

## RESOLUTION 2010-125

### A RESOLUTION ADOPTING AN EMERGENCY RULE REGARDING COLLECTION OF DELINQUENT CHILD SUPPORT

The Indiana Gaming Commission ("Commission") adopts the following resolution pursuant to the authority granted under IC 4-32.2 and Senate Enrolled Act 163.

The Commission has considered the following factors:

1. Pursuant to IC 4-32.2-3-3 and IC 4-22-2-37.1, the Commission has the authority to adopt emergency rules.
2. IC 4-32.2-3-3 authorizes the Commission to adopt emergency rules if the Commission determines that: (1) the need for a rule is so immediate and substantial that rulemaking procedures under 4-22-2-13 through 4-22-2-36 are inadequate to address the need; and (2) an emergency rule is likely to address the need.
3. On March 17, 2010, Governor Mitch Daniels signed Senate Enrolled Act 163 ("SEA 163") into law. SEA 163, among other things, contains a requirement that casinos withhold delinquent child support from the cash winnings of child support obligors. Among the provisions of this requirement was authority for the Commission to "adopt rules under IC 4-22-2 to establish penalties and sanctions for any licensed owner, operating agent, or trustee who fails to withhold" an obligor's delinquent child support.
4. SEA 163 will become effective July 1, 2010. Administrative rules currently in effect are insufficient to fulfill SEA 163's prescription for the Commission.
5. The Commission finds that the need for a rule addressing SEA 163 is immediate and substantial such that rulemaking procedures under IC 4-22-2-24 through IC 4-22-2-36 are inadequate to address the needs and that the attached emergency rule is likely to address the need.
6. While the emergency rule is in effect, the Commission will proceed with 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 all riverboat licensees, operating agents, gambling game licensees, and trustees.

## **SECTION 2: DEFINITIONS**

The definitions set forth in IC 4-33, IC 4-35, and 68 IAC 1-1 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 shall file the proposed emergency rule and submit it for publication with the Legislative Services Agency.

## **SECTION 4: EFFECTIVE DATE**

The emergency rule adopted in Section 3 of this resolution is to become effective on July 1, 2010.

## **SECTION 5: EXPIRATION DATE**

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

**ADOPTED, THIS THE 17<sup>th</sup> DAY OF JUNE, 2010.**

**THE INDIANA GAMING COMMISSION**

  
Timothy Murphy, Chair

**ATTEST:**

  
Thomas Swihart, Vice Chair

**TITLE 68 INDIANA GAMING COMMISSION**

**Emergency Rule**  
LSA Document # \_\_\_\_\_ (E)

**DIGEST**

Temporarily adds rules concerning a casino licensee or trustee that is required under IC 4-33-4-27 or IC 4-35-4-16 to withhold cash winnings from a child support obligor who is delinquent in child support. Statutory Authority: IC 4-33-4-2; IC 4-33-8.5-5(b); IC 4-35-4-2; IC 4-35-6.5-13(b). Effective July 1, 2010.

**SECTION 1. (a) This document applies to casino licensees and trustees.**

**SECTION 2. (a) The casino licensee or trustee shall submit to the executive director internal control procedures concerning the withholding of cash winnings from delinquent obligors under IC 4-33-4-27 or IC 4-35-4-16.**

**(b) The casino licensee or trustee shall stamp or otherwise mark each page of the internal control procedures with the word “Confidential” if the material submitted is not subject to disclosure under IC 4-33, IC 4-35, or IC 5-14, or all.**

**(b) The internal control procedures for withholding cash winnings from delinquent obligors shall include, without limitation, the following:**

- (1) The procedure by which the casino licensee or trustee shall appropriately distribute information obtained from the bureau under IC 4-33-4-27 or IC 4-35-4-16 to the persons whose job functions require them to participate in the process of withholding cash winnings from delinquent obligors.**
- (2) The job titles of the persons employed by the casino licensee or trustee who are responsible for receiving and disseminating the information that the casino licensee or trustee receives from the bureau.**
- (3) The method that the casino licensee or trustee proposes for keeping confidential information from being disseminated improperly.**
- (4) How the casino licensee or trustee will inform the obligor of appeal rights under the bureau’s rules.**
- (5) How the casino licensee or trustee will communicate with the bureau when the casino licensee or trustee has withheld monies under IC 4-33-4-27 or IC 4-35-4-16.**
- (6) How the casino licensee or trustee will transmit the withheld funds to the bureau.**
- (7) The department that will maintain the list of obligors and communicate with the bureau.**
- (8) How often the casino licensee or trustee will update its list of obligors.**
- (9) Alternative measures that the casino licensee or trustee will utilize in case of a malfunction or emergency.**
- (10) Which job title is responsible for communicating to the bureau the information described in IC 4-33-4-27(b)(2)(B) or IC 4-35-4-16(b)(2)(B).**

**(11) Which job title is responsible for issuing to the obligor the receipt described in IC 4-33-4-27(b)(2)(C) or IC 4-35-4-16(b)(2)(C).**

**(12) The measures the casino licensee or trustee will take to ensure compliance with IC 4-33-4-27 or IC 4-35-4-16, and this document.**

**(13) Any other information the commission or the executive director deems necessary to ensure compliance with IC 4-33-4-27 or IC 4-35-4-16, and this document.**

**(c) The executive director shall, in writing, approve or reject the internal control procedures submitted under this SECTION. The casino licensee or trustee shall revise and resubmit, within fourteen (14) days of rejection, any portion of the internal control procedures that the executive director rejects. The casino licensee or trustee shall follow this procedure until the executive director has approved all portions of the internal control procedures, or until the casino licensee or trustee cannot obtain approval.**

**(d) The casino licensee or trustee may not utilize internal control procedures unless and until the executive director has approved, in writing, the internal control procedures.**

**(e) The Casino licensee or trustee must comply with the internal control procedures that the executive director has approved in writing, in accordance with this SECTION.**

**SECTION 3. (a) The casino licensee or trustee may amend its internal control procedures submitted under this document.**

**(b) The casino licensee or trustee must submit to the executive director amendments to any portion of the internal control procedures at least thirty (30) days before the casino licensee or trustee seeks to utilize the proposed amended internal control procedure.**

**(c) The executive director shall, in writing, approve or reject, in total or in part, the amendment to the internal control procedures.**

**(d) The casino licensee or trustee shall not utilize the amended internal control procedures unless and until the executive director approves the proposed amendment in writing.**

**(e) In the event of an emergency, the casino licensee or trustee may amend the internal control procedures. The executive director must agree, in writing, that an emergency exists prior to the emergency amendment of the internal control procedures.**

**SECTION 4. (a) The casino licensee or trustee shall prepare and submit quarterly to the commission a summary of cash winnings withheld under this SECTION. The summary submitted under this SECTION shall include, without limitation, the following information:**

**(1) The date on which the casino licensee or trustee withheld the cash winnings.**

**(2) The amount of cash withheld for delinquent child support.**

**(3) The amount of cash retained for an administrative fee in accordance with IC 4-33-4-27(b)(1) or IC 4-35-4-16(b)(1).**

**(4) The following information from the obligor:**

**(A) full name;**

**(B) address;**

**(C) Social Security number; and**

- (D) the child support case identifier for the case to which the bureau will apply the withheld cash winnings.**
- (5) An indication of whether the obligor has appealed the withholding.**
- (6) The name of the person who prepared the summary.**

**(b) The casino licensee or trustee shall prepare and submit quarterly to the commission an updated list of the names of the casino employees who are authorized to participate in the withholding process.**

**SECTION 5. (a) Failure to comply with document, or**

**(b) Failure to withhold delinquent child support from cash winnings, may result in the commission taking disciplinary action under 68 IAC 13.**

**SECTION 6. (a) The executive director or the commission may approve deviations from the provisions of this document if the executive director or commission determines that the:**

- (1) procedure or requirement is impractical or burdensome; and**
- (2) alternative means of satisfying the procedure or requirement:**

**(A) fulfill the purpose of this document;**

**(B) are in the best interest of the public and the gaming industry; and**

**(C) do not violate IC 4-33 or IC 4-35.**

**(b) If a casino licensee or trustee wishes to request a deviation from the provisions of this document, the casino licensee or trustee must do so in writing to the executive director.**

**SECTION 7. This document expires on September 30, 2010.**