

RESOLUTION 2010-124
A RESOLUTION ADOPTING LSA DOCUMENT #10-64 AS A FINAL RULE

The Indiana Gaming Commission (“Commission”) adopts the following resolution pursuant to the authority granted to it under IC 4-33-4 and IC 4-35-4.

The Commission has considered the following factors:

1. The Commission began promulgation of the attached LSA Rule Document #10-64 under IC 4-22. A Notice of Intent to adopt LSA Rule Document #10-64 was posted at DIN: 20100210-IR-068100064NIA on the *Indiana Register* website on February 10, 2010. The proposed rule was then posted at DIN: 20100331-IR-068100064PRA on the *Indiana Register* website on March 31, 2010.
2. The Commission held a public hearing for this rule on May 13, 2010 at 10:30 a.m. in the offices of the Indiana Gaming Commission, Indianapolis, IN, in compliance with IC 4-22. The transcript of the hearing and all written comments that were received, including the Indiana Economic Development Commission comments, were fully considered and implemented where appropriate. The transcript of the hearing has been reviewed by Commission members.
3. If the Commission approves this Resolution adopting the attached rule document as a final rule, the rule will be forwarded to the Office of the Attorney General and the Governor for approval, and filed thereafter with the *Indiana Register*. The rule will be effective 30 days after it is filed with the *Indiana Register*.

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

SECTION 1: SCOPE

This resolution applies to all persons subject to the authority granted to the Commission by the General Assembly in Indiana Code 4-33 and Indiana Code 4-35 including, but not limited to, all persons and entities licensed by the Commission, and all persons or entities that have applied to the Commission for licensure.

SECTION 2: DEFINITIONS

The definitions set forth in IC 4-33, IC 4-35, and 68 IAC apply to this resolution.

SECTION 3: ADOPTION OF FINAL RULES

The Commission adopts the following rules as reflected on the attached final rule document:

68 IAC 11-3-2; 68 IAC 15-8-1; 68 IAC 15-14-1; 68 IAC 15-14-2; 68 IAC 15-14-3; 68 IAC 15-14-4

Pursuant to IC 4-22-2, the Commission adopts the attached final rule document. The rule will be forwarded to the Office of the Attorney General for approval as to legality under IC 4-22-2-32. Upon approval by the Office of the Attorney General, the rule will be submitted to the Governor’s Office for

approval pursuant to IC 4-22-2-33. After the rule has been approved or deemed approved by the Governor, the rule will be submitted to the *Indiana Register* for filing in accordance with IC 4-22-2-35.

SECTION 4: EFFECTIVE DATE

This resolution is effective immediately.

ADOPTED THIS THE 17th DAY OF JUNE, 2010.

THE INDIANA GAMING COMMISSION:



Timothy Murphy, Chair

ATTEST:



Thomas Swihart, Vice Chair

TITLE 68 INDIANA GAMING COMMISSION

Final Rule LSA Document #10-64

DIGEST

Amends 68 IAC 11-3-2 concerning the requirement that specific names and titles be included in a casino's internal controls. Amends 68 IAC 15-8-1 concerning a casino licensee's independent audit committee. Amends 68 IAC 15-14-1 through 68 IAC 15-14-4 concerning financial statement audits made by independent auditors. Makes numerous technical changes. Effective 30 days after filing with the Publisher.

68 IAC 11-3-2; 68 IAC 15-8-1; 68 IAC 15-14-1; 68 IAC 15-14-2; 68 IAC 15-14-3; 68 IAC 15-14-4

SECTION 1. 68 IAC 11-3-2 IS AMENDED TO READ AS FOLLOWS:

68 IAC 11-3-2 Submission of internal control procedure

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33; IC 4-35

Sec. 2. (a) The ~~riverboat casino~~ licensee shall submit to the enforcement agent a list of employees authorized to participate in the currency collection process and the soft count. ~~to the enforcement agent.~~ These employees must hold an occupational license, Level 2 or higher. Amendments to the list of employees authorized to participate in the currency collection process and the soft count must be submitted to the enforcement agent ~~as the~~ **after any** amendments. ~~occur.~~ **The casino licensee must submit an** employee's name ~~must be submitted to the an~~ enforcement agent before the employee participates in the currency collection or the soft count.

(b) In accordance with 68 IAC 11-1, the ~~riverboat casino licensee or riverboat license applicant~~ shall **must** submit to ~~the executive director~~ internal control procedures covering the currency collection and the soft count. ~~process to the executive director.~~

(c) The internal control procedures for the currency collection ~~process~~ and the soft count process shall **must** include the following areas:

(1) The times that currency collection will occur.

(2) The manner in which the:

(A) currency collection process will proceed, including the location from which the currency collection process will commence;

(B) live gaming device drop box will be identifiable ~~to as having come from~~ the live gaming device from which it was removed; and

(C) bill validator drop box will be identifiable ~~to as having come from~~ the electronic gaming device from which it was removed.

(3) Whether counts will be performed manually or by means of a currency counter. If a currency counter is utilized, the:

(A) manufacturer;

(B) type;

(C) model number; and

(D) serial number;

~~shall~~ **must** be listed. Currency counters shall be approved as associated equipment in accordance with ~~under~~ 68 IAC 2-7.

(4) The **name of the** department that will maintain and control the keys that are necessary to complete the currency collection and soft count process.

(5) The ~~names and~~ titles of the occupational licensees that are authorized to transfer currency, coins, and tokens from the soft count room to the main bank.

(6) Where currency and coins will be stored before being deposited into an external bank.

~~(7)~~ The security measure measures that the casino licensee will be taken with respect to the take regarding storage of the currency and coins.

~~(7)~~ **(8)** Alternative procedures that the casino licensee will be utilized utilize in the case of a malfunction or an emergency.

~~(8)~~ **(9)** A description of the security measure to be taken measures that the casino licensee will take when a drop box storage cart holding live gaming device drop boxes or bill validator drop boxes containing:

- (A) currency;
- (B) chips;
- (C) tokens; or
- (D) records;

must be stored outside of the soft count room.

~~(9)~~ **(10)** Adjustments that the recorder may make to the Drop Box Verification Report.

~~(10)~~ **(11)** The names and titles of the individuals who will perform the duties of the internal auditor.

~~(11)~~ **(12)** The measures the riverboat casino licensee will take to ensure compliance with this article.

~~(12)~~ **(13)** Any other information the commission deems necessary to ensure compliance with the Act IC 4-33, IC 4-35, and this title.

(Indiana Gaming Commission; 68 IAC 11-3-2; filed Jul 18, 1996, 8:45 a.m.: 19 IR 3322; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; filed Dec 6, 2006, 2:52 p.m.: 20070103-IR-068060191FRA)

SECTION 2. 68 IAC 15-8-1 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-8-1 Applicability; general provisions

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33; IC 4-35

Sec. 1. (a) This rule applies to riverboat casino licensees.

(b) The riverboat casino licensee shall must establish policies and procedures in connection with the internal audit function for the riverboat of its casino operations, including, but not limited to, the following:

(1) The casino licensee or its parent company must establish an independent audit committee of its board of directors, or equivalent board.

(2) The internal audit department or its equivalent shall report directly to the independent audit committee of the board of directors, or equivalent board. If the parent company of the casino licensee establishes the independent audit committee, the internal audit department or its equivalent may report to the person at the parent company who is responsible for internal audit, who in turn shall report directly to the independent audit committee.

(3) The internal audit department shall must consist of at least two (2) full-time on-site internal auditors.

(c) A casino licensee or its parent company must establish policies that ensure the independence of the independent audit committee, including, at least, the following:

(1) The chair of the independent audit committee must be an independent director.

(2) The independent director must not, other than in his or her capacity as a member of the independent audit committee, the board of directors, or any other board committee:

- (i) accept any consulting, advisory, or other compensatory fee from the casino licensee or any affiliates;**
- (ii) be a present employee or affiliate of the casino licensee or any of its affiliates; or**
- (iii) have a relationship with the casino licensee that would affect his or her exercise of independent judgment.**

(3) An independent director must fulfill all of the considerations for a financial expert under 15 U.S.C. 7265(b).

(e) **(d)** The riverboat casino licensee shall must document all procedures and results of compliance testing performed under this rule. All material instances of noncompliance with the submitted internal controls shall must be investigated and reported immediately to the commission staff.

(d) (e) The casino licensee shall submit quarterly reports shall be submitted to the commission staff. documenting The

quarterly reports submitted under this section shall:

- (1) document the results of the compliance testing under this rule; ~~The quarterly reports documenting the results of the compliance testing shall~~
- (2) be submitted to the ~~regional audit administrator~~ **director** at the commission office in Indianapolis, Indiana, within thirty (30) days of the close of the quarter that the report covers; ~~These reports shall and~~
- (3) identify repeat findings and shall list all corrective action that was taken or will be taken to avoid similar problems in the future.

(e) (f) At any time errors are uncovered in the computation of win, ~~such~~ the errors shall be corrected and reported on Form RG-1 for the appropriate gaming day.

(f) As used in this rule, "Form RG-1" means the Daily Adjusted Gross Receipts and Tax Remittance Form. (*Indiana Gaming Commission; 68 IAC 15-8-1; filed Jul 18, 1996, 8:45 a.m.: 19 IR 3333; filed Aug 20, 1997, 7:11 a.m.: 21 IR 20; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1072; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; readopted filed Nov 14, 2008, 12:51 p.m.: 20081210-IR-068080730RFA*)

SECTION 3. 68 IAC 15-14-1 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-14-1 Applicability; general provisions

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33; IC 4-35

Sec. 1. (a) ~~Annually,~~ Each ~~riverboat~~ **casino** licensee shall undergo an **annual** audit of ~~the~~ its annual financial statements. ~~of the riverboat licensee.~~

(b) The ~~riverboat~~ **casino** licensee shall recommend an independent certified public accountant to perform the audit. ~~The independent certified public accountant or independent certified public accounting firm must be licensed in Indiana. The executive director or the executive director's designee must approve of the selection of the independent certified public accountant prior to the commencement of a contract between the accountant and the~~**riverboat casino** licensee.

(c) The audit shall:

- (1) be performed in accordance with generally accepted accounting principles; and
- (2) contain the opinion of the independent certified public accountant as to its fair presentation in accordance with ~~such~~ generally accepted accounting principles.

(d) ~~The casino licensee is responsible for the cost of audits required by this section. shall be prepared at the expense of the riverboat licensee.~~ (*Indiana Gaming Commission; 68 IAC 15-14-1; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1073; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; readopted filed Nov 14, 2008, 12:51 p.m.: 20081210-IR-068080730RFA*)

SECTION 4. 68 IAC 15-14-2 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-14-2 Qualifications

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33; IC 4-35

Sec. 2. (a) An independent certified public accountant or independent certified public accounting firm selected to perform a financial statement audit ~~shall~~ **must** meet the following qualifications and ~~shall be required to~~ **must** affirm that ~~they meet it~~ **meets** these qualifications as part of a written agreement with the ~~riverboat~~ **casino** licensee to perform the audit:

- (1) Be independent with respect to the ~~entity,~~ **casino licensee**, its parents, and investors. Standards of independence are to be determined by pronouncements of the American Institute of Certified Public Accountants and the Securities and Exchange Commission.
- (2) **Be** licensed to practice in Indiana.
- (3) Have sufficient experience in the gaming industry or related industries.

(4) Have an adequate number of professional personnel to meet the requirements of the engagement in a timely and efficient manner.

(b) An independent certified public accountant or independent certified public accounting firm selected to perform a financial statement audit must not express an opinion on financial statements of a casino licensee unless it is independent from that casino licensee. Impairments to independence include, but are not limited to, the following:

(1) During the period of the professional engagement to perform an audit, or at the time the opinion was issued, the auditing person:

(A) had or was committed to acquire any direct or material indirect financial interest in the casino licensee;

(B) was a trustee of any trust or executor or administrator of any estate if the trust or estate had or was committed to acquire any direct or material indirect financial interest in the casino licensee;

(C) had any joint closely held business investment with the casino licensee or any key person or substantial owner thereof that was material in relation to the auditing person or the auditing person's firm's net worth; or

(D) had any loan to or from the casino licensee or any key person or substantial owner thereof, when made under normal lending procedures, terms, and requirements, except:

(i) loans that are not material to the net worth of the borrower;

(ii) home mortgages; and

(iii) other secured loans, except loans guaranteed by the auditing person's firm that are otherwise unsecured.

(2) During the period covered by the casino licensee's financial statements, during the period of the professional engagement to perform an audit, or at the time the opinion is issued, the auditing person was:

(A) connected with the casino licensee as a promoter, underwriter, voting trustee, key person, or in any capacity equivalent to that of a key person or employee; or

(B) a trustee for any pension or profit-sharing trust of the casino licensee.

(3) Functioning as if a key person of the casino licensee.

(4) Performing an audit of the independent certified public accountant or independent certified public accounting firm's own work.

(5) Advocacy for the casino licensee.

(6) Having any other role with the casino licensee or affiliates other than as the independent auditor.

(Indiana Gaming Commission; 68 IAC 15-14-2; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1073; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; readopted filed Nov 14, 2008, 12:51 p.m.: 20081210-IR-068080730RFA)

SECTION 5. 68 IAC 15-14-3 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-14-3 Conditions of engagements

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33; IC 4-35

Sec. 3. An independent certified public accountant or independent certified public accounting firm selected to perform a financial statement audit must agree to abide by the following conditions of engagement, which must be stated in a written agreement with the riverboat casino licensee, to perform the audit:

(1) Inform the commission with respect to material errors and irregularities or illegal acts that come to their attention during the course of an audit.

(2) Inform the commission in writing of matters that come to their attention that represent significant deficiencies in the design or operation of the internal control structure.

(3) Provide each member of the professional audit staff assigned to the engagement a minimum of sixteen (16) hours of training in the gaming industry.

(4) Retain and make available to the commission personnel or their authorized representatives all reports, working papers in both current and permanent files, audit programs, tax returns, and other information relating to engagements for a period of five (5) years after completion of the engagement.

(5) Respond timely to all reasonable requests of successor auditors.

(6) Submit peer review reviewed reports to the commission.

- (7) Have all engagement letters approved by the commission prior to undertaking assignments.
- (8) Send copies of all reports and management letters directly to the commission in compliance with this rule.
- (9) At the conclusion of the engagement, provide management and the commission, in a mutually agreeable format, recommendations designed to help the entity make improvements in its internal control structure and operation, and other matters that are discovered during the audit.

(Indiana Gaming Commission; 68 IAC 15-14-3; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1073; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; readopted filed Nov 14, 2008, 12:51 p.m.: 20081210-IR-068080730RFA; filed Dec 15, 2008, 11:29 a.m.: 20090114-IR-068080430FRA)

SECTION 6. 68 IAC 15-14-4 IS AMENDED TO READ AS FOLLOWS:

68 IAC 15-14-4 Special audits

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-33; IC 4-35

Sec. 4. (a) To ~~assure~~ **ensure** the integrity of gaming or compliance with ~~the Act~~ **IC 4-33, IC 4-35, and the rules of the commission, this title**, the commission may require, at any time, a special audit of a ~~riverboat owner~~ **casino licensee** to be conducted by an independent certified public accountant who is, or whose firm is, licensed in Indiana. The commission ~~shall~~ **may** establish the scope, procedures, and reporting requirements of ~~such an~~ **a special audit**.

(b) The casino licensee is responsible for the costs of a special audit. *(Indiana Gaming Commission; 68 IAC 15-14-4; filed Dec 2, 2001, 12:35 p.m.: 25 IR 1074; readopted filed Nov 25, 2002, 10:11 a.m.: 26 IR 1261; readopted filed Nov 14, 2008, 12:51 p.m.: 20081210-IR-068080730RFA)*