

RESOLUTION 2006-10

A RESOLUTION GRANTING THE EXECUTIVE DIRECTOR AUTHORITY TO WAIVE REQUIREMENTS AND PROCEDURES IN 68 IAC 5-3-2, AND APPROVE DEBT TRANSACTIONS PENDING RATIFICATION BY THE FULL COMMISSION

The Indiana Gaming Commission ("Commission") adopts the following resolution pursuant to the authority granted to it under IC 4-33 and pursuant to 68 IAC 1-2-6.

The Commission has considered the following factors:

1. 68 IAC 5-3-1(b) states: "A riverboat licensee . . . may enter into debt transactions that total one million dollars (\$1,000,000.00) or more only in accordance with this rule."
2. 68 IAC 5-3-2(a) states: "A riverboat licensee . . . may not enter into any debt transaction without receiving the approval of the commission."
3. Pursuant to IC 4-33-4-21 and 68 IAC 5-3-2, the Commission reviews proposed debt transactions to analyze the financial health of riverboat licensees and to ensure that the riverboat owner's license is not leased or hypothecated, or that money is not borrowed or loaned against the riverboat owner's license.
4. Pursuant to 68 IAC 5-3-2(b), the regular procedure for acquiring commission approval of a debt transaction requires Commission consideration of the debt transaction at two consecutive Commission business meetings (i.e., the "two meeting rule").
5. 68 IAC 5-3-6 provides the executive director or the Commission with the ability to "waive, alter, or restrict any requirement or procedure set forth in [68 IAC 5-3]."
6. In Resolution 2003-2, the Commission explicitly empowered the executive director to waive Commission approval of 68 IAC 5-3 debt transactions (and thereby the two meeting rule) whenever the Commission's chair and certified public accountant had discussed the proposed debt transaction with the executive director and agreed with the executive director that such a waiver was appropriate.
7. In Resolution 2005-24, due to the fact that the Commission seat designated for a certified public accountant was temporarily vacant, the Commission amended the previously adopted waiver procedure in order to authorize the Executive Director to grant a waiver of 68 IAC 5-3-2 by acting in accordance with the following procedure: (a) the executive director or the executive director's designee must discuss the proposed debt transaction with, and make material documentation available for review by, the Commission chair and the Commission's outside financial analyst, Dr. Charlene Sullivan; (b) after receiving input from the Dr. Sullivan, and upon agreement between the executive director and the Commission chair, the executive director may waive 68 IAC 5-3-2 by notifying the requesting riverboat licensee in writing; and (c) the executive director shall report such waiver to the Commission at the next business meeting held under 68 IAC 2-1-5 for final ratification by the Commission.

8. In December, 2005, Commissioner Timothy L. Murphy was appointed by Governor Daniels to hold the Commission seat designated for a certified public accountant pursuant to IC 4-33-3-2(d). Resolution 2005-24, pursuant to its terms, automatically expired when this seat was filled.
9. Despite the expiration of Resolution 2005-24 and the presence of a certified public accountant on the Commission, the Commission feels that the procedures enumerated in Resolution 2005-24 continue to represent the most efficient and appropriate mechanism for executing waivers of 68 IAC 5-3-2.

NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION, THAT THE FOLLOWING RESOLUTION IS ADOPTED:

SECTION 1: DEFINITIONS

The definitions set forth in IC 4-33-2 and 68 IAC apply to this resolution.

SECTION 2: GRANT OF AUTHORITY TO THE EXECUTIVE DIRECTOR

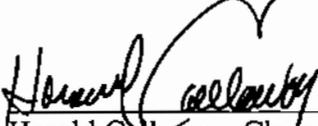
The executive director is hereby granted the authority to act in accordance with the procedure identified in paragraph seven (7) of this Resolution in order to waive the requirements and procedures of 68 IAC 5-3-2, and to report to the commission at the next business meeting held under 68 IAC 2-1-5 for final ratification of same waiver.

SECTION 3: EFFECTIVE DATE

This resolution is effective immediately.

ADOPTED, THIS THE 9th DAY OF MARCH, 2006.

THE INDIANA GAMING COMMISSION:



Harold Calloway, Chair

ATTEST:



Bryan Robinson, Vice Chair