

(b) The Commission shall offer the Division an opportunity to complete a criminal records check and to provide a written statement of its position on any petition filed pursuant to this section.

(c) The Commission shall grant a petition filed pursuant to this section if it finds that the facts and circumstances presented establish good cause for relief.

(d) If the Commission denies a petition for permission to obtain employment as a CHAB employee, the petitioner shall be restricted from filing another petition pursuant to this section for a period of two years from the date that the petition is denied.

New Rule, R.1996 d.69, effective February 5, 1996.
See: 27 N.J.R. 3916(a), 28 N.J.R. 897(a).

SUBCHAPTER 9. FEES

19:41-9.1 General description of fees and policy

(a) Under the Act, the Commission and Division are required to be financed exclusively from fees charged each fiscal year to applicants, licensees and registrants. Generally, the Act divides fees into two broad categories: those pertaining to casino licenses and those pertaining to all other forms of licensure or approval. Section 139 of the Act requires the Commission to establish, by regulation, fees for the issuance and renewal of casino licenses. The statutory basis for the casino license issuance fee is the cost of investigation and consideration of the application. The statutory basis for the casino license renewal fee is the cost of maintaining the control and regulatory activities of the Commission and the Division. In contrast, section 141 of the Act requires the Commission to establish, by regulation, issuance and renewal fees for all non-casino licenses, but indicates no cost basis for establishing such fees.

(b) The differing treatment of these categories reflects a legislative recognition and judgment that casino applicants and licensees benefit directly or indirectly from all aspects of the regulatory process and are best suited to bear the largest share of the costs incurred by the agencies in implementing that process. Moreover, the experience of the Commission and the Division reveals that the actual cost of investigating and considering applications for individual employee licenses and casino service industry licenses frequently exceeds the amount which those applicants and licensees may fairly be required to pay as fees. The fee structure established by these regulations is designed to respond to these policies and problems.

(c) To the extent fairly possible, each applicant or licensee should pay the investigatory or regulatory costs attributable to that applicant or licensee. However, since individual employees and casino service industry enterprises cannot

always be expected to cover the full amount expended, there will be an amount of the annual combined budgets of the agencies which will not be recoverable through specified fees for particular services. This amount cannot be predicted with precision because of the necessarily variable allocation of Commission and Division efforts.

(d) Given the mandate of the Act to recover the cost of maintaining control and regulatory activities from casino license renewal fees and given the fact that all such activities are undertaken for the direct or indirect benefit or protection of casino operations, the obligation to supply additional funds necessary to recover the otherwise uncollected expenditures of the agencies should be allocated among the licensed casino facilities.

(e) In the event that the Casino Control Fund has a surplus as of the close of a fiscal year, other than a surplus due to estimated payments against an expected deficiency, the surplus should be credited to the extent possible to the individual licensees who made the surplus payments. Since, as noted in (c) above, fees charged to persons other than casino licensees are no more than and frequently less than the actual cost of the investigatory and regulatory services actually attributable to them and since the casino licensees, through various hourly and other charges, contribute the overwhelming majority of all fees generated by the agencies, any surplus in the Casino Control Fund may be attributable to payments made by the casino licensees. Further, since it is not feasible to ascertain precisely the source of the surplus due to the variety of charges levied against the casino licensees and the numerous variables affecting the revenues and expenditures of the agencies, it is reasonable and equitable to distribute the surplus by granting credit to the casino licensees against future fee obligations and to allocate the credit among the licensees in proportion to the relative amount of total fees incurred or paid by each casino licensee with respect to the fiscal year.

Amended by R.1981 d.367, effective October 8, 1981.
See: 13 N.J.R. 531(b), 13 N.J.R. 709(a).

Added subsection (d).

Amended by R.1985 d.583, effective November 18, 1985.

See: 17 N.J.R. 2242(a), 17 N.J.R. 2788(a).

(e) added.

Amended by R.1993 d.253, effective June 7, 1993 (operative July 1, 1993).

See: 25 N.J.R. 1080(a), 25 N.J.R. 2506(c).

Case Notes

Citation: Atlantic City Casino Hotel Assn. v. Casino Control Commission, 203 N.J.Super. 230 (App.Div.1985), certiorari denied 102 N.J. 326 (1985).

19:41-9.2 Fiscal year

For purposes of this subchapter, a fiscal year shall be the period commencing on July 1 and ending the subsequent June 30.

19:41-9.3 Payment of fees and civil penalties

(a) No application shall be accepted for filing by the Commission or processed by the Commission or the Division except upon proper and timely payment of all required fees and civil penalties in accordance with the Act and the regulations of the Commission. Any portion of a fee which is incurred or determined after the filing of the application or which is estimated in accordance with this subchapter, and any civil penalty imposed by the Commission, shall be payable upon demand made by the Commission through its Division of Financial Evaluation. Failure to promptly remit any amount so demanded shall be deemed a failure to timely pay the required fee or civil penalty unless the Commission finds cause to permit an extension of time in which to remit the demanded amount.

(b) Any fee or civil penalty required to be paid in accordance with this subchapter or pursuant to an order of the Commission shall be paid before the Commission shall consider the application for issuance or renewal of licensure, unless the Commission finds cause to permit an extension of time in which to pay such fee or civil penalty.

(c) All fees and civil penalties shall be paid by check or money order made payable, in the case of fees, to the "Casino Control Fund" and, in the case of civil penalties, to the "Casino Revenue Fund," and presented to the Commission at its offices. No check so presented shall be deemed payment until the Commission shall be satisfied that sufficient funds are contained in the account against which it is drawn.

(d) Unless otherwise directed by the Commission, all payments of fees or civil penalties received from licensees, registrants or applicants shall be credited against, in chronological order (the oldest shall be paid first), any outstanding debts for fees or civil penalties that the person owes pursuant to the Act and the regulations of the Commission.

(e) A required fee or civil penalty shall be considered paid only if the Commission is satisfied that the person obligated to pay the fee or civil penalty owes no other debts for fees or civil penalties.

(f) Any required fee or civil penalty that a person fails to pay despite demand therefor shall constitute cause for the Commission to take the following administrative actions, as applicable, with regard to such person:

1. Dismiss any application submitted by such person;
2. Suspend any license or registration held by such person;
3. Suspend any permission granted to such person pursuant to N.J.A.C. 19:41-8.10 or 8.11;
4. Prohibit the filing of an application for any license or registration;

5. Prohibit employment by a casino licensee or applicant in a position that does not require a license or registration;

6. Prohibit the transaction of any direct or indirect business with a casino licensee or applicant;

7. Prohibit the holding of a position with any casino service industry licensee or applicant for which such person would be required to establish his or her qualification pursuant to N.J.A.C. 19:51-1.14;

8. Prohibit the holding of a principal employee position as defined in N.J.A.C. 19:41-5.11(a)12 or 5.12(a)10 with any vendor registrant or junket enterprise registrant; and

9. Prohibit the holding of a position with any casino licensee for which such person would be required to establish his or her qualification pursuant to N.J.A.C. 19:43-2.2.

(g) The provisions of (f) above shall apply without regard to whether the license or registration was issued, the permission was granted, the application was submitted or the Vendor or Junket Registration Form was filed before the debt arose.

Amended by R.1992 d.35, effective January 21, 1992.

See: 23 N.J.R. 3249(a), 24 N.J.R. 298(a).

Revised text.

Amended by R.1996 d.248, effective June 3, 1996.

See: 28 N.J.R. 1497(a), 28 N.J.R. 3007(a).

Amended by R.1999 d.151, effective May 17, 1999.

See: 31 N.J.R. 521(a), 31 N.J.R. 1359(b).

Rewrote (f); and in (g), inserted "or the Vendor or Junket Registration Form was filed" following "submitted" and made a corresponding language change.

19:41-9.4 Casino license fees

(a) For the purposes of this section, the following words and terms shall have the meanings herein ascribed to them unless a different meaning clearly appears from the context:

1. "Casino license" means a plenary casino license issued under Section 87 of the Act;

2. "Licensed casino facility" means a casino hotel facility as to which a casino license has been issued to authorized gaming operations;

3. "Casino operator" means a casino licensee is designated as the primary obligor for payment of gross revenues taxes in accordance with N.J.A.C. 19:54-1.2;

4. "Initial license fee" or "Issuance fee" means the total fee which is required by the Act and these regulations to be paid prior to consideration or issuance of a plenary casino license to an unlicensed applicant and which is based upon the cost of investigating and considering the application;

5. "License renewal fee" means the total fee which is required by the Act and these regulations to be paid prior to the renewal of a plenary casino license under Section 88 of the Act and which is based upon the cost of investigating and considering the application and of maintaining control and regulatory activities of the Commission and the Division.

(b) No application for the issuance or renewal of a casino license shall be accepted for filing by the Chairman unless a nonrefundable deposit of \$100,000 shall first have been paid in full. Such deposit shall be applied to the initial license fee or renewal fee if the application is approved.

(c) No casino license shall be issued unless the applicant shall first have paid in full an issuance fee of not less than \$200,000.

(d) No casino license shall be renewed unless the applicant shall first have paid in full a renewal fee of not less than \$100,000 for each one-year license renewal, and not less than \$200,000 for each four-year license renewal.

(e) As a component of its initial license fee or renewal fee and as a condition of casino licensure, each applicant or licensee shall be required to pay for the efforts of the Commission and the Division on matters directly related to the applicant or licensee at hourly rates to be set by the Commission in accordance with this subsection, and to reimburse any unusual costs or out of pocket expenses incurred by the Commission or the Division in regard to such matters.

1. Prior to the start of each fiscal year, the Commission shall determine the hourly fee rates to be paid by licensees and applicants pursuant to this subchapter. These rates shall be based upon the hourly costs of services provided by Commission professional staff, Commission inspection staff and Division professional staff during the fiscal year, as estimated from the projected fiscal year budget for the Commission and the Division.

2. The projected hourly fee rates established pursuant to (e)1 above may be adjusted by the Commission during the fiscal year based upon the final fiscal year budget approved for the Commission and the Division by the Legislature.

3. Notice of the hourly fee rates established pursuant to (e)1 above shall be published in the New Jersey Register.

(f) A licensed casino facility shall be required to pay, as a component of the renewal fee for any casino license necessary to casino or casino simulcasting operations therein and as a condition of any such casino license renewal, a share of the amount of any liability of the Casino Control Fund existing as of the close of business on June 30 of each fiscal year. The share for each licensed casino facility shall be the amount which bears the same proportion to the total liability

of all licensees as the proportion which that licensed casino facility's average daily authorized casino room and casino simulcasting facility square footage bears to the total average daily authorized casino room and casino simulcasting facility square footage for all licensed casino facilities. For purposes of this calculation any part of a calendar day shall be considered a full day. Any days during which a necessary casino license or operation certificate for a licensed casino facility has been suspended shall also be counted in determining the share of such facility. Further, the operation of the facility by a conservator or trustee shall be deemed continued operation by the casino operator for these purposes. The obligation to pay the assessed share of a licensed casino facility shall be that of the casino operator; provided, however, that if a change of casino operators occurs during the fiscal year, each such operator shall be liable for an amount of the share apportioned according to the time during which each operator functioned. Any share calculated in accordance with this section shall be paid in full by December 31 of the year following the fiscal year. The Commission, through its Division of Financial Evaluation, may estimate from time to time during the fiscal year the share for each licensed casino facility incurred to that time and require payment of such estimated share on a monthly or other periodic basis during the fiscal year.

Amended by R.1981 d.367, effective October 8, 1981.

See: 13 N.J.R. 531(b), 13 N.J.R. 709(a).

Added (f).

Amended by R.1984 d.272, effective July 2, 1984.

See: 16 N.J.R. 1066(a), 16 N.J.R. 1809(a).

(e) Substantially amended.

Amended by R.1985 d.583, effective November 18, 1985.

See: 17 N.J.R. 2242(a), 17 N.J.R. 2788(a).

Added text to (f) "Any share calculated . . . such estimated share."

Amended by R.1988 d.591, effective December 19, 1988 (operative January 1, 1989).

See: 20 N.J.R. 2539(a), 20 N.J.R. 3146(a).

Deleted old (e)1 and substituted new.

Amended by R.1992 d.256, effective June 15, 1992.

See: 24 N.J.R. 1247(a), 24 N.J.R. 2295(a).

In (d): added text setting forth \$200,000 renewal fee for each two-year license renewal; added "one-year license" renewal in sentence setting forth \$100,000 renewal fee.

In (e): deleted specific hourly rates and added ". . . hourly rates to be set by the Commission in accordance with this subsection . . ."

Added new (e)1-3, recodifying existing (e)1-2 as part of subsection (e). Public Notice: hourly fee rates.

See: 25 N.J.R. 1012(a).

Amended by R.1993 d.253, effective June 7, 1993 (operative July 1, 1993).

See: 25 N.J.R. 1080(a), 25 N.J.R. 2506(c).

Public Notice: hourly fee.

See: 25 N.J.R. 2775(c).

Public Notice: hourly fee.

See: 26 N.J.R. 2476(a).

Public Notice: hourly fee rates.

See: 26 N.J.R. 3216(c).

Amended by R.2000 d.196, effective May 15, 2000.

See: 32 N.J.R. 645(a), 32 N.J.R. 1784(b).

In (d), substituted a reference to four-year license renewals for a reference to two-year license renewals.

Case Notes

Assessment procedure consistent with Casino Control Act and necessary for its implementation. Atlantic City Casino Hotel Assn. v. Casino

Control Commission, 203 N.J.Super. 230 (App.Div.1985), certiorari denied 102 N.J. 326 (1985).

19:41-9.5 Fees for testing of gaming and simulcast wagering equipment and related devices and software

(a) Any person seeking to have prototype gaming or simulcast wagering equipment or related devices or software approved pursuant to N.J.A.C. 19:46-1.20(a)1 and, if applicable, 1.28 shall be required to pay the following fee:

1. An initial minimum charge of \$500.00, which shall be credited to the total fee;
2. Payment for the efforts of the Commission and the Division on matters directly related to the examination, testing and consideration of the prototype at hourly rates to be set by the Commission in accordance with N.J.A.C. 19:41-9.4(e); and
3. Payment for all unusual or out of pocket expenses incurred by the Commission or the Division for matters directly related to the examination, testing and consideration of the prototype.

New Rule, R.1999 d.173, effective June 7, 1999.
See: 30 N.J.R. 2164(a), 31 N.J.R. 1502(a).

19:41-9.6 Slot machine fees

In addition to any other tax or fee imposed by the Act or the regulations of the Commission and as required by Section 140 of the Act, each casino operator shall pay an annual license fee of \$500.00 upon every slot machine maintained for use in or in use in the licensed casino establishment. The annual slot machine license fee shall be imposed as of the first day of July of each year with regard to all slot machines maintained for use or in use on that date, and a pro rata basis thereafter during the year with regard to all slot machines maintained for use or placed in use after July 1.

Amended by R.1984 d.272, effective July 2, 1984.
See: 16 N.J.R. 1066(a), 16 N.J.R. 1809(a).

Subsection (b) amended.

Amended by R.1988 d.591, effective December 19, 1988 (operative January 1, 1989).

See: 20 N.J.R. 2539(a), 20 N.J.R. 3146(a).

Added text to (b) "at the rate ..."; deleted text in (b) "at the rate of \$40.00 per hour".

Amended by R.1992 d.118, effective March 16, 1992.

See: 23 N.J.R. 3729(a), 24 N.J.R. 970(c).

Deleted existing subsection (c) on permits for out-of-state slot machine manufacturers and distributors. Deleted \$500.00 permit fee. Amended by R.1992 d.256, effective June 15, 1992.

See: 24 N.J.R. 1247(a), 24 N.J.R. 2295(a).

In (b): Deleted specific hourly rates and added text regarding hourly rates "to be set by the Commission in accordance with N.J.A.C. 19:41-9.4(e)."

Public Notice: Hourly fee rate \$68, effective March 1, 1993.

See: 25 N.J.R. 1012(a).

Amended by R.1999 d.173, effective June 7, 1999.

See: 30 N.J.R. 2164(a), 31 N.J.R. 1502(a).

Deleted former (a) designation; and deleted a former (b).

19:41-9.7 Casino hotel alcoholic beverage licenses

(a) Under Section 103 of the Act no business may expose for sale, solicit or promote the sale of, possess with intent to sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on or about any portion of the premises of a casino hotel unless said business possesses an appropriate casino hotel alcoholic beverage license.

(b) The fee for the issuance or renewal of a casino hotel alcoholic beverage license for a casino licensee conducting alcoholic beverage activity in a casino hotel shall be assessed as follows:

1. Payment for the efforts of the Commission and the Division on matters directly related to the casino hotel alcoholic beverage license or application at hourly rates to be set by the Commission in accordance with N.J.A.C. 19:41-9.4(e); and

2. Payment for any unusual or out-of-pocket expenses incurred by agents or employees of the Commission and Division on matters directly related to the casino hotel alcoholic beverage license or application.

(c) The fee for the issuance or renewal of a casino hotel alcoholic beverage license for a casino service industry licensee which is not affiliated with any casino licensee shall be \$1,000 for each location approved by the Commission for any or all of the activities listed in section 103.

(d) The fee for the issuance or renewal of a restricted brewery authorization shall be assessed as follows:

1. For a casino licensee, in accordance with (b) above; and

2. For a casino service industry licensee which is not affiliated with any casino licensee, a fee of \$1,000.

(e) The fee for the issuance of any permit or approval required by the Act or Title 33 of the Revised Statutes for an alcoholic beverage activity which is not included within a casino hotel alcoholic beverage license shall be assessed:

1. For a casino licensee, in accordance with (b) above;

2. For all other persons, at a rate of \$50.00 per day.

Amended by R.1983 d.80, effective March 21, 1983.

See: 14 N.J.R. 1364(a), 15 N.J.R. 449(c).

Added \$5,000 fee to be assessed for each location within the casino hotel. All storage areas to be deemed a licensable location. Fee to be pro rated for after acquired licenses.

New Rule, R.1987 d.109, effective February 17, 1987.

See: 18 N.J.R. 2379(a), 19 N.J.R. 381(a).

Deleted old text.

Amended by R.1988 d.591, effective December 19, 1988 (operative January 1, 1989).

See: 20 N.J.R. 2539(a), 20 N.J.R. 3146(c).

Added new (b)1 and deleted old (b)1; deleted (e).

Amended by R.1992 d.256, effective June 15, 1992.

See: 24 N.J.R. 1247(a), 24 N.J.R. 2295(a).

In (b)1: Deleted specific hourly rates and added text regarding hourly rates "to be set by the Commission in accordance with N.J.A.C. 19:41-9.4(e)."

Public Notice: Hourly fee rates.

See: 25 N.J.R. 1012(a).

Public Notice: Hourly fee rates.

See: 25 N.J.R. 2775(c).

Public Notice: Hourly fee rates.

See: 26 N.J.R. 3216(c).

Amended by R.1997 d.460, effective November 3, 1997.

See: 29 N.J.R. 3706(a), 29 N.J.R. 4715(b).

Inserted new (d), and recodified existing (d) as (e).

**19:41-9.8 Gaming related casino service industry
enterprise license fee**

(a) In accordance with subsections 92a and b of the Act, all casino service industry enterprises offering goods and services which directly relate to casino, simulcast wagering or gaming activity, including gaming equipment manufacturers, suppliers and repairers, schools teaching gaming and dealing techniques, and casino security services, shall meet the standards established for casino key employees in order to be licensed. Such a license shall be issued for an initial term of two years and for a term of four years for all subsequent renewals.

(b) In order to recover the cost of the investigation and consideration of license applications by enterprises engaged in these industries, the initial license application and issuance fee for a subsection 92a casino service industry enterprise license shall be assessed as follows:

1. A minimum application charge of \$5,000;

2. An additional application charge of \$5,000 if the efforts of the Commission and the Division on matters directly related to the applicant require more than 1,000 hours but less than 2,000 hours of time attributable to processing and investigation of the application, or \$10,000 if such efforts require 2,000 or more such hours; and

3. Payment for all unusual or out of pocket expenses incurred by the Commission or the Division for matters directly related to the processing and investigation of the application.

(c) In order to recover costs for monitoring compliance with the Act and the regulations and for assuring the continued fitness of enterprises engaged in gaming related casino service industries, the application and issuance fee for the renewal of a subsection 92a casino service industry enterprise license shall be assessed in accordance with (b) above.

(d) Any enterprise required to apply for the issuance or renewal of a subsection 92a casino service industry enterprise license may request an installment plan for payment of the application fee in (b)1 above in accordance with the following schedule:

1. Upon filing of the application, an initial installment payment equal to one-fourth of the application fee and an additional fee of \$100.00 for the cost of processing such payment plan; and