is prohibited under by section 1330 of the act (relating to multiple slot machine license prohibition), the Board may grant the person up to 120 days following the determination to completely divest his interest in the applicant or its affiliate, intermediary, subsidiary or holding company.

(b) The person shall notify the Board of his intention to divest within 30 days of notice from the Board of the opportunity to divest. The Board may extend this time period at its discretion.

(c) Failure to divest within 120 days, or within the time period prescribed by the Board, constitutes a per se disqualification of the applicant to receive a slot machine license.

(d) The terms of divestiture will be approved by the Board.

(e) The Board will not approve a divestiture if the compensation received for the divested interest exceeds the value of the interest.

(f) Following divestiture, the Board will reconsider the applicant's suitability for licensure in an expedited procedure.

§ 441a.9. Approval of a slot machine license.

(a) An applicant for a slot machine license shall prove by clear and convincing evidence:

(1) The financial stability and integrity of the applicant and its affiliates, intermediaries, subsidiaries and holding companies in accordance with section 1313 of the act (relating to slot machine license application financial fitness requirements).

(2) The good character, honesty and integrity of the applicant and its affiliates, intermediaries, subsidiaries, holding companies and principals in accordance with section 1310 of the act (relating to slot machine license application character requirements).

(b) For Category 1 slot machine applications, the State Horse Racing Commission or the State Harness Racing Commission may submit information if it believes the information will assist the Board in making a determination relating to the operational, financial or character fitness of the applicant.

(c) The Board may issue a slot machine license under this chapter if it determines that the applicant:

(1) Has demonstrated that the applicant will establish and is likely to maintain a financially successful, viable and efficient business operation and will likely be able to maintain a steady level of growth of revenue to the Commonwealth.

(2) Is of good character, honesty and integrity.

Authority

The provisions of this § 441a.9 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.9 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (367897) to (367898).

§ 441a.10. Notification of anticipated or actual changes in principals or key employees.

Each slot machine applicant or licensee shall notify the Bureau of Licensing, in writing, as soon as it becomes aware, of the proposed appointment, appointment, proposed nomination, nomination, election, hiring, promotion, intended resignation, resignation, removal, firing, incapacitation or death of any person required to be licensed as a principal or key employee under Chapter 433a and § 435a.2 (relating to principal licenses; and key employee license). The notice must be addressed to the Bureau of Licensing.

Authority

The provisions of this § 441a.10 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.10 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial page (367898).

§ 441a.11. Notification of new financial sources.

Each slot machine applicant or licensee shall notify the Board, in writing, as soon as it becomes aware that it intends to enter into a transaction which may result in any new financial backers. The notice shall be sent to the Bureau of Licensing and the Bureau of Corporate Compliance and Internal Controls.

§ 441a.11a. Duty to maintain financial suitability.

A slot machine licensee and its intermediaries, subsidiaries and holding companies shall, at all times, remain financially suitable. In determining whether a licensee is financially suitable, the Board will consider the following factors:

- (1) The ability to develop and maintain the proposed or licensed project.
- (2) The ability to obtain financing and meet its financial obligations.
- (3) The ability to maintain a steady level of growth of revenue.
- (4) The historical financial suitability and financial wherewithal of the slot machine licensee, its intermediaries, subsidiaries and holding companies.

Authority

The provisions of this § 441a.11a issued under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.11a adopted June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829.

§ 441a.12. Maintaining agreements; filing of agreements.

(a) *Maintaining agreements.* Each approved slot machine licensee shall maintain the following:

(1) A copy of every executed agreement with licensed manufacturers, manufacturer designees, suppliers, tenant businesses or franchises located within the licensed facility, and persons required to file a notification or be registered or certified with the Board in accordance with § 437a.1(a), (b) or (h) (relating to general gaming service provider requirements) or Chapter 613a (relating to gaming related gaming service providers). Agreements relating to slot machines, table games, table game devices and associated equipment must be in writing.

(2) Records associated with an oral agreement with licensed manufacturers, manufacturer designees, suppliers, tenant businesses or franchises located within the licensed facility and persons required to file a notification or other request for authorization with the Board in accordance with § 437a.1(a), (b), (g) or (h) or Chapter 613a.

(3) A copy of all executed land and real estate agreements relating to racing or gaming operations.

(4) A copy of all amendments to agreements listed in paragraphs (1)—(3).

(b) *Filing agreements.* Each approved slot machine licensee shall file with the Board:

(1) Agreements with manufacturers, suppliers, manufacturer designees or gaming related gaming service providers relating to slot machines, table games, table game devices and associated equipment.

(2) Corporate overhead assessment agreements, shared service agreements, centralized service agreements or an agreement under which an affiliate, intermediary, subsidiary or holding company of an approved slot machine licensee provides goods or services to the approved slot machine licensee.

(3) Agreements that provide for the management of all or part of the gaming operations of a licensed facility.

(4) Agreements under which a person's right to receive payment is based or contingent upon a licensee's earnings, profits or receipts from the slot machines, table games or associated equipment.

(5) Amendments to agreements described in paragraphs (1)—(4).

(c) *Content of filings.* In addition to the agreements in subsection (b)(1)—(4), the Board may require an approved slot machine licensee to submit a copy of a written agreement or documents reflecting or relating to any oral agreement. Documentation of an oral agreement submitted to the Board must include the following:

(1) A description of the goods or services to be provided and the person that will provide the goods or services to the approved slot machine licensee.

(2) The name and business address of the parties to the agreement.

(3) The duration of the agreement or the expected date or dates of performance.

(4) The financial terms of the agreement.

Authority

The provisions of this § 441a.12 amended under 4 Pa.C.S. §§ 1102(8) and (9), 1103, 1202(b)(15) and (30), 1209(b), 1313, 1317(c), 1317.1(c), 1317.2, 1321 and 1326.

Source

The provisions of this § 441a.12 amended May 14, 2010, effective May 15, 2010, 40 Pa.B. 2533; amended October 22, 2010, effective October 23, 2010, 40 Pa.B. 6083; amended July 19, 2013, effective July 20, 2013, 43 Pa.B. 4096. Immediately preceding text appears at serial pages (365638) and (353455).

Cross References

This section cited in 58 Pa. Code § 437a.1 (relating to general vendor requirements); and 58 Pa. Code § 441a.13 (relating to Board approval of agreements).

§ 441a.13. Board approval of agreements.

(a) An approved slot machine licensee shall receive Board approval prior to executing, relying upon or taking an action under the following:

(1) Corporate overhead assessment agreements, shared service agreements, centralized service agreements or an agreement under which an affiliate, intermediary, subsidiary or holding company of an approved slot machine licensee provides goods or services to the approved slot machine licensee.

(2) Agreements that provide for the management of all or part of the gaming operations of a licensed facility.

(3) Agreements under which a person's right to receive payment is based or contingent upon a licensee's earnings, profits or receipts from the slot machines, table games or associated equipment.

(4) Amendments to agreements described in paragraphs (1)—(3).

(b) If the Board finds that an agreement is not in the public interest or is inimical to the interest of gaming in this Commonwealth, the Board may deny approval, require the termination of the agreement, the divestiture of any person

associated with the agreement, or may pursue any remedy or combination of remedies provided for in the act or this part. If the agreement or association is not promptly terminated in accordance with the Board's order, the Board may pursue any remedy or combination of remedies provided for in the act or this part.

(c) An agreement maintained or filed under § 441a.12 (relating to maintaining agreements; filing of agreements) or this section must include a provision for its termination without liability on the part of the slot machine licensee, or any party to the agreement or any related agreement, if the Board orders the termination of the agreement in accordance with subsection (b).

(d) Each agreement maintained or filed under § 441a.12 or this section must include a provision requiring that the person who has contracted with the slot machine licensee comply with the act and this part, including obtaining required licenses, permits, certifications and registrations.

Authority

The provisions of this § 441a.13 amended under 4 Pa.C.S. §§ 1102(8) and (9), 1103, 1202(b)(15) and (30), 1209(b), 1313, 1317(c), 1317.1(c), 1317.2, 1321 and 1326.

Source

The provisions of this § 441a.13 amended May 14, 2010, effective May 15, 2010, 40 Pa.B. 2533; amended October 22, 2010, effective October 23, 2010, 40 Pa.B. 6083; amended July 19, 2013, effective July 20, 2013, 43 Pa.B. 4096. Immediately preceding text appears at serial page (353456).

§ 441a.14. Master purchasing and disbursement report.

(a) Each approved slot machine licensee shall generate a monthly Master Purchasing and Disbursement Report for expenditures. The report shall be submitted to the Bureau of Licensing no later than the 22nd calendar day of the following month and include the following information:

(1) A register listing alphabetically by payee expenditures paid by the approved slot machine licensee, including transfers of funds or credits to payees, and the following information next to the name of each payee:

- (i) The description code as set forth by the Bureau of Licensing.
- (ii) The amount of the individual disbursement or credit.
- (iii) The date of the individual disbursement or credit.
- (iv) The subtotal of disbursements or credits by payee.

(2) A register listing alphabetically by payee expenditures paid by any affiliate, intermediary, subsidiary, holding company, management company or agent of the approved slot machine licensee for goods or services that benefit the approved slot machine licensee, including transfers of funds or credits to payees, and the following information next to the name of each payee:

- (i) The description code as set forth by the Bureau of Licensing.
- (ii) The amount of the individual disbursement or credit.
- (iii) The date of the individual disbursement or credit.
- (iv) The subtotal of disbursements or credits by payee.

(b) The reports shall be transmitted to the Bureau of Licensing by means of electronic data transmission in a format prescribed by the Board.

Authority

The provisions of this § 441a.14 amended under 4 Pa.C.S. §§ 1103, 1202(b)(30), 1209(b), 1308, 1317(c), 1317.1(c), 1317.2, 1318, 1326, 1321 and 1331.

Source

The provisions of this § 441a.14 amended December 12, 2008, effective December 13, 2008, 38 Pa.B. 6747; amended October 22, 2010, effective October 23, 2010, 40 Pa.B. 6083; amended July 19, 2013, effective July 20, 2013, 43 Pa.B. 4096. Immediately preceding text appears at serial pages (353457) to (353458).

Cross References

This section cited in 58 Pa. Code § 437a.1 (relating to general gaming service provider requirements).

§ 441a.15. Slot machine license issuance bond requirement.

(a) Upon the issuance of a slot machine license, a slot machine licensee shall post an original payment bond in the amount of \$1,000,000.

(b) Unless otherwise required by the Board, the payment bond must comply with the following:

(1) The payment bond must be issued by a surety company that is both licensed by the Insurance Department and assigned a credit rating within the three highest categories, without regard to numerics or other modifiers, by Moody's or Standard & Poor's, or upon the discontinuance of Moody's or Standard & Poor's, by another Nationally recognized rating service. Proof that the surety is licensed by the Insurance Department and has been assigned the required credit rating must accompany any payment bond submitted under this section.

(2) A slot machine licensee shall submit its proposed payment bond to the Board prior to the issuance of a slot machine license.

(3) The payment bond must state that it is payable to the "Commonwealth of Pennsylvania" as the obligee for immediate payment of the slot machine licensee's financial obligations to the Commonwealth under the act and as security to guarantee that the slot machine licensee faithfully makes the payments, keeps its books and records, makes reports and conducts its operations in conformity with the act, this part and the rules and orders promulgated by the Board.

(4) A payment bond issued in accordance with this section will remain in full force and effect throughout the period of time that the slot machine license is in effect. If a bond is canceled and the slot machine licensee fails to file a new bond with the Bureau of Licensing in the required amount on or before the effective date of the cancellation, the slot machine licensee's license will be revoked or suspended.

(5) Any notice provision in a payment bond applicable to an election by a surety to cancel a then current payment bond must provide that the Board will receive at least 30 days written notice, by registered mail or overnight courier service, of the surety's election to cancel.

(c) The Board may demand that the slot machine licensee post a new payment bond upon the occurrence of any of the following:

- (1) Liability on the existing payment bond is discharged or reduced by judgment rendered, payment made or similar occurrence.
- (2) The Board determines that the surety is no longer satisfactory.
- (3) The slot machine licensee requests the right to post a new payment bond.
- (4) The Board receives notice that the payment bond will be cancelled.

Authority

The provisions of this § 441a.15 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.15 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (367901) to (367902).

§ 441a.16. Slot machine license term and renewal.

- (a) The slot machine license will be valid for 3 years from the date on which the initial license is issued or the renewal is approved by the Board.
- (b) A Category 1, Category 2 or Category 3 Slot Machine Renewal Application Form shall be submitted to the Board at least 60 days prior to the expiration of a slot machine license.
- (c) A slot machine license for which a completed renewal application has been received by the Board will continue in effect until the Board sends written notification to the holder of the slot machine license that the Board has approved or denied the slot machine license renewal application.

Authority

The provisions of this § 441a.16 amended under 4 Pa.C.S. §§ 1103, 1202(b)(30), 1209(b), 1317(c), 1317.1(c), 1317.2, 1321 and 1326.

Source

The provisions of this § 441a.16 amended July 25, 2008, effective July 26, 2008; amended October 22, 2010, effective October 23, 2010, 40 Pa.B. 6083; amended July 19, 2013, effective July 20, 2013, 43 Pa.B. 4096. Immediately preceding text appears at serial page (353459).

§ 441a.17. Change in ownership or control of slot machine licensee and multiple slot machine license prohibition.

- (a) A slot machine licensee shall notify the Bureau and the Bureau of Licensing by filing a Slot Machine Licensee's Notification of Proposed Transfer of Interest Form prior to or immediately upon becoming aware of any proposed or contemplated change in ownership of the slot machine licensee by a person or group of persons acting in concert which involves any of the following:
 - (1) More than 5% of a slot machine licensee's securities or other ownership interests.
 - (2) More than 5% of the securities or other ownership interests of a corporation or other form of business entity that owns, directly or indirectly, at least 20% of the voting or other securities or other ownership interest of the slot machine licensee.
 - (3) The sale of a slot machine licensee's assets, other than in the ordinary course of business.

- (4) Other transactions or occurrences deemed by the Board to be relevant to license qualification.
- (b) A transaction set forth in subsection (a) may not be consummated without:
- (1) Obtaining the prior approval of the Board.
 - (2) Each principal involved in the transaction obtaining a license in accordance with Chapter 433a (relating to principal licenses).
 - (c) A request for approval required under subsection (b)(1) shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).
 - (d) Notwithstanding the requirement in subsection (b)(2), the Board may approve a transaction under subsection (a) prior to the licensure of the person or group of persons acting in concert if all of the following apply:
 - (1) The person or group of persons acting in concert are proposing to acquire 20% or less of the voting securities of a publicly traded holding company of a slot machine licensee.
 - (2) The person or group of persons acting in concert affirm that the person or group of persons will not control or influence the affairs of or benefit from the slot machine licensee prior to being licensed as principals in accordance with Chapter 433a.
 - (3) The person or group of persons have filed applications with the Board for licensure as principals in accordance with Chapter 433a.
 - (4) The approval of the transaction is expressly conditioned upon the person or group of persons being licensed as principals in accordance with Chapter 433a.
 - (e) The Board will not approve a transaction under subsection (a) which involves a change in control unless the person or group of persons:
 - (1) Acting in concert demonstrates by clear and convincing evidence that the slot machine licensee's gaming facility will remain or become a financially successful, suitable and efficient business operation.
 - (2) Acquiring the interest pay a new slot machine license fee as determined by the Board. The Board may condition its approval of the transaction on the payment of the fee.
 - (f) The following transactions are not be subject to subsections (a)—(c):
 - (1) A transaction through which an underwriter will possess a security for less than 90 days.
 - (2) A transaction through which an institutional investor acquires less than 20% of the securities of a slot machine licensee's holding company, provided that the securities were acquired for investment purposes only and the institutional investor complies with § 433a.5 (relating to institutional investors).
 - (g) In accordance with section 1330 of the act (relating to multiple slot machine license prohibition), a slot machine licensee, its affiliates, intermediaries, subsidiaries and holding companies may not possess an ownership or financial interest in any other slot machine licensee or in any other person eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies that exceeds 33.3%.

(h) Nothing in subsection (g) prevents a slot machine licensee from possessing ownership or financial interests of 33.3% or less, in multiple slot machine licensees or in persons eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies.

(i) If a slot machine licensee, its affiliates, intermediaries, subsidiaries or holding companies has an ownership or financial interest in another slot machine licensee that is in violation of subsection (g), the slot machine licensee will be required to divest that interest which is in excess of 33.3% in compliance with section 1330 of the act.

(j) Nothing in this section concerning ownership or financial interests applies to contractual interests including those in the nature of management contracts, options to purchase exercisable after a license has been issued or leases.

Authority

The provisions of this § 441a.17 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.17 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (367903) to (367904).

Cross References

This section cited in 58 Pa. Code § 440a.5 (relating to management contracts).

§ 441a.18. Employee status report.

(a) A slot machine licensee shall maintain a complete, accurate and current record of each employee that includes the information in subsection (b)(1).

(b) Each month each slot machine licensee shall generate a monthly employee status report of the slot machine licensee's and management company's employees. The report shall be submitted to the Bureau of Licensing no later than the 15th calendar day of the following month. The report must include the following information:

(1) An alphabetical listing of the individuals currently employed by the slot machine licensee and the management company and the following information with respect to each employee listed:

(i) The name of the employee.

(ii) The address of record of the employee on file with the slot machine licensee.

(iii) The employee's license, permit or registration number and expiration date, if applicable.

(iv) The employee's title or position.

(v) Whether the employee is full-time or part-time.

(vi) The date of hire of the employee.

(vii) The access code, if any, assigned to the employee which designates the restricted areas that the employee is permitted to enter and remain in for the purposes of performing his normal duties.

(2) The total number of persons employed by the slot machine licensee and management company during the preceding month.

(3) An alphabetical listing of all employees who have discontinued or terminated employment with the slot machine licensee or management company during the preceding month and the following information with respect to each employee listed:

(i) The information listed in paragraph (1)(i)—(vii).

(ii) The date on which the employee discontinued or terminated employment with the slot machine licensee or management company.

(4) The total number of employees who have discontinued or terminated employment with the slot machine licensee and management company during the preceding month.

(5) The date on which the information provided in the report was compiled.

(c) The reports shall be transmitted to the Bureau of Licensing by means of electronic data transmission or in a form prescribed by the Bureau of Licensing.

(d) The Board may request interim employee status reports from a slot machine licensee or management company.

Authority

The provisions of this § 441a.18 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23) and (30), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 1311, 1311.1, 1311.2, 1321, 13A11, 13A12—13A14, 13A15, 1406 and 1802 and Chapter 13.

Source

The provisions of this § 441a.18 amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 7010; amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (367904) to (367905).

§ 441a.19. Notice of employee misconduct and offenses and employee resignations.

(a) A slot machine licensee or management company shall submit a weekly report to the Bureau of Licensing of the terminations of any employees.

(b) The weekly report must include the following information:

(1) The employee's name.

(2) The address of record of the employee on file with the slot machine licensee.

(3) The employee's license, permit or registration number.

(4) The employee's title or position.

(5) A summary of the incident or misconduct by the employee, including violations of this part or the act.

(6) The date of termination of the employee.

(7) The access code, if any, assigned to the employee, which designates the restricted areas that the employee was permitted to enter and remain in for the purposes of performing his normal duties.

(c) Notwithstanding subsection (a), a slot machine licensee shall, within 24 hours, notify the Bureau upon learning of the arrest, charging, indictment or conviction of any of its affiliates, intermediaries, subsidiaries, holding companies, principals, key employees, permittees or registrants for any of the following:

(1) An offense or violation under the act or this part.

(2) The willful and knowing violation or attempt to violate an order of the Board by an employee.

(3) An offense or violation of another applicable law which would otherwise disqualify the person from holding a license, permit or registration.

(4) An offense or violation of a criminal law or ordinance of the United States or the Commonwealth or a comparable offense or violation in other states or foreign jurisdictions.

(d) A slot machine licensee or management company shall notify the Bureau of Licensing within 5 days of the receipt of a resignation of any employee who holds a key employee license.

Authority

The provisions of this § 441a.19 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23) and (30), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 1311, 1311.1, 1311.2, 1321, 13A11, 13A12—13A14, 13A15, 1406 and 1802 and Chapter 13.

Source

The provisions of this § 441a.19 amended October 10, 2008, effective October 11, 2008, 38 Pa.B. 5652; amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 7010; amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (367905) to (367906).

§ 441a.20. [Reserved].

Authority

The provisions of this § 441a.20 amended under 4 Pa.C.S. Chapter 16; reserved under 4 Pa.C.S. §§ 1202(b)(30), 1317.2 and 1321.

Source

The provisions of this § 441a.20 amended May 13, 2011, effective May 14, 2011, 41 Pa.B. 2439; reserved July 19, 2013, effective July 20, 2013, 43 Pa.B. 4096. Immediately preceding text appears at serial pages (357079) to (357080).

§ 441a.20a. Changes to a slot machine licensee's initial or modified plan of development.

(a) A slot machine licensee shall obtain Board approval prior to implementing any change to the slot machine licensee's approved initial or modified plan of development as defined in § 441a.1 (relating to definitions).

(b) A request for approval of a change to a slot machine licensee's initial or modified plan of development shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(c) The licensee shall demonstrate that the contemplated change in the development plan is substantially similar to the currently approved plan of development or show good cause as to why a contemplated plan of development that is different from the licensee's currently approved plan should be approved.

Authority

The provisions of this § 441a.20a issued under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.20a adopted June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829.

Cross References

This section cited in 58 Pa. Code § 441a.3 (relating to slot machine license application).

§ 441a.21. Liability for management companies.

Notwithstanding any provision to the contrary in the management contract, each slot machine licensee may be jointly and severally liable for any act or omission by its management company in violation of the act or this part, regardless of actual knowledge by the slot machine licensee of the act or omission.

Authority

The provisions of this § 441a.21 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 441a.21 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial page (367906).

§ 441a.22. Category 1 slot machine licensees.

(a) A Category 1 license, including a Conditional Category 1 license, may be issued to any qualifying legal business entity within an organization, if a legal business entity within the organization has been approved or issued a license from either the State Horse Racing Commission or the State Harness Racing Commission to conduct thoroughbred or harness race meetings. If a Category 1 license is issued to a legal business entity within an organization, the requirements, duties and obligations imposed by this part or the act on the licensed racing entity or a licensed racetrack shall be deemed to be requirements imposed on any legal business entity within the organization that has been approved or issued a Category 1 license. If more than one licensed racing entity, on July 5, 2004, was conducting a racing meet at the same licensed racetrack where an organization has been issued a Category 1 slot machine license, section 1303 of the act (relating to additional category 1 slot machine license requirements) applies to each licensed racing entity at the licensed racetrack.

(b) If a Category 1 license is issued to a legal business entity in an organization, any legal business entity within the organization that has been approved or issued a Category 1 license shall be responsible for, in particular, but not limited to, complying with:

(1) Section 1404 of the act (relating to distributions from licensee's revenue receipts).

(2) Section 1405 of the act (relating to Pennsylvania Race Horse Development Fund).

(3) Distribution allocations received from the Pennsylvania Race Horse Development Fund under section 1406 of the act (relating to distributions from Pennsylvania Race Horse Development Fund).

(i) Funds designated for purses under section 1406(a)(1)(i) of the act shall be deposited into an account established by and for the benefit of the horsemen by the close of the next business day following the receipt of the funds from the Commonwealth.

(ii) Funds designated for health and pension benefits under section 1406(a)(1)(iii) of the act shall be deposited into an account established under the rules and regulations of the horsemen's organization by the close of the next business day following the receipt of the funds from the Commonwealth.

(c) A Category 1 slot machine licensee or management company shall file with the Board no later than the 20th day of the month following the end of each calendar quarter, the following reports:

(1) Quarterly Report of Funds Received from the Pennsylvania Racehorse Development Fund.

(2) Quarterly Report of Funds Distributed for Purses under section 4 Pa.C.S. § 1406(a)(1)(i) of the act.

(3) Quarterly Report of Funds Distributed for Health and Pension Benefits under section 1406(a)(1)(iii) of the act.

(4) Quarterly Report of Expenditures for Backside Improvements.

(d) A Category 1 slot machine licensee or management company shall file a report of planned future improvements to the licensed racetrack backside area with the Board no later than the 30 days following the end of each calendar year. The report must include:

(1) A list of the improvements to be undertaken over the next 3 years.

(2) The projected start date and completion date of each improvement.

(3) The estimated cost of each improvement.

(e) The Board may request interim versions of the reports in subsections (c) and (d) from a Category 1 slot machine licensee or management company.

Authority

The provisions of this § 441a.22 amended under 4 Pa.C.S. § 1202(b)(30), 1311, 1311.1, 1311.2, 1321 and 1406.

Source

The provisions of this § 441a.22 amended December 11, 2009, effective December 12, 2009, 39 Pa.B. 7010. Immediately preceding text appears at serial pages (338620) to (338621).

§ 441a.23. Category 3 slot machine licensees.

(a) To qualify as a well-established resort hotel with substantial year-round recreational guest amenities, the resort hotel must offer at the resort hotel a complement of amenities characteristic of a well-established resort hotel, including but not limited to the following:

(1) Sports and recreational activities and facilities such as a golf course or golf driving range.

(2) Tennis courts

(3) Swimming pools or a water park.

(4) A health spa.

(5) Meeting and banquet facilities.

(6) Entertainment facilities.

(7) Restaurant facilities.

(8) Downhill or cross-country skiing facilities.

(9) Bowling lanes.

(10) Movie theaters.

(b) A Category 3 slot machine applicant shall submit, as part of its application and its internal controls required under Chapter 465a (relating to accounting and internal controls), a plan detailing how the applicant will monitor the gaming area to ensure compliance with Chapters 503a, 511a and 513a (relating to casino self-exclusion; persons required to be excluded; and underage gaming) and that only the following persons are permitted to enter the gaming area:

(1) Registered overnight guests.

(2) Patrons of one or more amenities.

(3) Authorized employees.

(4) Other persons authorized by the Board.

(c) Individuals holding a valid seasonal or year-round membership, which has been approved by the Board and entitles the individual to use one or more of the amenities at the well-established resort hotel holding the Category 3 slot machine license, may be allowed on the gaming floor at any time. The Board will base its approval of a membership on the duration of the membership, the amenity or amenities covered by the membership and whether the fee charged for the membership represents the fair market value for the use of the amenity or amenities.

(d) A patron of an amenity at a well-established resort hotel holding a Category 3 slot machine license may be permitted unlimited access to the gaming floor for one 24-hour period within 72 hours of the use of the amenity.

Authority

The provisions of this § 441a.23 amended under 4 Pa.C.S. §§ 1202(b)(30), 13A02(1) and (2) and 1516(a) and (b).

Source

The provisions of this § 441a.23 amended May 28, 2021, effective May 29, 2021, 51 Pa.B. 2966. Immediately preceding text appears at serial pages (377526) to (377527).

[Next page is 443-1.]

441a-30

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