

RESOLUTION 2017-109

A RESOLUTION UPDATING THE AUTHORITY PREVIOUSLY GRANTED TO THE EXECUTIVE DIRECTOR TO WAIVE REQUIREMENTS AND PROCEDURES IN 68 IAC 5-3-2, AND APPROVE OR DENY DEBT TRANSACTIONS PENDING RATIFICATION BY THE FULL COMMISSION

The Indiana Gaming Commission ("Commission") adopts the following resolution pursuant to the authority granted to it under IC 4-33, IC 4-35 and pursuant to 68 IAC 1-2-6.

The Commission has considered the following factors:

1. 68 IAC 5-3-1(b) states: "A riverboat licensee . . . may enter into debt transactions that total one million dollars (\$1,000,000.00) or more only in accordance with this rule."
2. 68 IAC 5-3-2(a) states: "A riverboat licensee . . . may not enter into any debt transaction without receiving the approval of the commission."
3. Pursuant to IC 4-33-4-21, IC 4-33-6.5-12, IC 4-35-5-7 and 68 IAC 5-3-2, the Commission reviews proposed debt transactions to analyze the financial health of riverboat licensees, operating agents and gambling game licensees, and to ensure that the license or operating agent contract is not leased or hypothecated, or that money is not borrowed or loaned against same.
4. Pursuant to 68 IAC 5-3-2(b), the regular procedure for acquiring commission approval of a debt transaction requires Commission consideration of the debt transaction at two consecutive Commission business meetings (i.e., the "two meeting rule").
5. 68 IAC 1-2-13 provides the Commission or executive director may waive the requirements of 68 IAC 5-3 in the event that the Commission or executive director determines that it is impractical or burdensome and the waiver is in the best interests of the public and the gaming industry and is not outside the technical requirements necessary to serve the purpose of the requirement or procedure.
6. In Resolutions 2003-2, 2005-24, 2006-10, 2008-74, and 2014-56 the Commission explicitly authorized the use of various procedures through which the executive director with the consent of one or more Commissioners could waive any of the requirements and/or procedures of 68 IAC 5-3-2 in order to provide interim approvals and/or denials of debt transactions.
7. The current resolution does not change or amend any of the processes described in Resolution 2014-56, however, Resolution 2014-56 included citations to Title 68 of the Indiana Administrative Code that have been repealed and replaced by 68 IAC 1-2-13. The current resolution updates those citations.

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

SECTION 1: DEFINITIONS

The definitions set forth in IC 4-33-2, IC 4-35-2, and 68 IAC apply to this resolution.

SECTION 2: GRANT OF AUTHORITY TO THE EXECUTIVE DIRECTOR

The Executive Director is hereby authorized to waive any of the requirements and/or procedures of 68 IAC 5-3-2 and to provide interim approvals and/or denials of debt transactions in accordance with the following procedure:

- (a) The Commission Chair, a Commission Member who is a CPA, and the Executive Director (or the Executive Director’s designee) shall review and analyze the proposed debt transaction;
- (b) After receiving input, where necessary and appropriate, from the Commission’s financial consultant(s), and upon agreement between the Executive Director, the Commission Chair, and the Commission Member who is a CPA, the Executive Director shall notify the requesting party of the waiver and/or interim financing decision in writing; and
- (c) The Executive Director shall report such waiver and/or interim decision to the Commission at the next business meeting held under 68 IAC 2-1-5 for consideration and final ratification/direction from the full Commission. If any one of the Commission Chair, a Commission Member who is a CPA, or the Executive Director (or the Executive Director’s designee), is unavailable to make a decision on the request before an interim approval is necessary, the concurrence of any two of the three shall be sufficient to grant a waiver and/or approval of the interim financing decision.

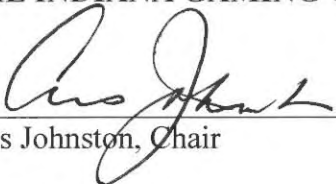
This Resolution supersedes and replaces Resolutions 2003-2, 2005-24, 2006-10, 2008-74 and 2014-56.

SECTION 3: EFFECTIVE DATE

This resolution is effective immediately.

ADOPTED, THIS THE ADOPTED, THIS THE 29th DAY OF JUNE, 2017.

THE INDIANA GAMING COMMISSION



 Cris Johnston, Chair

ATTEST:



 Joseph Svetanoff, Secretary