

RESOLUTION 2010-214
A RESOLUTION ADOPTING AN EMERGENCY RULE
REGARDING LOCAL DEVELOPMENT AGREEMENTS

The Indiana Gaming Commission (“Commission”) adopts the following resolution pursuant to the authority granted under IC 4-33, and pursuant to 68 IAC 1-2-6.

The Commission has considered the following factors:

1. Pursuant to IC 4-33-4-3 and IC 4-22-2-37.1, the Commission has the authority to adopt emergency rules.
2. IC 4-33-4-3(a)(8) authorizes the Commission to adopt emergency rules if the Commission determines that: (1) the need for a rule is so immediate and substantial that procedures under 4-22-2-13 through 4-22-2-36 are inadequate to address the need; and (2) an emergency rule is likely to address the need.
3. The Commission is aware of the Indiana Supreme Court’s decisions in the East Chicago-related litigation, including City of East Chicago v. East Chicago Second Century, Inc., 908 N.E.2d 611, which held that local development agreements (“LDAs”) are “subject to periodic alteration (through the administrative processes of the Gaming Commission)”, and Foundations of East Chicago v. City of East Chicago, et al., 933 N.E.2d 874, which held that LDAs are “subject to any terms and conditions in the license issued by the Commission” and that LDAs “may be revised by the Commission...”.
4. The Commission currently does not have regulations governing the substance, structure, or alteration of LDAs; and, to effectively carry out the Commission’s authority over LDAs, such regulations are required.
5. The Commission finds that the need for a new rule regarding LDAs is immediate and substantial such that rulemaking procedures under IC 4-22-2-24 through IC 4-22-2-36 are inadequate to address the needs and that the attached emergency rule is likely to address the need.
6. Once adopted by the Commission, Commission staff will follow appropriate procedures to publish the emergency rule. The emergency rule will become effective upon filing with the Legislative Services Agency, and will continue to be effective for ninety (90) days thereafter. If necessary, the Commission will renew the effectiveness of the emergency rule for an additional ninety (90) days pending completion of the formal promulgation process.
7. During the effective period of the emergency rule, the Commission will proceed with the formal promulgation process, including IC 4-22-2-24 through 4-22-2-36.

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

SECTION 1: SCOPE

This resolution applies to all riverboat licensees, operating agents, and trustees and affiliates thereof.

SECTION 2: DEFINITIONS

The definitions set forth in IC 4-33 and 68 IAC 1-1 apply to this resolution.

SECTION 3: ADOPTION OF THE EMERGENCY RULE

Pursuant to IC 4-22-2-37.1, the Commission adopts the attached rule as an emergency rule for the initial ninety (90) day period as well as for the optional ninety (90) day extension period. The Commission further adopts any stylistic, grammatical, typographical, or other non-substantive changes that the Commission or the Legislative Services Agency may make to this emergency rule. The Commission shall file the proposed emergency rule and submit it for publication with the Legislative Services Agency.

SECTION 4: EFFECTIVE DATE

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

SECTION 5: EXPIRATION DATE

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

ADOPTED, THIS THE 10th DAY OF NOVEMBER, 2010.

THE INDIANA GAMING COMMISSION



Tim Murphy, Chair

ATTEST:



Marc Fine, Secretary