

## **RESOLUTION 2007-130**

### **A RESOLUTION ADOPTING AN EMERGENCY RULE REGARDING RIVERBOAT, RACINO, AND SUPPLIER LICENSE TRANSFERS**

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. Pursuant to IC 4-33-4-3 and IC 4-22-2-37.1, the Commission has the authority to adopt emergency rules.
2. The passage of House Enrolled Act 1835 in the 2007 legislative session authorized horse track permit holders to apply for licenses to operate gambling games alongside their racing businesses.
3. Prior to authorizing the transfer of an ownership interest of 5% or more in a gambling game or riverboat license, the Commission desires to consider whether, among other factors in 68 IAC 5, the State will share in the economic benefits endowed upon the divesting party.
4. The Commission does not desire to consider whether the State will share in the economic benefits endowed upon a party who divests any level of ownership interest in a supplier's license.
5. An emergency rule, LSA # 07-588, which addresses the issue of protecting the State's interest during a license transfer, is currently in effect.
6. Pursuant to IC 4-22-2-37.1, an emergency rule enacted by this Commission is temporary in nature.
7. IC 4-33-4-21 authorizes the Commission to adopt rules governing the procedure a person must follow to transfer, sell, or purchase an ownership interest in a license.
8. Use of non-emergency promulgation procedures is inadequate at this time primarily because: (1) the Commission has already acquired jurisdiction over two gambling game license applicants; and (2) the transfer of a 50% interest in Atronic, a supplier licensee, is imminent.
9. Pursuant to IC 4-33-4-3(a)(8), the Commission finds its need for a rule that: (1) formalizes the general applicability of the IGC's pre-existing transfer rules to gambling game licensees; (2) expresses the Commission's desire to consider the extent by which the State benefits economically from a proposed transfer of interest in a gambling game or a riverboat license (but not a supplier's license); and (3) reduces the number of copies of applications that a transfer applicant must submit, to be so immediate and substantial that the rulemaking procedures under IC 4-22-2-24 through IC 4-22-2-36 are inadequate to address the need, but that the attached emergency rule is likely to address these concerns.

10. Prior to expiration of the proposed emergency rule, Commission staff may proceed with the appropriate rulemaking procedures in IC 4-22-2 to ensure the timely promulgation of a non-emergency rule.
11. Upon adoption by the Commission, Commission staff will file the proposed emergency rule and submit it for publication with Legislative Services Agency. The emergency rule will become effective upon filing with the publisher, and will continue to be effective for ninety (90) days thereafter. If necessary, the Commission desires to renew the emergency rule for an additional ninety (90) days pending completion of the non-emergency promulgation process, including IC 4-22-2-24 through 4-22-2-36.

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

**SECTION 1: SCOPE**

This resolution applies to Commission members, employees, agents, riverboats, and horse track gambling game licensees.

**SECTION 2: DEFINITIONS**

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

**SECTION 3: ADOPTION OF THE EMERGENCY RULE**

Pursuant to IC 4-22-2-37.1, the Commission adopts the attached rule as an emergency rule for the initial ninety (90) day period as well as for the optional ninety (90) day extension period. The Commission further adopts any stylistic, grammatical, typographical, or other non-substantive changes that the Commission or the Legislative Services Agency may make to this emergency rule. The Commission also adopts the attached rule as replacing and superseding the existing emergency rule (LSA # 07-588) during the effective dates of LSA # 07-588. The Commission shall submit file the adopted rule and submit it for publication with Legislative Services Agency.

**SECTION 4: EFFECTIVE DATE**

The emergency rule adopted in section 3 of this resolution is to become effective upon filing with the publisher.

**SECTION 5: EXPIRATION DATE**

This resolution expires upon the final expiration of the emergency rule adopted herein.

**ADOPTED, THIS THE 6<sup>TH</sup> DAY OF DECEMBER, 2007.**

**THE INDIANA GAMING COMMISSION:**



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William W. Barrett, Chair

**ATTEST:**



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Tom Swihart, Secretary