January 25, 2008

HOUSE BILL No. 1224

DIGEST OF HB 1224 (Updated January 23, 2008 12:14 pm - DI 14)

Citations Affected: IC 4-31; IC 4-33; noncode.

Synopsis: Transfer fees. Voids certain rules adopted by the Indiana horse racing commission (IHRC) and the Indiana gaming commission (IGC) concerning the transfer of ownership interests in pari-mutuel horse racing meeting permits and riverboat owner's licenses. Prohibits the IHRC and the IGC from: (1) imposing fees that are not authorized by statute upon the parties to a transfer of ownership interests; and (2) making the approval of a proposed transfer of ownership interests contingent upon the payment of any amount not authorized by statute. Codifies a noncode provision enacted in 2005 concerning transfer fees. Requires licensed owners, operating agents, and applicants for owner's licenses and operating agent contracts to submit a proposed power of attorney to the gaming commission. Provides that the power of attorney must designate a trustee to operate the principal's riverboat on behalf of the principal if certain events occur. Provides that the gaming commission must approve the trustee and the powers delegated to the trustee in the power of attorney. Specifies the conditions under which the trustee may conduct gambling operations on a riverboat. Repeals the 2005 noncode provision. Requires the treasurer of state to deposit any amount paid under the authority of a rule voided by the bill into the property tax reduction trust fund.(The introduced version of this bill was prepared by the administrative rules oversight committee.)

Effective: January 1, 2008 (retroactive); upon passage; July 1, 2008.

Van Haaften, Pelath, Bell, Turner

January 14, 2008, read first time and referred to Committee on Public Policy.
January 24, 2008, amended, reported — Do Pass.

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January 25, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1224

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-31-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **Subject to section 14 of this chapter,** the commission may:

(1) adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this article, including rules that prescribe:

(A) the forms of wagering that are permitted;

(B) the number of races;

(C) the procedures for wagering;

(D) the wagering information to be provided to the public;

(E) fees for the issuance and renewal of:

(i) permits under IC 4-31-5;

(ii) satellite facility licenses under IC 4-31-5.5; and

(iii) licenses for racetrack personnel and racing participants under IC 4-31-6;

(F) investigative fees;

(G) fines and penalties; and

(H) any other regulation that the commission determines is in the public interest in the conduct of recognized meetings and wagering on horse racing in Indiana;

(2) appoint employees in the manner provided by IC 4-15-2 and fix their compensation, subject to the approval of the budget agency under IC 4-12-1-13;

(3) enter into contracts necessary to implement this article; and

(4) receive and consider recommendations from an advisory development committee established under IC 4-31-11.

SECTION 2. IC 4-31-3-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) The following rules are void:**

(1) 71 IAC 11-1-13(d), as added by the emergency rule adopted by the commission in LSA Document #07-341.

(2) Any other emergency or formal rule adopted after May 31, 2007, making the commission's approval of a proposed transfer of an ownership interest in a permit issued under IC 4-31-5 subject to the commission's consideration of the economic benefits realized by the person transferring the ownership interest and the state's receipt of a voluntary or involuntary payment from the person transferring the ownership interest.

(b) The commission may not do the following:

(1) Impose by rule a fee that is not authorized by this article on any party to a proposed transfer of an ownership interest in a permit issued under IC 4-31-5.

(2) Make the commission's approval of a proposed transfer of an ownership interest in a permit issued under IC 4-31-5 contingent upon the payment of any amount that is not authorized by this article.

SECTION 3. IC 4-33-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 19. "Trustee" means a person granted the authority under IC 4-33-21 to conduct gambling operations on a riverboat for the mutual benefit of:**

(1) the state; and

(2) the owner of the riverboat.

SECTION 4. IC 4-33-4-3, AS AMENDED BY P.L.170-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to

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protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's gaming agents during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(9) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(10) Establish by resolution the requirements for a power of attorney submitted under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

(c) Rules adopted under subsection (a)(9) must provide the following:

(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a riverboat or other facility under the jurisdiction of the commission.

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(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.

(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition the commission for readmittance to a facility under the jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program and the personal information of the participants are confidential and may only be disseminated by the commission to the owner or operator of a facility under the jurisdiction of the commission for purposes of enforcement and to other entities, upon request by the participant and agreement by the commission.

(5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

SECTION 5. IC 4-33-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) A licensed owner or any other person must apply for and receive the commission's approval before:

(1) an owner's license is:

(A) transferred;

(B) sold; or

(C) purchased; or

(2) a voting trust agreement or other similar agreement is established with respect to the owner's license.

(b) **Subject to section 24 of this chapter,** the commission shall adopt rules governing the procedure a licensed owner or other person must follow to take an action under subsection (a). The rules must specify that a person who obtains an ownership interest in a license must meet the criteria of this article and any rules adopted by the commission. A licensed owner may transfer an owner's license only in accordance with this article and rules adopted by the commission.

(c) A licensed owner or any other person may not:

(1) lease;

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(2) hypothecate; or
(3) borrow or loan money against;
an owner's license.

(d) A transfer fee is imposed on a licensed owner who purchases or otherwise acquires a controlling interest, as determined under the rules of the commission, in a second owner's license. The fee is equal to two million dollars ($2,000,000). The commission shall collect and deposit a fee imposed under this subsection in the state general fund.

SECTION 6. IC 4-33-4-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 24. (a) The following rules are void:**

(1) An emergency rule adopted by the commission on April 21, 2005, under Indiana gaming commission resolution 2005-17 concerning the imposition of a transfer fee on the transfer of an ownership interest in a riverboat owner's license or an operating permit.

(2) Any other rule adopted after April 1, 2005, that establishes a transfer fee for the transfer of an ownership interest in a riverboat owner's license or an operating permit.

(3) An emergency rule adopted by the commission after June 7, 2007, under Indiana gaming commission resolution 2007-56 in which the commission's approval of a proposed transfer of an ownership interest in a riverboat owner's license is made subject to the commission's consideration of the economic benefits realized by the person transferring the ownership interest and the state's receipt of a voluntary or involuntary payment from the person transferring the ownership interest.

(4) Any other emergency or formal rule adopted by the commission after May 31, 2007, concerning the subject matter described in subdivision (3).

(b) The commission may not do the following:

(1) Impose by rule a fee that is not authorized by this article on any party to a proposed transfer of an ownership interest in a riverboat owner's license or an operating permit.

(2) Make the commission's approval of a proposed transfer of an ownership interest in a riverboat owner's license or an operating permit contingent upon the payment of any amount that is not authorized by this article.

SECTION 7. IC 4-33-4-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 25. (a) The commission may designate a trustee if a person required to designate a trustee**

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under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16 fails to designate a trustee before the fifth day preceding a commission meeting scheduled for commission action on:

(1) the person's application for an owner's license or an operating agent's contract; or

(2) the renewal of the person's owner's license or operating agent contract.

(b) The commission may impose a civil penalty upon a person who fails to designate a trustee before the deadline specified in subsection (a).

SECTION 8. IC 4-33-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 2. (a) A person applying for an owner's license under this chapter must pay a nonrefundable application fee to the commission. The commission shall determine the amount of the application fee.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) An applicant who applies after December 31, 2007, shall submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

~~(c)~~ **(d)** The commission shall review the applications for an owner's license under this chapter and shall inform each applicant of the commission's decision concerning the issuance of the owner's license.

~~(d)~~ **(e)** The costs of investigating an applicant for an owner's license under this chapter shall be paid from the application fee paid by the applicant.

~~(e)~~ **(f)** An applicant for an owner's license under this chapter must pay all additional costs that are:

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(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

SECTION 9. IC 4-33-6-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 22. (a) This section applies to the renewal of an owner's license occurring after December 31, 2007.**

(b) The commission may not renew an owner's license unless the commission:

(1) receives a proposed power of attorney from the license owner;

(2) approves the trustee designated by the power of attorney; and

(3) approves the powers delegated to the trustee by the power of attorney.

(c) A person who wishes to renew an owner's license shall submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

(d) A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

SECTION 10. IC 4-33-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 2. (a) A person, including a person who holds or has an interest in an owner's license issued under this article, may file an application with the commission to serve as an operating agent under this chapter. An applicant must pay a nonrefundable application fee to the commission in an amount to be determined by the commission.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) An applicant who applies after December 31, 2007, shall

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submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

~~(c)~~ **(d)** The commission shall review the applications filed under this chapter and shall inform each applicant of the commission's decision.

~~(d)~~ **(e)** The costs of investigating an applicant to serve as an operating agent under this chapter shall be paid from the application fee paid by the applicant.

~~(e)~~ **(f)** An applicant to serve as an operating agent under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

SECTION 11. IC 4-33-6.5-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 16. (a) The person holding an operating agent contract on January 1, 2008, shall submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:**

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

(b) A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

SECTION 12. IC 4-33-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 1. Gambling may be conducted **on a riverboat** by:

(1) a licensed ~~owners or~~ **owner;**

(2) an operating agent; ~~on riverboats.~~ **or**

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(3) a trustee in accordance with IC 4-33-21.

SECTION 13. IC 4-33-21 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]:

Chapter 21. Riverboat Operations Temporarily Conducted by a Trustee

Sec. 1. This chapter applies only to a trustee acting under the authority of:

(1) a written power of attorney approved by the commission under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16; and

(2) a resolution made by the commission authorizing the trustee to commence gambling operations under this chapter.

Sec. 2. (a) IC 30-5 applies to a trustee exercising powers under this chapter.

(b) For purposes of IC 30-5, a trustee is an attorney in fact.

Sec. 3. (a) Subject to subsection (b), a trustee may temporarily conduct gambling operations on a riverboat owned by the person who designated the trustee in a written power of attorney approved by the commission under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16 if any of the following occurs:

(1) The commission revokes the owner's license or operating agent contract.

(2) The commission declines to renew the owner's license or operating agent contract.

(3) A proposed transferee is denied an owner's license under this article when attempting to purchase the riverboat and an owner's license, but the person who attempted to sell the riverboat is unable to retain ownership of the riverboat under the terms of the transaction that is otherwise completed.

(4) A proposed transferee is denied an operating agent contract under this article when attempting to purchase the riverboat and the operating agent contract, but the person who attempted to sell the riverboat is unable to retain ownership of the riverboat under the terms of the transaction that is otherwise completed.

(b) A trustee may not exercise any power delegated to the trustee until the commission adopts a resolution authorizing the trustee to commence gambling operations under this chapter.

(c) A power of attorney designating a trustee to conduct gambling operations on a riverboat is effective on the date that the commission adopts a resolution authorizing the trustee to

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commence gambling operations under this chapter. The power of attorney remains in effect until the date that the trusteeship established by the operation of the power of attorney is terminated by resolution of the commission.

Sec. 4. A trustee that conducts gambling operations on a riverboat:

(1) must conduct the gambling operations within the same standards for character, reputation, and financial integrity that are imposed upon a licensed owner by this article; and

(2) is charged with all the duties imposed upon a licensed owner under this article.

Sec. 5. (a) A trustee acting under the authority of this chapter must fulfill the trustee's duties as a fiduciary for the owner of the riverboat. In addition, the trustee shall consider the effect of the trustee's actions upon:

(1) the amount of taxes remitted by the trustee under IC 4-33-12 and IC 4-33-13;

(2) the riverboat's dock city or county;

(3) the riverboat employees; and

(4) the creditors of the owner of the riverboat.

(b) In balancing the interests described in subsection (a), a trustee shall conduct gambling operations on the riverboat in a manner that enhances the credibility and integrity of riverboat gambling in Indiana while minimizing disruptions to tax revenues, incentive payments, employment, and credit obligations.

Sec. 6. (a) A person who directly or indirectly owns a riverboat that is the subject of a resolution described in section 3(b) of this chapter has one hundred eighty (180) days after the date on which the commission adopts the resolution to sell the riverboat (and its related properties described in section 7 of this chapter) to another person that:

(1) satisfies the requirements of this article for obtaining an owner's license; and

(2) is approved by the commission.

(b) If the person is unable to sell the riverboat (and its related properties described in section 7 of this chapter) in the time required by subsection (a), the trustee may take any action necessary to sell the properties to another person that:

(1) satisfies the requirements of this article for obtaining an owner's license; and

(2) is approved by the commission.

Sec. 7. A trustee may conduct the operations of any hotel,

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restaurant, golf course, or other amenity related to the riverboat operation that is the subject of a resolution described in section 3(b) of this chapter if the power to conduct the operation is delegated to the trustee in the power of attorney designating the trustee.

Sec. 8. A trustee is entitled to reasonable compensation for carrying out the duties imposed upon the trustee under this chapter. The trustee's compensation must be:

(1) approved by the commission; and

(2) paid by the owner of the riverboat that is the subject of a resolution described in section 3(b) of this chapter.

SECTION 14. P.L.246-2005, SECTION 259, IS REPEALED [EFFECTIVE JULY 1, 2008].

SECTION 15. [EFFECTIVE UPON PASSAGE] **(a) The publisher of the Indiana Administrative Code and Indiana Register shall remove any rule voided by this act from the Indiana Administrative Code.**

(b) The treasurer of state shall deposit any amount paid to the state under the authority of a rule voided by this act into the property tax reduction trust fund established by IC 4-35-8-2.

(c) This SECTION expires January 1, 2009.

SECTION 16. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1224, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 3. IC 4-33-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 19. "Trustee" means a person granted the authority under IC 4-33-21 to conduct gambling operations on a riverboat for the mutual benefit of:**

(1) the state; and

(2) the owner of the riverboat.

SECTION 4. IC 4-33-4-3, AS AMENDED BY P.L.170-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's gaming agents during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that

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rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(9) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(10) Establish by resolution the requirements for a power of attorney submitted under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

(c) Rules adopted under subsection (a)(9) must provide the following:

(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a riverboat or other facility under the jurisdiction of the commission.

(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.

(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition the commission for readmittance to a facility under the jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program and the personal information of the participants are confidential and may only be disseminated by the commission to the owner or operator of a facility under the jurisdiction of the commission for purposes of enforcement and to other entities, upon request by the participant and agreement by the commission.

(5) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(6) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.".

Page 4, between lines 3 and 4, begin a new paragraph and insert:

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"SECTION 7. IC 4-33-4-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 25. (a) The commission may designate a trustee if a person required to designate a trustee under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16 fails to designate a trustee before the fifth day preceding a commission meeting scheduled for commission action on:**

(1) the person's application for an owner's license or an operating agent's contract; or

(2) the renewal of the person's owner's license or operating agent contract.

(b) The commission may impose a civil penalty upon a person who fails to designate a trustee before the deadline specified in subsection (a).

SECTION 8. IC 4-33-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 2. (a) A person applying for an owner's license under this chapter must pay a nonrefundable application fee to the commission. The commission shall determine the amount of the application fee.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) An applicant who applies after December 31, 2007, shall submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

~~(c)~~ **(d)** The commission shall review the applications for an owner's license under this chapter and shall inform each applicant of the commission's decision concerning the issuance of the owner's license.

~~(d)~~ **(e)** The costs of investigating an applicant for an owner's license

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under this chapter shall be paid from the application fee paid by the applicant.

~~(c)~~ **(f)** An applicant for an owner's license under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

SECTION 9. IC 4-33-6-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 22. (a) This section applies to the renewal of an owner's license occurring after December 31, 2007.**

(b) The commission may not renew an owner's license unless the commission:

(1) receives a proposed power of attorney from the license owner;

(2) approves the trustee designated by the power of attorney; and

(3) approves the powers delegated to the trustee by the power of attorney.

(c) A person who wishes to renew an owner's license shall submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

(d) A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

SECTION 10. IC 4-33-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 2. (a) A person, including a person who holds or has an interest in an owner's license issued under this article, may file an application with the commission to serve as an operating agent under this chapter. An applicant must pay a nonrefundable application fee to the commission in an amount to be determined by the commission.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's

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fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) An applicant who applies after December 31, 2007, shall submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

~~(c)~~ **(d)** The commission shall review the applications filed under this chapter and shall inform each applicant of the commission's decision.

~~(d)~~ **(e)** The costs of investigating an applicant to serve as an operating agent under this chapter shall be paid from the application fee paid by the applicant.

~~(e)~~ **(f)** An applicant to serve as an operating agent under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

SECTION 11. IC 4-33-6.5-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: **Sec. 16. (a) The person holding an operating agent contract on January 1, 2008, shall submit for the approval of the commission a written power of attorney designating the person who may serve as the person's trustee. The document submitted under this subsection must:**

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed trustee; and

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10).

(b) A person may not exercise any powers delegated under a power of attorney submitted under this section unless the power of attorney is approved by the commission.

SECTION 12. IC 4-33-9-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 1. Gambling may be conducted **on a riverboat** by:

(1) a licensed ~~owners or~~ **owner;**

(2) an operating agent; ~~on riverboats.~~ **or**

(3) a trustee in accordance with IC 4-33-21.

SECTION 13. IC 4-33-21 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]:

Chapter 21. Riverboat Operations Temporarily Conducted by a Trustee

Sec. 1. This chapter applies only to a trustee acting under the authority of:

(1) a written power of attorney approved by the commission under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16; and

(2) a resolution made by the commission authorizing the trustee to commence gambling operations under this chapter.

Sec. 2. (a) IC 30-5 applies to a trustee exercising powers under this chapter.

(b) For purposes of IC 30-5, a trustee is an attorney in fact.

Sec. 3. (a) Subject to subsection (b), a trustee may temporarily conduct gambling operations on a riverboat owned by the person who designated the trustee in a written power of attorney approved by the commission under IC 4-33-6-2(c), IC 4-33-6-22, IC 4-33-6.5-2(c), or IC 4-33-6.5-16 if any of the following occurs:

(1) The commission revokes the owner's license or operating agent contract.

(2) The commission declines to renew the owner's license or operating agent contract.

(3) A proposed transferee is denied an owner's license under this article when attempting to purchase the riverboat and an owner's license, but the person who attempted to sell the riverboat is unable to retain ownership of the riverboat under the terms of the transaction that is otherwise completed.

(4) A proposed transferee is denied an operating agent contract under this article when attempting to purchase the riverboat and the operating agent contract, but the person who attempted to sell the riverboat is unable to retain ownership of the riverboat under the terms of the transaction that is otherwise completed.

(b) A trustee may not exercise any power delegated to the trustee until the commission adopts a resolution authorizing the

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trustee to commence gambling operations under this chapter.

(c) A power of attorney designating a trustee to conduct gambling operations on a riverboat is effective on the date that the commission adopts a resolution authorizing the trustee to commence gambling operations under this chapter. The power of attorney remains in effect until the date that the trusteeship established by the operation of the power of attorney is terminated by resolution of the commission.

Sec. 4. A trustee that conducts gambling operations on a riverboat:

(1) must conduct the gambling operations within the same standards for character, reputation, and financial integrity that are imposed upon a licensed owner by this article; and

(2) is charged with all the duties imposed upon a licensed owner under this article.

Sec. 5. (a) A trustee acting under the authority of this chapter must fulfill the trustee's duties as a fiduciary for the owner of the riverboat. In addition, the trustee shall consider the effect of the trustee's actions upon:

(1) the amount of taxes remitted by the trustee under IC 4-33-12 and IC 4-33-13;

(2) the riverboat's dock city or county;

(3) the riverboat employees; and

(4) the creditors of the owner of the riverboat.

(b) In balancing the interests described in subsection (a), a trustee shall conduct gambling operations on the riverboat in a manner that enhances the credibility and integrity of riverboat gambling in Indiana while minimizing disruptions to tax revenues, incentive payments, employment, and credit obligations.

Sec. 6. (a) A person who directly or indirectly owns a riverboat that is the subject of a resolution described in section 3(b) of this chapter has one hundred eighty (180) days after the date on which the commission adopts the resolution to sell the riverboat (and its related properties described in section 7 of this chapter) to another person that:

(1) satisfies the requirements of this article for obtaining an owner's license; and

(2) is approved by the commission.

(b) If the person is unable to sell the riverboat (and its related properties described in section 7 of this chapter) in the time required by subsection (a), the trustee may take any action necessary to sell the properties to another person that:

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(1) satisfies the requirements of this article for obtaining an owner's license; and

(2) is approved by the commission.

Sec. 7. A trustee may conduct the operations of any hotel, restaurant, golf course, or other amenity related to the riverboat operation that is the subject of a resolution described in section 3(b) of this chapter if the power to conduct the operation is delegated to the trustee in the power of attorney designating the trustee.

Sec. 8. A trustee is entitled to reasonable compensation for carrying out the duties imposed upon the trustee under this chapter. The trustee's compensation must be:

(1) approved by the commission; and

(2) paid by the owner of the riverboat that is the subject of a resolution described in section 3(b) of this chapter.".

Page 4, line 10, delete "refund" and insert "**deposit**".

Page 4, line 11, delete "." and insert "**into the property tax reduction trust fund established by IC 4-35-8-2.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1224 as introduced.)

VAN Haaften, Chair

Committee Vote: yeas 11, nays 0.

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