Reprinted
February 3, 2009

HOUSE BILL No. 1285

DIGEST OF HB 1285 (Updated February 2, 2009 3:57 pm - DI 73)

Citations Affected: IC 4-1; IC 4-33; IC 4-35; IC 20-47; IC 36-1; IC 36-8.

Synopsis: Various gaming matters. Specifies that the gaming commission may require an individual to submit the individual's Social Security number in the course of an investigation. Requires licensed owners, operating agents, permit holders, and applicants 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 or slot machine facility 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 or at a racetrack. Consolidates licensing requirements for riverboat and slot machine facility suppliers. Increases the suppliers' initial license fees and annual renewal fees from $5,000 to $7,500. Transfers duties concerning the gaming integrity fund from the gaming commission to the horse racing commission. Provides that a unit that receives county slot machine wagering fee revenue shall establish a fund, separate from the unit's general fund, into which the revenue shall be deposited. Provides that county slot machine wagering fee revenue (as well as riverboat gaming revenue, under current law), may be donated to a public school endowment corporation or a charitable nonprofit community foundation under certain conditions.

Effective: Upon passage; July 1, 2009.

Van Haaften, Bell

January 13, 2009, read first time and referred to Committee on Public Policy.
January 29, 2009, amended, reported — Do Pass.
February 2, 2009, read second time, amended, ordered engrossed.

C o p y

Reprinted
February 3, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

C
o
p
y

HOUSE BILL No. 1285

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 4-1-8-1, AS AMENDED BY P.L.1-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue.
(2) Department of workforce development.
(3) The programs administered by:
(A) the division of family resources;
(B) the division of mental health and addiction;
(C) the division of disability and rehabilitative services;
(D) the division of aging; and
(E) the office of Medicaid policy and planning;

of the office of the secretary of family and social services.

(4) Auditor of state.

(5) State personnel department.

(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Indiana professional licensing agency.

(11) Department of insurance, with respect to licensing of insurance producers.

(12) The department of child services.

(13) A pension fund administered by the board of trustees of the public employees' retirement fund.

(14) The Indiana state teachers' retirement fund.

(15) The state police benefit system.

(16) The alcohol and tobacco commission.

(17) The state department of health, for purposes of licensing radiologic technologists under IC 16-41-35-29(c).

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

C o p y

(1) That an individual include the individual's Social Security number:

(A) in any application for a riverboat owner's license, supplier's license, or occupational license; **or**

(B) in any document submitted to the commission in the course of an investigation necessary to ensure that riverboat gaming is conducted with credibility and integrity.

(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the department of education established by IC 20-19-3-1 may require an individual who applies to the department for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the department only for conducting a background investigation, if the department is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 2. IC 4-33-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19. "Trustee" means a person granted 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 3. IC 4-33-4-3, AS AMENDED BY P.L.170-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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.

C o p y

(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 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

C o p y

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 4. IC 4-33-4-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 24. The executive director shall establish a model power of attorney setting forth the terms and conditions under which a trustee may conduct gambling operations on a riverboat under IC 4-33-21. The executive director may provide a copy of the model power of attorney to any interested party.**

SECTION 5. IC 4-33-4-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 25. (a) The commission may appoint a person to serve as a temporary trustee for a particular riverboat if the commission makes the following findings:**

(1) That circumstances requiring a trustee to assume control of the riverboat are likely to occur.

(2) That the commission has not approved a power of attorney identifying any other person to serve as the trustee for the riverboat.

(3) That there is not enough time to consider and approve a power of attorney with respect to the riverboat before the circumstances found likely to occur under subdivision (1) will occur.

(b) A person appointed under this section must be qualified to perform any duty described in this section or IC 4-33-21.

(c) A trustee appointed by the commission under this section shall serve until any of the following occurs:

(1) The commission adopts a resolution under IC 4-33-21-3 authorizing a trustee appointed by an approved power of attorney to conduct gambling operations under IC 4-33-21 on the riverboat.

(2) The commission revokes the trustee's authority to conduct

C o p y

gambling operations under IC 4-33-21-12.

(3) A new licensed owner or operating agent assumes control of the riverboat.

(d) A trustee appointed by the commission under this section shall exercise the trustee's powers in accordance with:

(1) the model power of attorney established by the executive director under section 24 of this chapter; and

(2) IC 4-33-21.

SECTION 6. IC 4-33-4-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 26. The commission may impose a civil penalty upon a person who:**

(1) fails to submit a power of attorney before a deadline imposed by this article;

(2) fails to take any corrective action required by the commission with respect to 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; or

(3) violates any provision of this article concerning the submission of a power of attorney identifying the person who would serve as a trustee under the power of attorney.

SECTION 7. IC 4-33-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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) This subsection applies to an applicant who applies after June 30, 2009, for an owner's license. An applicant shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the applicant's trustee to operate the riverboat. The power of attorney 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;

(3) conform with the requirements established by the

C o p y

commission under IC 4-33-4-3(a)(10); and

(4) be submitted on the date that the applicant pays the application fee described in subsection (a).

~~(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:

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

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

SECTION 8. IC 4-33-6-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22. (a) This section applies to any licensed owner who was not required to submit a proposed power of attorney when applying for an owner's license.**

(b) A licensed owner shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the licensed owner's trustee to operate the riverboat. The power of attorney 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;

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

(4) be submitted before:

(A) November 1, 2009, in the case of a person holding an owner's license on July 1, 2009; or

(B) the deadline imposed by the commission in the case of a licensed owner who is subject to this section and not described by clause (A).

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

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

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

(3) approves the power of attorney.

C o p y

(d) A licensed owner must petition the commission for its approval of any changes to a power of attorney approved by the commission.

SECTION 9. IC 4-33-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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) This subsection applies to an applicant who applies after the effective date of this subsection, to serve as an operating agent under this chapter. An applicant shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the applicant's trustee to operate the riverboat. The power of attorney 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;

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

(4) be submitted on the date that the applicant pays the application fee described in subsection (a).

~~(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 10. IC 4-33-6.5-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

C o p y

[EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) The person holding an operating agent contract on July 1, 2009, shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the operating agent's trustee to operate the riverboat. The power of attorney 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;

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

(4) be submitted before November 1, 2009.

(b) The commission may not renew an operating agent contract unless the commission:

(1) receives a proposed power of attorney from the operating agent;

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

(3) approves the power of attorney.

(c) An operating agent must petition the commission for its approval of any changes to a power of attorney approved by the commission.

SECTION 11. IC 4-33-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** The commission may issue a supplier's license under this chapter to a person if:

(1) the person has:

(A) applied for the supplier's license;

(B) paid a nonrefundable application fee set by the commission;

(C) paid a ~~five~~ **seven** thousand **five hundred** dollar ~~($5,000)~~ **($7,500)** annual license fee; and

(D) submitted the following on forms provided by the commission:

(i) if the applicant is an individual, two (2) sets of the individual's fingerprints; and

(ii) if the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant; and

(2) the commission has determined that the applicant is eligible for a supplier's license.

(b) A license issued under this chapter after June 30, 2009, satisfies the requirements of IC 4-35-6-1 with respect to suppliers

C o p y

for gambling games conducted at racetracks (as defined in IC 4-35-2-9).

SECTION 12. IC 4-33-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Unless a supplier's license is suspended, expires, or is revoked, the supplier's license may be renewed annually upon:

(1) the payment of a ~~five~~ **seven** thousand **five hundred** dollar ~~($5,000)~~ **($7,500)** annual renewal fee; and

(2) a determination by the commission that the licensee is in compliance with this article.

(b) The holder of a supplier's license shall undergo a complete investigation every three (3) years to determine that the licensee is in compliance with this article.

(c) Notwithstanding subsection (b), the commission may investigate the holder of a supplier's license at any time the commission determines it is necessary to ensure that the licensee is in compliance with this article.

(d) The holder of a supplier's license shall bear the cost of an investigation or reinvestigation of the licensee and any investigation resulting from a potential transfer of ownership.

(e) A person who on June 30, 2009:

(1) held a supplier's license under IC 4-35-6; and

(2) did not hold a supplier's license under this chapter;

may obtain a renewal of the supplier's license under this chapter.

(f) A license renewed and held under this chapter after June 30, 2009, satisfies the requirements of IC 4-35-6-1 with respect to suppliers for gambling games conducted at racetracks (as defined in IC 4-35-2-9).

(g) This subsection applies to a supplier described in subsection (e) who applies for a renewal under this chapter. If the supplier's application is approved by the commission, the supplier is entitled to deduct the product of the following from the renewal fee due under subsection (a):

(1) six hundred twenty-five dollars ($625); multiplied by

(2) the number of months remaining on the annual license issued to the supplier under IC 4-35-6 when that license was terminated on July 1, 2009.

SECTION 13. IC 4-33-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Gambling may be conducted **on a riverboat** by:

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

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

C o p y

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

SECTION 14. IC 4-33-21 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

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 resolution adopted by the commission authorizing the trustee to conduct gambling operations under this chapter; and

(2) either of the following:

(A) 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.

(B) An appointment by the commission under IC 4-33-4-25.

Sec. 2. A person may not exercise any powers delegated by a power of attorney described by section 1(2) of this chapter unless the commission adopts a resolution under section 3 of this chapter.

Sec. 3. The commission may adopt a resolution authorizing a trustee to temporarily conduct gambling operations on a riverboat if any of the following occurs with respect to that particular riverboat:

(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 obtain an owner's license, but the person who attempted to sell the riverboat is unable or unwilling to retain ownership or control of the riverboat.

(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 or unwilling to retain ownership or control of the riverboat.

(5) A licensed owner or an operating agent agrees in writing to relinquish control of a riverboat to a trustee as approved by the commission.

Sec. 4. A power of attorney designating a trustee to conduct

C o p y

gambling operations on a riverboat is effective on the date designated by the commission in a resolution authorizing the trustee to commence gambling operations. The power of attorney remains in effect until the date the trusteeship established by the operation of the power of attorney is terminated by resolution of the commission.

Sec. 5. (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. 6. A trustee who conducts gambling operations on a riverboat:

(1) must:

(A) be eligible to receive an occupational license under IC 4-33-8; and

(B) satisfy the requirements of any rule adopted by the commission under IC 4-33-8-4;

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

(3) must submit to the commission any information requested by the commission; and

(4) is charged with all the duties imposed upon a licensed owner or operating agent under this article.

Sec. 7. (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's 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. 8. (a) A person who directly or indirectly owns a riverboat that is the subject of a resolution described in section 3 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

C o p y

related properties described in section 9 of this chapter) to another person who:

(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 9 of this chapter) in the time required by subsection (a), the trustee may take any action necessary to sell the properties to another person who:

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

(2) is approved by the commission.

Sec. 9. A trustee acting under the authority of this chapter may conduct the operations of any hotel, restaurant, golf course, or other amenity related to the riverboat operation.

Sec. 10. 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 of this chapter.

Sec. 11. A licensed owner or an operating agent shall purchase liability insurance, in an amount determined by the commission, to protect the trustee appointed to conduct gambling operations on behalf of the licensed owner or operating agent from liability for any act or omission by the trustee occurring within the scope of the trustee's duties. The insurance coverage required by this section must apply to the entire period of the trusteeship.

Sec. 12. (a) Except as provided in subsection (b), the commission may after a hearing revoke, modify, or amend a resolution authorizing a trustee to conduct gambling operations under this chapter upon a showing of good cause.

(b) In an emergency that requires immediate action to protect the credibility and integrity of riverboat gambling in Indiana, the commission may, without holding a hearing, take the following actions concerning a trustee whose actions have created the emergency:

(1) Revoke the resolution authorizing the trustee to conduct gambling operations under this chapter.

(2) Remove the trustee from the control of the riverboat subject to the revoked resolution.

SECTION 15. IC 4-35-2-11 IS ADDED TO THE INDIANA CODE

C o p y

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. "Trustee" means a person granted authority under IC 4-35-12 to conduct gambling games at a racetrack for the mutual benefit of:**

(1) the state; and

(2) the permit holder who owns the racetrack.

SECTION 16. IC 4-35-4-2, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission shall do the following:

(1) Adopt rules under IC 4-22-2 that the commission determines are necessary to protect or enhance the following:

(A) The credibility and integrity of gambling games authorized under 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 imposed under this article, and deposit the license fees in the state general fund.

(4) Levy and collect penalties for noncriminal violations of this article and deposit the penalties in the state general fund.

(5) Approve the design, appearance, aesthetics, and construction of slot machine facilities authorized under this article.

(6) 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.

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

(8) Establish the requirements for a power of attorney submitted under IC 4-35-5-9.

(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)(6) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(6).

(c) Rules adopted under subsection (a)(7) 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 facility at which gambling games are conducted or another facility under the jurisdiction of the commission.

C o p y

(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 17. IC 4-35-4-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. The executive director shall establish a model power of attorney setting forth the terms and conditions under which a trustee may conduct gambling games at a racetrack under IC 4-35-12. The executive director may provide a copy of the model power of attorney to any interested party.**

SECTION 18. IC 4-35-4-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) The commission may appoint a temporary trustee for a particular slot machine facility at a racetrack if the commission makes the following findings:**

(1) That circumstances requiring a trustee to assume control of the slot machine facility are likely to occur.

(2) That the commission has not approved a power of attorney identifying any other person to serve as the trustee for the slot machine facility.

(3) That there is not enough time to consider and approve a power of attorney with respect to the slot machine facility

C o p y

before the circumstances found likely to occur under subdivision (1) will occur.

(b) A person appointed under this section must be qualified to perform any duty described in this section or IC 4-35-12.

(c) A trustee appointed by the commission under this section shall serve until any of the following occur:

(1) The commission adopts a resolution under IC 4-35-12-3 authorizing a trustee appointed in an approved power of attorney submitted by the permit holder to conduct gambling games under IC 4-35-12.

(2) The commission revokes the trustee's authority to conduct gambling games as provided by IC 4-35-12-12.

(3) A new permit holder assumes control of the racetrack, slot machine facility, and related properties.

(d) A trustee appointed by the commission under this section shall exercise the trustee's powers in accordance with:

(1) the model power of attorney established by the executive director under section 13 of this chapter; and

(2) IC 4-35-12.

SECTION 19. IC 4-35-4-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. The commission may impose a civil penalty upon a person who:**

(1) fails to submit a power of attorney before the deadline specified in IC 4-35-5-9;

(2) fails to take any corrective action required by the commission with respect to a power of attorney submitted under IC 4-35-5-9; or

(3) violates any provision of this article concerning the submission of a power of attorney identifying the person who would serve as a trustee under the power of attorney.

SECTION 20. IC 4-35-5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) A permit holder or an applicant for a gambling game license shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the permit holder's or applicant's trustee to conduct gambling games at a racetrack. The power of attorney 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

C o p y

trustee; and

(3) conform with the requirements established by the commission under IC 4-35-4-2(a)(8).

(b) The proposed power of attorney required by this section must be submitted as follows:

(1) Before November 1, 2009, in the case of a permit holder who holds a gambling game license as of July 1, 2009.

(2) Before the deadline established by the commission, in the case of a person who applies for a gambling game license after December 31, 2008.

SECTION 21. IC 4-35-6-1, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) Before July 1, 2009,** the commission may issue a supplier's license under this chapter to a person if:

(1) the person has:

(A) applied for the supplier's license;

(B) paid a nonrefundable application fee set by the commission;

(C) paid a five thousand dollar ($5,000) annual supplier's license fee; and

(D) submitted, on forms provided by the commission, two (2) sets of:

(i) the individual's fingerprints, if the applicant is an individual; or

(ii) fingerprints for each officer and director of the applicant, if the applicant is not an individual; and

(2) the commission has determined that the applicant is eligible for a supplier's license.

(b) Each license issued under this chapter is terminated on July 1, 2009.

(c) After June 30, 2009, a person may not:

(1) sell;

(2) lease; or

(3) contract to sell or lease;

a slot machine to a licensee unless the person holds a supplier's license originally issued under IC 4-33-7-1 or renewed under IC 4-33-7-8.

SECTION 22. IC 4-35-7-12, AS AMENDED BY P.L.146-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The Indiana horse racing commission shall enforce the requirements of this section.

(b) Except as provided in subsections (j) and (k), a licensee shall

C o p y

before the fifteenth day of each month devote to the gaming integrity fund, horse racing purses, and to horsemen's associations an amount equal to fifteen percent (15%) of the adjusted gross receipts of the slot machine wagering from the previous month at the licensee's racetrack. The Indiana horse racing commission may not use any of this money for any administrative purpose or other purpose of the Indiana horse racing commission, and the entire amount of the money shall be distributed as provided in this section. A licensee shall pay the first two hundred fifty thousand dollars ($250,000) distributed under this section in a state fiscal year to the **Indiana horse racing** commission for deposit in the gaming integrity fund established by IC 4-35-8.7-3. After this money has been distributed to the **Indiana horse racing** commission, a licensee shall distribute the remaining money devoted to horse racing purses and to horsemen's associations under this subsection as follows:

(1) Five-tenths percent (0.5%) shall be transferred to horsemen's associations for equine promotion or welfare according to the ratios specified in subsection (e).

(2) Two and five-tenths percent (2.5%) shall be transferred to horsemen's associations for backside benevolence according to the ratios specified in subsection (e).

(3) Ninety-seven percent (97%) shall be distributed to promote horses and horse racing as provided in subsection (d).

(c) A horsemen's association shall expend the amounts distributed to the horsemen's association under subsection (b)(1) through (b)(2) for a purpose promoting the equine industry or equine welfare or for a benevolent purpose that the horsemen's association determines is in the best interests of horse racing in Indiana for the breed represented by the horsemen's association. Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(d) A licensee shall distribute the amounts described in subsection (b)(3) as follows:

(1) Forty-six percent (46%) for thoroughbred purposes as follows:

(A) Sixty percent (60%) for the following purposes:

(i) Ninety-seven percent (97%) for thoroughbred purses.

(ii) Two and four-tenths percent (2.4%) to the horsemen's association representing thoroughbred owners and trainers.

(iii) Six-tenths percent (0.6%) to the horsemen's association representing thoroughbred owners and breeders.

(B) Forty percent (40%) to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(2) Forty-six percent (46%) for standardbred purposes as follows:

C o p y

(A) Fifty percent (50%) for the following purposes:
(i) Ninety-six and five-tenths percent (96.5%) for standardbred purses.
(ii) Three and five-tenths percent (3.5%) to the horsemen's association representing standardbred owners and trainers.
(B) Fifty percent (50%) to the breed development fund established for standardbreds under IC 4-31-11-10.
(3) Eight percent (8%) for quarter horse purposes as follows:
(A) Seventy percent (70%) for the following purposes:
(i) Ninety-five percent (95%) for quarter horse purses.
(ii) Five percent (5%) to the horsemen's association representing quarter horse owners and trainers.
(B) Thirty percent (30%) to the breed development fund established for quarter horses under IC 4-31-11-10.

Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(e) Money distributed under subsection (b)(1) and (b)(2) shall be allocated as follows:
(1) Forty-six percent (46%) to the horsemen's association representing thoroughbred owners and trainers.
(2) Forty-six percent (46%) to the horsemen's association representing standardbred owners and trainers.
(3) Eight percent (8%) to the horsemen's association representing quarter horse owners and trainers.

(f) Money distributed under this section may not be expended unless the expenditure is for a purpose authorized in this section and is either for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana or the necessary expenditures for the operations of the horsemen's association required to implement and fulfill the purposes of this section. The Indiana horse racing commission may review any expenditure of money distributed under this section to ensure that the requirements of this section are satisfied. The Indiana horse racing commission shall adopt rules concerning the review and oversight of money distributed under this section and shall adopt rules concerning the enforcement of this section. The following apply to a horsemen's association receiving a distribution of money under this section:
(1) The horsemen's association must annually file a report with the Indiana horse racing commission concerning the use of the money by the horsemen's association. The report must include information as required by the commission.
(2) The horsemen's association must register with the Indiana

C o p y

horse racing commission.

(g) The commission shall provide the Indiana horse racing commission with the information necessary to enforce this section.

(h) The Indiana horse racing commission shall investigate any complaint that a licensee has failed to comply with the horse racing purse requirements set forth in this section. If, after notice and a hearing, the Indiana horse racing commission finds that a licensee has failed to comply with the purse requirements set forth in this section, the Indiana horse racing commission may:

(1) issue a warning to the licensee;

(2) impose a civil penalty that may not exceed one million dollars ($1,000,000); or

(3) suspend a meeting permit issued under IC 4-31-5 to conduct a pari-mutuel wagering horse racing meeting in Indiana.

(i) A civil penalty collected under this section must be deposited in the state general fund.

(j) For a state fiscal year beginning after June 30, 2008, and ending before July 1, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) eighty-five million dollars ($85,000,000).

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

(k) For a state fiscal year beginning after June 30, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) the amount dedicated to the purposes described in subsection (b) in the previous state fiscal year increased by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for

C o p y

deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

SECTION 23. IC 4-35-8.7-2, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. A licensee that offers slot machine wagering under this article shall annually pay to the **Indiana horse racing** commission a gaming integrity fee equal to two hundred fifty thousand dollars ($250,000) for each racetrack at which the licensee offers slot machine wagering. The **Indiana horse racing** commission shall deposit gaming integrity fees in the fund.

SECTION 24. IC 4-35-8.7-3, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The gaming integrity fund is established.

(b) The fund shall be administered by the **Indiana horse racing** commission.

(c) The fund consists of gaming integrity fees deposited in the fund under this chapter and money distributed to the fund under IC 4-35-7-12.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the fund may be used by the **Indiana horse racing** commission only for the following purposes:

(1) To pay the cost of analyzing equine specimens under IC 4-31-12-6(b).

(2) To pay dues to the Drug Testing Standards and Practices (DTSP) Committee of the Association of Racing Commissioners International.

(3) To provide grants for research for the advancement of equine drug testing. Grants under this subdivision must be approved by the Drug Testing Standards and Practices (DTSP) Committee of the Association of Racing Commissioners International or by the Racing Mediation and Testing Consortium.

SECTION 25. IC 4-35-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 12. Gambling Games Temporarily Conducted by a Trustee

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

C o p y

authority of:

(1) a resolution adopted by the commission authorizing the trustee to conduct gambling games under this chapter; and

(2) either of the following:

(A) A written power of attorney approved by the commission under IC 4-35-5-9.

(B) An appointment by the commission under IC 4-35-4-14.

Sec. 2. A person may not exercise any powers delegated under a power of attorney submitted under IC 4-35-5-9 unless the commission adopts a resolution under section 3 of this chapter.

Sec. 3. The commission may adopt a resolution authorizing a trustee to temporarily conduct gambling games at a racetrack if any of the following occur with respect to that particular racetrack:

(1) The commission revokes the owner's permit or gambling game license.

(2) The commission declines to renew the owner's permit or gambling game license.

(3) A proposed transferee is denied a permit under IC 4-31 or a gambling game license under this article when attempting to purchase the racetrack and obtain a permit, but the person who attempted to sell the racetrack is unable or unwilling to retain ownership or control of the racetrack.

(4) A permit holder agrees in writing to relinquish control of the racetrack to a trustee as approved by the commission.

Sec. 4. A power of attorney designating a trustee to conduct gambling games at a racetrack is effective on the date designated by the commission in a resolution authorizing the trustee to conduct gambling games under this chapter. The power of attorney remains in effect until the date the trusteeship established by the operation of the power of attorney is terminated by resolution of the commission.

Sec. 5. (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. 6. A trustee who conducts gambling games at a racetrack:

(1) must:

(A) be eligible to receive an occupational license under IC 4-35-6.5; and

(B) satisfy the requirements of any rule adopted by the commission under IC 4-35-6.5-4;

C o p y

(2) must conduct the gambling games within the same standards for character, reputation, and financial integrity that are imposed upon a permit holder by this article;

(3) must submit to the commission any information requested by the commission; and

(4) is charged with all the duties imposed upon a permit holder under this article.

Sec. 7. (a) A trustee acting under the authority of this chapter must fulfill the trustee's duties as a fiduciary for the owner of the racetrack. In addition, the trustee shall consider the effect of the trustee's actions upon:

(1) the amount of taxes and fees remitted by the trustee under this article;

(2) the racetrack's surrounding community;

(3) the racetrack's employees; and

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

(b) In balancing the interests described in subsection (a), a trustee shall conduct gambling games at the racetrack in a manner that enhances the credibility and integrity of gambling games in Indiana while minimizing disruptions to tax revenues, fee remissions, employment, and credit obligations.

Sec. 8. (a) A person who directly or indirectly owns a racetrack that is the subject of a resolution described in section 3 of this chapter has one hundred eighty (180) days after the date on which the commission adopts the resolution to sell the racetrack (and its related properties described in section 9 of this chapter) to another person that:

(1) satisfies the requirements of IC 4-31 for obtaining a permit and this article for obtaining a gambling game license; and

(2) is approved by the commission.

(b) If the person is unable to sell the racetrack (and its related properties described in section 9 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 IC 4-31 for obtaining a permit and this article for obtaining a gambling game license; and

(2) is approved by the commission.

Sec. 9. A trustee acting under the authority of this chapter may conduct the operations of any hotel, restaurant, golf course, or other amenity related to the racetrack's slot machine facility.

Sec. 10. A trustee is entitled to reasonable compensation for carrying out the duties imposed upon the trustee under this

C o p y

chapter. The trustee's compensation must be:

(1) approved by the commission; and

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

Sec. 11. A permit holder shall purchase liability insurance, in an amount determined by the commission, to protect the trustee appointed to conduct gambling games on behalf of the permit holder from liability for any act or omission by the trustee occurring within the scope of the trustee's duties. The insurance coverage required by this section must apply to the entire period of the trusteeship.

Sec. 12. (a) Except as provided in subsection (b), the commission may revoke, modify, or amend a resolution authorizing a trustee to conduct gambling games under this chapter upon a showing of good cause after a hearing.

(b) In an emergency that requires immediate action to protect the credibility and integrity of gambling games authorized by this article, the commission may, without holding a hearing, take the following actions concerning a trustee whose actions have created the emergency:

(1) Revoke the resolution authorizing the trustee to conduct gambling games under this chapter.

(2) Remove the trustee from the control of the racetrack subject to the revoked resolution.

SECTION 26. IC 20-47-1-3, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) As used in this section, "gaming revenue" has the meaning set forth in IC 36-1-14-1(b).**

(b) A political subdivision may donate ~~proceeds from riverboat~~ gaming **revenue** to a public school endowment corporation under the following conditions:

(1) The public school endowment corporation retains all rights to the donation, including investment powers.

(2) The public school endowment corporation agrees to return the donation to the political subdivision if the corporation:

(A) loses the corporation's status as a public charitable organization;

(B) is liquidated; or

(C) violates any condition of the endowment set by the fiscal body of the political subdivision.

SECTION 27. IC 20-47-1-5, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS

C o p y

[EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The governing body of a school corporation may donate the proceeds of a grant, a gift, a donation, an endowment, a bequest, a trust, ~~or~~ an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, **or an agreement to share revenue received by a political subdivision under IC 4-35-8.5,** or other funds not generated from taxes levied by the school corporation, to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers, except as provided in subdivision (3).

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent endowment.

(B) Distribute the income from the donation only to the school corporation as directed by resolution of the governing body of the school corporation.

(C) Return the donation to the general fund of the school corporation if the foundation:

(i) loses the foundation's status as a public charitable organization;

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the governing body of the school corporation.

(b) A school corporation may use income received under this section from a community foundation only for purposes of the school corporation.

SECTION 28. IC 36-8-1-9.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.2. (a) Each unit that receives:**

(1) tax revenue under IC 4-35-8.5; or

(2) revenue under an agreement to share the tax revenue received under IC 4-35-8.5 by another unit;

shall establish a fund, separate from the unit's general fund, into which the revenue shall be deposited. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The fund established by subsection (a) shall be administered by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in

C o p y

the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 29. IC 36-1-14-1, AS AMENDED BY P.L.2-2006, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This section does not apply to donations of ~~proceeds from riverboat~~ gaming **revenue** to a public school endowment corporation under IC 20-47-1-3.

(b) As used in this section, ~~"riverboat~~ "gaming revenue" means **either of the following:**

(1) Tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.

(2) Revenue received by a unit under IC 4-35-8.5 or an agreement to share revenue received by another unit under IC 4-35-8.5.

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or ~~riverboat~~ gaming revenue to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers.

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent endowment.

(B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.

(C) Return the donation to the general fund of the unit if the foundation:

(i) loses the foundation's status as a public charitable organization;

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the fiscal body of the unit.

SECTION 30. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 4-35-6-2; IC 4-35-6-3; IC 4-35-6-4; IC 4-35-6-5; IC 4-35-6-6; IC 4-35-6-7; IC 4-35-6-8; IC 4-35-6-9; IC 4-35-6-10.

SECTION 31. **An emergency is declared for this act.**

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1285, 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:

Replace the effective dates in SECTIONS 2 through 10 with "[EFFECTIVE UPON PASSAGE]".

Replace the effective dates in SECTIONS 13 through 20 with "[EFFECTIVE UPON PASSAGE]".

Replace the effective date in SECTION 26 with "[EFFECTIVE UPON PASSAGE]".

Page 8, line 18, delete "June 30, 2009" and insert "**the effective date of this subsection**".

Page 24, after line 26, begin a new paragraph and insert:

"SECTION 27. **An emergency is declared for this act.**".

and when so amended that said bill do pass.

(Reference is to HB 1285 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 8, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1285 be amended to read as follows:

Page 24, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 26. IC 20-47-1-3, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) As used in this section, "gaming revenue" has the meaning set forth in IC 36-1-14-1(b).**

(b) A political subdivision may donate ~~proceeds from riverboat~~ gaming **revenue** to a public school endowment corporation under the following conditions:

(1) The public school endowment corporation retains all rights to the donation, including investment powers.

(2) The public school endowment corporation agrees to return the donation to the political subdivision if the corporation:

(A) loses the corporation's status as a public charitable organization;

Copy

(B) is liquidated; or

(C) violates any condition of the endowment set by the fiscal body of the political subdivision.

SECTION 27. IC 20-47-1-5, AS ADDED BY P.L.2-2006, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The governing body of a school corporation may donate the proceeds of a grant, a gift, a donation, an endowment, a bequest, a trust, ~~or~~ an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, **or an agreement to share revenue received by a political subdivision under IC 4-35-8.5,** or other funds not generated from taxes levied by the school corporation, to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers, except as provided in subdivision (3).

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent endowment.

(B) Distribute the income from the donation only to the school corporation as directed by resolution of the governing body of the school corporation.

(C) Return the donation to the general fund of the school corporation if the foundation:

(i) loses the foundation's status as a public charitable organization;

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the governing body of the school corporation.

(b) A school corporation may use income received under this section from a community foundation only for purposes of the school corporation.

SECTION 28. IC 36-8-1-9.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.2. (a) Each unit that receives:**

(1) tax revenue under IC 4-35-8.5; or

(2) revenue under an agreement to share the tax revenue received under IC 4-35-8.5 by another unit;

shall establish a fund, separate from the unit's general fund, into which the revenue shall be deposited. Money in the fund may be used for any legal or corporate purpose of the unit.

(b) The fund established by subsection (a) shall be administered

C o p y

by the unit's treasurer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 29. IC 36-1-14-1, AS AMENDED BY P.L.2-2006, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This section does not apply to donations of ~~proceeds from riverboat~~ gaming **revenue** to a public school endowment corporation under IC 20-47-1-3.

(b) As used in this section, ~~"riverboat~~ "gaming revenue" means **either of the following:**

(1) Tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.

(2) Revenue received by a unit under IC 4-35-8.5 or an agreement to share revenue received by another unit under IC 4-35-8.5.

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or ~~riverboat~~ gaming revenue to a foundation under the following conditions:

(1) The foundation is a charitable nonprofit community foundation.

(2) The foundation retains all rights to the donation, including investment powers.

(3) The foundation agrees to do the following:

(A) Hold the donation as a permanent endowment.

(B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.

(C) Return the donation to the general fund of the unit if the foundation:

(i) loses the foundation's status as a public charitable organization;

(ii) is liquidated; or

(iii) violates any condition of the endowment set by the

C o p y

fiscal body of the unit.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1285 as printed January 30, 2009.)

EBERHART

C o p y