

CHAPTER 116

AN ACT concerning the Casino Control Act and certain agreements and taxes and fees concerning casinos, amending P.L.1993, c.159 and amending and supplementing P.L.1977, c.110.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 82 of P.L.1977, c.110 (C.5:12-82) is amended to read as follows:

C.5:12-82 Casino licence -- applicant eligibility.

82. a. No casino shall operate unless all necessary licenses and approvals therefor have been obtained in accordance with law.

b. Only the following persons shall be eligible to hold a casino license; and, unless otherwise determined by the commission with the concurrence of the Attorney General which may not be unreasonably withheld in accordance with subsection c. of this section, each of the following persons shall be required to hold a casino license prior to the operation of a casino in the casino hotel with respect to which the casino license has been applied for:

(1) Any person who either owns an approved casino hotel or owns or has a contract to purchase or construct a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(2) Any person who, whether as lessor or lessee, either leases an approved casino hotel or leases or has an agreement to lease a casino hotel which in the judgment of the commission can become an approved casino hotel within 30 months or within such additional time period as the commission may, upon a showing of good cause therefor, establish;

(3) Any person who has a written agreement with a casino licensee or with an eligible applicant for a casino license for the complete management of a casino and, if applicable, any authorized games in a casino simulcasting facility; and

(4) Any other person who has control over either an approved casino hotel or the land thereunder or the operation of a casino.

c. Prior to the operation of a casino and, if applicable, a casino simulcasting facility, every agreement to lease an approved casino hotel or the land thereunder and every agreement for the management of the casino and, if applicable, any authorized games in a casino simulcasting facility, shall be in writing and filed with the commission. No such agreement shall be effective unless expressly approved by the commission. The commission may require that any such agreement include within its terms any provision reasonably necessary to best accomplish the policies of this act. Consistent with the policies of this act:

(1) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any person who does not have the ability to exercise any significant control over either the approved casino hotel or the operation of the casino contained therein shall not be eligible to hold or required to hold a casino license;

(2) The commission, with the concurrence of the Attorney General which may not be unreasonably withheld, may determine that any owner, lessor or lessee of an approved casino hotel or the land thereunder who does not own or lease the entire approved casino hotel shall not be eligible to hold or required to hold a casino license;

(3) The commission shall require that any person or persons eligible to apply for a casino license organize itself or themselves into such form or forms of business association as the commission shall deem necessary or desirable in the circumstances to carry out the policies of this act;

(4) The commission may issue separate casino licenses to any persons eligible to apply therefor;

(5) As to agreements to lease an approved casino hotel or the land thereunder, unless it expressly and by formal vote for good cause determines otherwise, the commission shall require that each party thereto hold either a casino license or casino service industry license and that such an agreement be for a durational term exceeding 30 years, concern 100% of the entire approved casino hotel or of the land upon which same is located, and include within its terms a buy-out provision conferring upon the casino licensee-lessee who controls the operation of the approved casino hotel the absolute right to purchase for an expressly set forth fixed sum the

entire interest of the lessor or any person associated with the lessor in the approved casino hotel or the land thereunder in the event that said lessor or said person associated with the lessor is found by the commission to be unsuitable to be associated with a casino enterprise;

(6) The commission shall not permit an agreement for the leasing of an approved casino hotel or the land thereunder to provide for the payment of an interest, percentage or share of money gambled at the casino or derived from casino gaming activity or of revenues or profits of the casino unless the party receiving payment of such interest, percentage or share is a party to the approved lease agreement; unless each party to the lease agreement holds either a casino license or casino service industry license and unless the agreement is for a durational term exceeding 30 years, concerns a significant portion of the entire approved casino hotel or of the land upon which same is located, and includes within its terms a buy-out provision conforming to that described in paragraph (5) above;

(7) As to agreements for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility, the commission shall require that each party thereto hold a casino license, that the party thereto who is to manage the casino gaming operations own at least 10% of all outstanding equity securities of any casino licensee or of any eligible applicant for a casino license if the said licensee or applicant is a corporation and the ownership of an equivalent interest in any casino licensee or in any eligible applicant for a casino license if same is not a corporation, and that such an agreement be for the complete management of all casino space in the casino hotel and, if applicable, all authorized games in a casino simulcasting facility, provide for the sole and unrestricted power to direct the casino gaming operations of the casino hotel which is the subject of the agreement, and be for such a durational term as to assure reasonable continuity, stability and independence in the management of the casino gaming operations, provided that the provisions of this paragraph shall not apply to agreements relating to the operation of a multi-casino progressive slot machine system between a group of casino licensees and a casino service industry licensed pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, and that, with regard to such agreements, the casino service industry licensee or applicant may operate and administer the multi-casino progressive slot machine system, including, but not limited to, the operation of a monitor room and the payment of the progressive jackpots from a fund of contributions from participating casino licensees, provided that the consideration charged to the casino licensees for the operation and administration of the monitor room shall not exceed the actual direct costs of operating and administering the monitor room;

(8) The commission may permit an agreement for the management of a casino and, if applicable, the authorized games in a casino simulcasting facility to provide for the payment to the managing party of an interest, percentage or share of money gambled at all authorized games or derived from casino gaming activity or of revenues or profits of casino gaming operations;

(9) Notwithstanding any other provision of P.L.1977, c.110 (C.5:12-1 et seq.) to the contrary, the commission may permit an agreement between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) for the conduct of casino simulcasting in a simulcasting facility or for the operation of a multi-casino progressive slot machine system, to provide for the payment to the casino service industry of an interest, percentage or share of the money derived from the casino licensee's share of proceeds from simulcast wagering activity or the operation of a multi-casino progressive slot machine system; and

(10) As to agreements to lease an approved casino hotel or the land thereunder, agreements to jointly own an approved casino hotel or the land thereunder and agreements for the management of casino gaming operations or for the conduct of casino simulcasting in a simulcasting facility, the commission shall require that each party thereto, except for a banking or other chartered or licensed lending institution or any subsidiary thereof, or any chartered or licensed life insurance company or property and casualty insurance company, or the State of New Jersey or any political subdivision thereof or any agency or instrumentality of the State or any political subdivision thereof, shall be jointly and severally liable for all acts, omissions and violations of this act by any party thereto regardless of actual knowledge of such act, omission

or violation and notwithstanding any provision in such agreement to the contrary.

d. No corporation shall be eligible to apply for a casino license unless:

(1) The corporation shall be incorporated in the State of New Jersey, although such corporation may be a wholly or partially owned subsidiary of a corporation which is organized pursuant to the laws of another state of the United States or of a foreign country;

(2) The corporation shall maintain an office of the corporation in the casino hotel licensed or to be licensed;

(3) The corporation shall comply with all the requirements of the laws of the State of New Jersey pertaining to corporations;

(4) The corporation shall maintain a ledger in the principal office of the corporation in New Jersey which shall at all times reflect the current ownership of every class of security issued by the corporation and shall be available for inspection by the commission or the division and authorized agents of the commission and the division at all reasonable times without notice;

(5) The corporation shall maintain all operating accounts required by the commission in a bank in New Jersey, except that a casino licensee may establish deposit-only accounts in any jurisdiction in order to obtain payment of any check described in section 101 of P.L.1977, c.110 (C.5:12-101);

(6) The corporation shall include among the purposes stated in its certificate of incorporation the conduct of casino gaming and provide that the certificate of incorporation includes all provisions required by this act;

(7) The corporation, if it is not a publicly traded corporation, shall file with the commission such adopted corporate charter provisions as may be necessary to establish the right of prior approval by the commission with regard to transfers of securities, shares, and other interests in the applicant corporation; and, if it is a publicly traded corporation, provide in its corporate charter that any securities of such corporation are held subject to the condition that if a holder thereof is found to be disqualified by the commission pursuant to the provisions of this act, such holder shall dispose of his interest in the corporation; provided, however, that, notwithstanding the provisions of N.J.S.14A:7-12 and N.J.S.12A:8-101 et seq., nothing herein shall be deemed to require that any security of such corporation bear any legend to this effect;

(8) The corporation, if it is not a publicly traded corporation, shall establish to the satisfaction of the commission that appropriate charter provisions create the absolute right of such non-publicly traded corporations and companies to repurchase at the market price or the purchase price, whichever is the lesser, any security, share or other interest in the corporation in the event that the commission disapproves a transfer in accordance with the provisions of this act;

(9) Any publicly traded holding, intermediary, or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall contain in its corporate charter the same provisions required under paragraph (7) for a publicly traded corporation to be eligible to apply for a casino license; and

(10) Any non-publicly traded holding, intermediary or subsidiary company of the corporation, whether the corporation is publicly traded or not, shall establish to the satisfaction of the commission that its charter provisions are the same as those required under paragraphs (7) and (8) for a non-publicly traded corporation to be eligible to apply for a casino license.

Notwithstanding the foregoing, any corporation or company which had bylaw provisions approved by the commission prior to the effective date of this 1987 amendatory act shall have one year from the effective date of this 1987 amendatory act to adopt appropriate charter provisions in accordance with the requirements of this subsection.

The provisions of this subsection shall apply with the same force and effect with regard to casino license applicants and casino licensees which have a legal existence that is other than corporate to the extent which is appropriate.

e. No person shall be issued or be the holder of a casino license if the issuance or the holding results in undue economic concentration in Atlantic City casino operations by that person. The commission shall, after conducting public hearings thereon, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) defining the criteria the commission will use in determining what constitutes

undue economic concentration. For the purpose of this subsection a person shall be considered the holder of a casino license if such license is issued to such person or if such license is held by any holding, intermediary or subsidiary company thereof, or by any officer, director, casino key employee or principal employee of such person, or of any holding, intermediary or subsidiary company thereof.

2. Section 104 of P.L.1977, c.110 (C.5:12-104) is amended to read as follows:

C.5:12-104 Casino licensee leases and contracts.

104. a. Unless otherwise provided in this subsection, no agreement shall be lawful which provides for the payment, however defined, of any direct or indirect interest, percentage or share of: any money or property gambled at a casino or simulcasting facility; any money or property derived from casino gaming activity or wagering at a simulcasting facility; or any revenues, profits or earnings of a casino or simulcasting facility. Notwithstanding the foregoing:

(1) Agreements which provide only for the payment of a fixed sum which is in no way affected by the amount of any such money, property, revenues, profits or earnings shall not be subject to the provisions of this subsection; and receipts, rentals or charges for real property, personal property or services shall not lose their character as payments of a fixed sum because of contract, lease, or license provisions for adjustments in charges, rentals or fees on account of changes in taxes or assessments, cost-of-living index escalations, expansion or improvement of facilities, or changes in services supplied.

(2) Agreements between a casino licensee and a junket enterprise or junket representative licensed, qualified or registered in accordance with the provisions of P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations of the commission which provide for the compensation of the junket enterprise or junket representative by the casino licensee based upon the actual casino gaming or simulcast wagering activities of a patron procured or referred by the junket enterprise or junket representative shall be lawful if filed with the division prior to the conduct of any junket that is governed by the agreement.

(3) Agreements between a casino licensee and its employees which provide for casino employee or casino key employee profit sharing shall be lawful if the agreement is in writing and filed with the commission prior to its effective date. Such agreements may be reviewed by the commission under any relevant provision of P.L.1977, c.110 (C.5:12-1 et seq.).

(4) Agreements to lease an approved casino hotel or the land thereunder and agreements for the complete management of all casino gaming operations in a casino hotel shall not be subject to the provisions of this subsection but shall rather be subject to the provisions of subsections b. and c. of section 82 of this act.

(5) Agreements which provide for percentage charges between the casino licensee and a holding company or intermediary company of the casino licensee shall be in writing and filed with the commission but shall not be subject to the provisions of this subsection.

(6) Agreements relating to simulcast racing and wagering between a casino licensee and an in-State or out-of-State sending track licensed or exempt from licensure in accordance with subsection c. of section 92 of P.L.1977, c.110 (C.5:12-92) shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the parimutuel pool wagered at a simulcasting facility to be paid to the sending track shall not be subject to the provisions of this subsection.

(7) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) as a hub facility, as defined in joint regulations of the Casino Control Commission and the New Jersey Racing Commission, shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission and the New Jersey Racing Commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the hub facility shall not be subject to the provisions of this subsection.

(8) Agreements relating to simulcast racing and wagering between a casino licensee and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) to conduct casino simulcasting in a simulcasting facility shall be in writing, be filed with the commission, and be lawful and effective only if expressly approved as to their terms by the commission, except that any such agreements which provide for a percentage of the casino licensee's share of the parimutuel pool wagered at a simulcasting facility to be paid to the casino service industry shall not be subject to the provisions of this subsection.

(9) Written agreements relating to the operation of multi-casino progressive slot machine systems between one or more casino licensees and a casino service industry licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, which provide for an interest, percentage or share of the casino licensee's revenues, profits or earnings from the operation of such multi-casino progressive slot machines to be paid to the casino service industry licensee or applicant shall not be subject to the provisions of this subsection if the agreements are filed with and approved by the commission.

b. Each casino applicant or licensee shall maintain, in accordance with the rules of the commission, a record of each written or unwritten agreement regarding the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility. The foregoing obligation shall apply regardless of whether the casino applicant or licensee is a party to the agreement. Any such agreement may be reviewed by the commission on the basis of the reasonableness of its terms, including the terms of compensation, and of the qualifications of the owners, officers, employees, and directors of any enterprise involved in the agreement, which qualifications shall be reviewed according to the standards enumerated in section 86 of this act. If the commission disapproves such an agreement or the owners, officers, employees, or directors of any enterprise involved therein, the commission may require its termination.

Every agreement required to be maintained, and every related agreement the performance of which is dependent upon the performance of any such agreement, shall be deemed to include a provision to the effect that, if the commission shall require termination of an agreement pursuant to this subsection, such termination shall occur without liability on the part of the casino applicant or licensee or any qualified party to the agreement or any related agreement. Failure expressly to include such a provision in the agreement shall not constitute a defense in any action brought to terminate the agreement. If the agreement is not maintained or presented to the commission in accordance with commission regulations, or the disapproved agreement is not terminated, the commission may pursue any remedy or combination of remedies provided in this act.

For the purposes of this subsection, "casino applicant" includes any person required to hold a casino license pursuant to section 82 of P.L.1977, c.110 (C.5:12-82) who has applied to the commission for a casino license or any approval required under P.L.1977, c.110 (C.5:12-1 et seq.).

c. Nothing in this act shall be deemed to permit the transfer of any license, or any interest in any license, or any certificate of compliance or any commitment or reservation.

C.5:12-148.1 Tax on certain comps provided by casinos at no cost, reduce price.

3. a. There is imposed on each casino licensee a tax on the value of rooms, food, beverages, or entertainment provided at no cost or at a reduced price, as required to be reported to the Casino Control Commission pursuant to section 102 of P.L.1977, c.110 (C.5:12-102), which tax shall be computed as follows:

(1) if rooms, food, beverages or entertainment are provided at no cost, the tax shall be at a rate of 4.25% on the value of rooms, food, beverages and entertainment;

(2) if rooms, food, beverages or entertainment are provided at reduced cost, the tax shall be at a rate of 4.25% on the value, which taxable value shall be reduced by any consideration paid by the person to whom the rooms, food, beverages or entertainment are provided; provided however, that the imposition of the excise tax as provided in this section is in addition to any tax due under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), on the receipts from the sale of food and beverages, or from amounts paid as a charge for entertainment, or the rents for occupancy of hotel rooms, at reduced cost;

(3) no excise tax shall be imposed on the value of any service or property upon which a sales or use tax has been paid by a casino licensee;

(4) for the purpose of computing the tax, the value of a room complimentary shall be \$67, provided that the commission shall review the room value within 90 days of the effective date of this act, and shall adjust the statutory room value to a rate that, along with the tax imposed pursuant to this section on food, beverages and entertainment, is sufficient to generate \$26 million in State fiscal year 2004, and the commission's review and adjustment shall take into account tax paid under this section by a casino licensee commencing operations in calendar year 2003 in determining whether the adjusted statutory room value would generate \$26 million in State fiscal year 2004, and in addition, the commission shall establish an inflation factor for the room value and the amount raised in each State fiscal year by the tax imposed pursuant to this section;

(5) for the purpose of computing the tax, the value of food, beverages and entertainment complimentaries shall be determined pursuant to section 2 of P.L.1983, c.41 (C.5:12-14a), provided that the value of a beverage complimentary served in a casino room shall be the cost to the casino licensee of providing the beverage; and

(6) for each casino licensee, the amount of tax imposed by this section shall not be less than the tax that the licensee would have paid if the tax had been in effect for calendar year 2002.

b. Each casino licensee shall file a return, on a form as prescribed by the Director of the Division of Taxation in the Department of the Treasury, and pay the amount of tax due pursuant to this section in the manner and at a frequency as the Director of the Division of Taxation prescribes, but no more frequently than monthly. In prescribing the periods to be covered by the return or intervals or classifications for payment of tax liability, the Director of the Division of Taxation may take into account the dollar volume of tax involved, as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The Director of the Division of Taxation shall determine and certify to the State Treasurer on at least a quarterly basis the amount of tax collected pursuant to this section. The Director of the Division of Taxation may promulgate such rules and regulations as the director determines are necessary to effectuate the provisions of this act.

d. The tax imposed by this section shall be governed in all respects by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq, except only to the extent that a specific provision of this section may be in conflict therewith.

e. The tax imposed by this section, and any interest or penalties collected by the Director of the Division of Taxation relating to that tax, shall be deposited into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

C.5:12-148.2 Tax of 8% imposed on multi-casino progressive slot machine revenue.

4. a. A tax at the rate of 8% is imposed on casino service industry multi-casino progressive slot machine revenue. The tax shall not be considered a tax collectable under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. As used in this section, "casino service industry multi-casino progressive slot machine revenue" means sums received by a casino service industry, licensed pursuant to the provisions of subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92), or an eligible applicant for such license, net of any money accrued for return to patrons in the form of jackpots, that are directly or indirectly related to: (1) the conduct of multi-casino progressive slot machine system operations in a casino; or (2) the sale, lease, servicing or management of a multi-casino progressive slot machine system. Notwithstanding the foregoing, "casino service industry multi-casino progressive slot machine revenue" shall not be construed to apply to revenue derived from transactions between a casino licensee and its holding company or intermediary companies or their affiliates.

c. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax imposed by this section, and any interest or penalties collected by the Director of the Division of Taxation relating to that tax, shall be deposited into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. A casino service industry licensee or applicant required to pay the tax imposed pursuant to this section shall, on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the Director of the Division of Taxation the tax owed on casino service industry multi-casino progressive slot machine revenue received by the casino service industry licensee or applicant in the preceding month and make and file a return for the preceding month with the Director of the Division of Taxation on any form and containing any information as the Director of the Division of Taxation shall prescribe by rule or regulation as necessary to determine liability for the tax in the preceding month during which the person was required to pay the tax.

e. The Director of the Division of Taxation may permit or require returns to be made covering other periods and upon any dates as the Director of the Division of Taxation may specify. In addition, the Director of the Division of Taxation may require payments of tax liability at any intervals and based upon any classifications as the Director of the Division of Taxation may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax liability, the Director of the Division of Taxation may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

f. The Director of the Division of Taxation may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

g. The tax imposed under this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

C.5:12-148.3 Tax of 7.5% imposed on certain adjusted net income of casino licensees.

5. a. In State fiscal years 2004 through 2006, a tax at the rate of 7.5% is imposed on the adjusted net income of a casino licensee in calendar year 2002, determined pursuant to information provided by casino licensees to the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70) and published on April 2, 2003 in the commission's statement of casino licensee income for the twelve-month period ending on December 31, 2002, without regard to subsequent adjustment to such filing. For a casino licensee that was not in operation in calendar year 2002, the amount of the tax shall be 7.5% of its adjusted net income in State fiscal year 2004, as filed by the licensee with the commission pursuant to regulations promulgated in accordance with subsection n. of section 70 of P.L.1977, c.110 (C.5:12-70). As used in this section, "adjusted net income" means annual net income plus management fees.

The aggregate amount of tax imposed by this section shall not exceed \$10 million annually for a holder of more than one casino license, and for each casino licensee the tax imposed by this section shall not be less than \$350,000 annually.

b. The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the Director of the Division of Taxation shall have all of the powers granted in P.L.1945, c.162 (C.54:10A-1 et seq.). For a casino licensee that was in operation in calendar year 2002, the tax shall be due and payable in four equal payments on September 15, December 15, March 15, and June 15 of each State fiscal year. For a casino licensee that was not in operation in calendar year 2002, the tax in State fiscal year 2004 shall be due and payable in four quarterly estimated payments on the basis of adjusted net income in the current quarter, and the licensee shall file an annual return for State fiscal year 2004 no later than October 15, 2004. In State fiscal years 2005 and 2006 for such casino licensee, the tax shall be due and payable in four equal payments on September 15, December 15, March 15 and June 15.

c. The tax imposed by this section, and any interest or penalties collected by the Director

of the Division of Taxation in the Department of the Treasury relating to that tax, shall be deposited into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

d. The Director of the Division of Taxation in the Department of the Treasury shall certify on September 30, 2003 and annually thereafter the amount of tax collected pursuant to this section. The Director of the Division of Taxation may promulgate such rules and regulations as the Director of the Division of Taxation determines are necessary to effectuate the provisions of this section.

e. The tax imposed under this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

C.5:12-145.8 Fee of \$3.00 imposed daily on occupied hotel rooms in casino hotel facility.

6. Notwithstanding the provisions of any other law to the contrary and in addition to any other tax or fee imposed by law, there is imposed a fee of \$3.00 per day on each hotel room in a casino hotel facility that is occupied by a guest, for consideration or as a complimentary item. The amounts generated by this section shall be paid to the State Treasurer for deposit in the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, \$2.00 of the fee shall be deposited by the State Treasurer into the Casino Revenue Fund and \$1.00 shall be transferred by the State Treasurer to the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) for its purposes pursuant to law, as approved by the membership of the authority.

7. Section 145 of P.L.1977, c.110 (C.5:12-145) is amended to read as follows:

C.5:12-145 Casino revenue fund.

145. Casino revenue fund. a. There is hereby created and established in the Department of the Treasury a separate special account to be known as the "Casino Revenue Fund," into which shall be deposited all revenues from the tax imposed by section 144 of this act; the investment alternative tax imposed by section 3 of P.L.1984, c.218 (C.5:12-144.1); the taxes and fees imposed by sections 3, 4 and 6 of P.L.2003, c.116 (C.5:12-148.1, C.5:12-148.2 and C.5:12-145.8) and any interest and penalties collected by the Director of the Division of Taxation in the Department of the Treasury in addition to those taxes; and all penalties levied and collected by the commission pursuant to P.L.1977, c.110 (C.5:12-1 et seq.) and the regulations promulgated thereunder, except that the first \$600,000 in penalties collected each fiscal year shall be paid into the General Fund for appropriation by the Legislature to the Department of Health and Senior Services, \$500,000 of which is to provide funds to the Council on Compulsive Gambling of New Jersey and \$100,000 of which is to provide funds for compulsive gambling treatment programs in the State. In the event that less than \$600,000 in penalties are collected, the Department of Health and Senior Services shall determine the allocation of funds between the Council and the treatment programs eligible under the criteria developed pursuant to section 2 of P.L.1993, c.229 (C.26:2-169).

b. The commission shall require at least monthly deposits by the licensee of the tax established pursuant to subsection a. of section 144 of P.L.1977, c.110 (C.5:12-144), at such times, under such conditions, and in such depositories as shall be prescribed by the State Treasurer. The deposits shall be deposited to the credit of the Casino Revenue Fund. The commission may require a monthly report and reconciliation statement to be filed with it on or before the 10th day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

c. Moneys in the Casino Revenue Fund shall be appropriated exclusively for reductions in property taxes, rentals, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, as shall be provided by law. On or about March 15 and September 15 of each year, the State Treasurer shall publish in at least 10 newspapers circulating generally in the State a report

accounting for the total revenues received in the Casino Revenue Fund and the specific amounts of money appropriated therefrom for specific expenditures during the preceding six months ending December 31 and June 30.

8. Section 1 of P.L.1993, c.159 (C.5:12-173.1) is amended to read as follows:

C.5:12-173.1 Findings, declarations relative to redevelopment in Atlantic City.

1. The Legislature finds that the single most significant factor contributing to the cost of constructing, maintaining, operating and supporting highways, roads and infrastructure, in Atlantic City, and particularly in the "corridor" region of the city, is the heavy volume of motor vehicular traffic occasioned by the attraction of casino gambling in Atlantic City. This traffic is encouraged by the provision of free parking by casino operations, by the relative underdevelopment of public transportation services, and by the shortage of hotel accommodations in the city. While the Legislature has taken various measures, most notably the "South Jersey Transportation Authority Act," P.L.1991, c.252 (C.27:25A-1 et al.), to provide and improve public transportation services in the South Jersey region as an alternative to the use of motor vehicles, the heavy capital costs associated with reconstruction of the corridor region's infrastructure require a continuous source of public funding. The Legislature declares, therefore, that it is in the public interest to require a standard minimum charge for casino parking within Atlantic City, and to impose fees on amounts received from those charges, with the proceeds of those fees to be used by the Casino Reinvestment Development Authority for projects which are related to improving the highways, roads, infrastructure, traffic regulation and public safety of the city, or which are otherwise necessary or useful to the economic development and redevelopment of the city in this regard. It is also in the public interest to establish a special temporary fund for the use of existing moneys of the authority for the provision of financial assistance to casino licensees to construct, reconstruct or rehabilitate hotel rooms in Atlantic City.

The Legislature declares that it is the public purpose of this amendatory act, P.L.1996, c.118 (C.5:12-173.3a et al.), that financial assistance to casino licensees to construct, reconstruct or rehabilitate hotel rooms in Atlantic City shall be determined after excluding costs reasonably related to space used for the conduct of casino gaming. It was, and continues to be, the public purpose of P.L.1993, c.159 (C.5:12-173.1 et seq.) that financial assistance may be provided to a project which includes, incorporates, facilitates or supports space used for the conduct of casino gaming in a casino hotel facility, but only for costs reasonably related to hotel rooms and their appurtenant facilities in the project.

The Legislature declares that it is the public purpose of this amendatory and supplementary act, P.L.2003, c.116 (C.5:12-148.1 et al.), that the proceeds of the increase in the fee imposed on the minimum charge for casino hotel parking within Atlantic City be deposited into the Casino Revenue Fund in State fiscal years 2004 through 2006, in order to assist the Casino Revenue Fund, and thereafter for use for the purposes specified.

9. Section 2 of P.L.1993, c.159 (C.5:12-173.2) is amended to read as follows:

C.5:12-173.2 Minimum charge of \$3.00 imposed for use of casino parking facility.

2. On and after July 1, 1993, there is established a minimum amount which shall be charged in the City of Atlantic City for the use of a parking space for the purpose of parking, garaging or storing a motor vehicle in a parking facility or property owned or leased by a casino hotel licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a casino hotel. The charge shall be not less than \$3.00 per day for each motor vehicle parked, garaged or stored in the parking space. The charge shall be made for all motor vehicles so parked, garaged or stored, except for motor vehicles owned or leased by the owner or operator of the parking facility or property, or by an employee of the casino hotel which owns or leases the parking facility or property. A parking space is considered to be that of a licensed casino hotel if the facility or property in which the space is located is owned, wholly or in part, or leased by the casino hotel, and is utilized in whole or in part in conjunction with the

operations of the casino hotel. A parking space shall be considered to be on behalf of a casino hotel if spaces within the facility or property are kept under lease or contract for the use of visitors or guests of the casino hotel. No motor vehicle shall be required, upon proof of payment of the \$3.00 charge, to pay the charge again in the same calendar day, either for use of a parking space in the same parking facility or property, or for use of a parking space in another casino hotel parking facility or property.

10. Section 3 of P.L.1993, c.159 (C.5:12-173.3) is amended to read as follows:

C.5:12-173.3 Minimum fee of \$3.00 imposed for use of casino parking space.

3. On and after July 1, 1993, there is imposed in the City of Atlantic City a fee upon the use of spaces for the parking, garaging or storing of motor vehicles in a parking facility or property owned or leased by a casino hotel licensed under the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.), or by any person on behalf of a casino hotel. The fee so imposed is \$3.00 of the amount received by the casino hotel or person from each charge made for the use of a parking space; provided, however, that if the casino hotel or person shall fail to collect, or shall rebate, all or a portion of the charge required herein to be imposed for the use of any parking space, the full amount of the fee shall be payable by the casino hotel or person.

11. Section 4 of P.L.1993, c.159 (C.5:12-173.4) is amended to read as follows:

C.5:12-173.4 Special fund, use of fees.

4. a. The State Treasurer shall deposit the first \$1.50 of the fee collected pursuant to section 3 of this act, P.L.1993, c.159 (C.5:12-173.3) into a special fund established and held by the State Treasurer and made available for the exclusive use of the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153), and shall deposit the remaining \$1.50 of the fee into the Casino Revenue Fund established pursuant to section 145 of P.L.1977, c.110 (C.5:12-145) in State fiscal years 2004 through 2006. Beginning in State fiscal year 2007 and thereafter, the State Treasurer shall deposit the remaining \$1.50 of the fee as follows: \$0.50 into the Casino Revenue Fund and \$1.00 to the authority for its purposes pursuant to law, as approved by the membership of the authority, provided that the authority shall use the portion of this \$1.00 that is necessary to carry out the purpose of section 13 of P.L.2003, c.116 (C.5:12-173.22).

b. Amounts in the special fund shall be expended by the authority for eligible projects in the corridor region of the City of Atlantic City in Atlantic County as defined by regulation of the authority, which are related to improving the highways, roads, infrastructure, traffic regulation and public safety of that city or which are otherwise necessary or useful to the economic development and redevelopment of the city in this regard. The State Treasurer may require that a financial plan demonstrating the need, schedule and use for moneys placed in the special fund be approved by the State Treasurer prior to allocation. Pending application of moneys held in this special fund for these purposes, the moneys shall be invested in accordance with applicable law and income therefrom shall be credited exclusively to the special fund.

12. Section 5 of P.L.1993, c.159 (C.5:12-173.5) is amended to read as follows:

C.5:12-173.5 Responsibility for collection of fees.

5. Each person subject to the provisions of section 3 of P.L.1993, c.159 (C.5:12-173.3) shall be responsible for the collection of the fees imposed pursuant thereto, which shall be collected as part of the charge made for the use of a parking space. Amounts so collected shall be forwarded to the Director of the Division of Taxation in the Department of the Treasury. The director, in administering the provisions of P.L.1993, c.159, shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues collected by the director pursuant to this section which are payable as directed by section 4 of P.L.1993, c.159 (C.5:12-173.4). The State Treasurer, upon certification of the director and upon warrant of the State Comptroller, and

subject to the pertinent requirements of section 4 of P.L.1993, c.159 (C.5:12-173.4) shall pay and distribute on a monthly basis pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4) the amount so certified.

C.5:12-173.22 Issuance of bonds by CRDA, establishment of Casino Capital Construction Fund.

13. a. Notwithstanding any other law to the contrary, the Casino Reinvestment Development Authority established pursuant to section 5 of P.L.1984, c.218 (C.5:12-153) shall issue bonds sufficient to generate \$30 million for deposit into the Casino Capital Construction Fund created by this section, so that \$10 million shall be available in each State fiscal year for designation and reserve pursuant to subsection d. of this section, except that the authority shall issue bonds to generate an amount greater than \$30 million and make available more than \$10 million annually as may be necessary to ensure that for each casino licensee there is designated and reserved the maximum share provided for in subsection d. of this section. The principal and interest of such bonds shall be repaid exclusively from the revenue dedicated to the authority for this purpose pursuant to section 4 of P.L.1993, c.159 (C.5:12-173.4), as amended by section 11 of P.L.2003, c.116.

b. The authority shall establish a Casino Capital Construction Fund, into which the authority shall hold and make available for the exclusive use of casino licensees for eligible projects approved by the authority, the amount directed to be deposited into the fund pursuant to subsection a. of this section.

c. Amounts in this fund shall be distributed to a casino licensee for eligible capital construction projects approved by the membership of the authority for the following types of expansion: to increase the square footage of retail space, parking spaces or casino hotel rooms or to create a significant physical amenity or improvement. The authority shall promulgate regulations establishing criteria governing the approval of eligible projects.

d. Of the amounts available in the fund in each State fiscal year pursuant to subsection a. of this section, the authority shall designate and reserve in State fiscal years 2004 through 2006 for each casino licensee a maximum share of the available \$10 million or such greater amount as may be necessary, which maximum share shall be calculated as follows: the greater of (1) the casino licensee's total payment of the adjusted net income tax imposed pursuant to section 5 of P.L.2003, c.116 (C.5:12-148.3) in State fiscal year 2004, 2005 or 2006, as appropriate, divided by the sum of payments by all casino licensees of that tax in State fiscal year 2004, 2005 or 2006, as appropriate, or (2) an amount equal to one half of the amount of tax paid in State fiscal year 2004, 2005, or 2006 as appropriate. A casino licensee may receive a distribution up to the licensee's maximum share in each State fiscal year and the share of the fund so designated and reserved for a casino licensee that has not been distributed by June 30, 2014 shall be forfeited to the authority for use for its purposes pursuant to law for projects located within the boundaries of the City of Atlantic City, County of Atlantic, as approved by the membership of the authority.

e. Notwithstanding any provisions of P.L.1984, c.218 (C.5:12-153 et seq.) or any other law to the contrary, the authority shall issue bonds, the principal, interest or redemption premiums on which are to be payable in all from amounts to be deposited in the fund established pursuant to this section in the manner provided in sections 6 and 7 of P.L.1993, c.159 (C.5:12-173.6 and 173.7)

14. Section 24 of P.L.1977, c.110 (C.5:12-24) is amended to read as follows:

C.5:12-24 "Gross revenue."

24. "Gross Revenue"--The total of all sums, including checks received by a casino licensee pursuant to section 101 of this act, whether collected or not, actually received by a casino licensee from gaming operations, less only the total of all sums paid out as winnings to patrons; provided, however, that the cash equivalent value of any merchandise or thing of value included in a jackpot or payout shall not be included in the total of all sums paid out as winnings to patrons for purposes of determining gross revenue. "Gross Revenue" shall not include any amount received by a casino from casino simulcasting pursuant to the "Casino Simulcasting Act,"

P.L.1992, c.19 (C.5:12-191 et al.).

For the purposes of this section, any check which is invalid and unenforceable pursuant to subsection f. of section 101 of P.L.1977, c.110 (C.5:12-101) shall be treated as cash received by the casino licensee from gaming operations.

15. This act shall take effect immediately.

Approved July 1, 2003.