

CHAPTER 43**CASINO LICENSEES****Authority**

N.J.S.A. 5:12-63(1)a, 69a, 70a, 70b, 70h, 70i, 70o, 80 through 88, 96, 98, 102, and 130.1 through 130.11.

Source and Effective Date

R.2007 d.209, effective June 7, 2007.
See: 39 N.J.R. 1246(a), 39 N.J.R. 2545(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 43, Casino Licensees, expires on June 7, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 43, Casino Service Industries, was adopted as R.1978 d.50, effective February 16, 1978. See: 10 N.J.R. 4(b), 10 N.J.R. 128(c).

Chapter 43, Casino Service Industries, was recodified as Chapter 51, Casino Service Industries, by R.1992 d.500. As part of R.1992 d.500, Chapter 43, Casino Licensees, was adopted as new rules, effective December 21, 1992. See: 24 N.J.R. 3225(a), 24 N.J.R. 4563(a). See, also, Chapter 51, Casino Service Industries, Historical Note for rulemaking history. As part of R.1992 d.500, Subchapter 6, Casino Hotel Facility Requirements, was recodified from N.J.A.C. 19:41-2; Subchapter 13, Conservatorship, was recodified from N.J.A.C. 19:41-1.13; Subchapter 14, Advertising, was recodified from N.J.A.C. 19:51-1; and Subchapter 15, Entertainment, was recodified from N.J.A.C. 19:52-1.

Subchapter 5, Application Requirements, and Subchapter 11, Renewal of Casino License, were adopted as new rules by R.1994 d.341, effective July 5, 1994. See: 26 N.J.R. 1615(a), 26 N.J.R. 2798(e).

Subchapter 7, Operation Certificate, was adopted as new rules by R.1994 d.265, effective June 6, 1994. See: 25 N.J.R. 5893(a), 26 N.J.R. 2463(a).

Subchapter 16, Underage Gaming, was adopted as new rules by R.1995 d.495, effective September 5, 1995. See: 27 N.J.R. 2567(a), 27 N.J.R. 3393(a).

Pursuant to Executive Order No. 66(1978), Chapter 43, Casino Licensees, was readopted as R.1998 d.52, effective December 18, 1997. See: 29 N.J.R. 4669(a), 30 N.J.R. 382(a).

Chapter 43, Casino Licensees, was readopted as R.2002 d.137, effective April 15, 2002. See: 34 N.J.R. 379(a), 34 N.J.R. 1734(a).

Chapter 43, Casino Licensees, was readopted as R.2007 d.209, effective June 7, 2007. See: Source and Effective Date.

Subchapter 1, General Provisions, Subchapter 2, Persons Required to Be Licensed or Qualified, Subchapter 3, Standards for Licensure or Qualification, Subchapter 4, Financial Stability of Casino Licensees and Applicants, Subchapter 6, Casino Hotel Facility Requirements, Subchapter 7, Operation Certificate, Subchapter 8, Continuing Obligations of Casino Licensees and Qualifiers, Subchapter 9, Employment Requirements, Subchapter 10, Requirements for Doing Business with Vendors, Subchapter 11, Renewal of Casino License, Subchapter 14, Advertising, Subchapter 15, Entertainment, and Subchapter 16, Underage Gaming, were repealed by R.2011 d.306, effective December 19, 2011. See: 43 N.J.R. 2466(a), 43 N.J.R. 3414(a).

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SUBCHAPTERS 14 THROUGH 16. (RESERVED)**SUBCHAPTERS 1 THROUGH 4. (RESERVED)****SUBCHAPTER 5. APPLICATION REQUIREMENTS****19:43-5.1 General information requirements**

No casino license shall be issued or renewed by the Commission unless the applicant, and each person required to be qualified as part of the application, provides all information, documentation and assurances required by N.J.S.A. 5:12-80, 82, 83, 84, 85, 86 and 87 or as otherwise may be required to establish its qualification pursuant to the Act and the rules of the Commission.

19:43-5.2 Duration of license; conditions

(a) In accordance with N.J.S.A. 5:12-87e and 88, a casino license shall be issued by the Commission for an initial period of one year, and shall be renewable thereafter for a period of up to five years.

(b) A casino license may be issued or renewed subject to such conditions, restrictions, limitations or covenants as the Commission, in its discretion, deems necessary.

Amended by R.1996 d.160, effective March 18, 1996.

See: 28 N.J.R. 75(a), 28 N.J.R. 1559(a).

Amended by R.2009 d.268, effective September 8, 2009.

See: 41 N.J.R. 2227(a), 41 N.J.R. 3314(a).

In (a), substituted "license" for "licensee" and "five" for "one year for each of the first two renewal terms, and up to four", and deleted "for successive renewal terms thereafter" following "years".

19:43-5.3 Contents of application for initial casino license

(a) An application for the initial issuance of a casino license shall include, without limitation, the following information, which shall be completed in accordance with the requirements of the Act and the rules of the Commission and any instructions included with the application materials:

1. A Business Entity Disclosure Form—Corporate (BED—Corporate) as set forth in N.J.A.C. 19:41-5.6 or Business Entity Disclosure Form—Partnership (BED—Partnership) as set forth in N.J.A.C. 19:41-5.6A for each of the following:

i. The casino license applicant;

ii. Each holding company or intermediary company of the applicant required to be qualified pursuant to N.J.S.A. 5:12-85b, d or e; and

iii. Each entity required to be qualified pursuant to N.J.S.A. 5:12-85c;

2. The appropriate Personal History Disclosure Form (PHDF) for the following:

i. For each natural person required to be qualified pursuant to N.J.S.A. 5:12-85c or e by virtue of his or her relationship to the applicant, the PHDF required by N.J.A.C. 19:43-2.6; and

ii. For each natural person required to be qualified pursuant to N.J.S.A. 5:12-85c and d by virtue of his or her relationship to a holding company or intermediary company of the applicant, the PHDF required by N.J.A.C. 19:43-2.7;

3. Such information and documentation as may be required by the Commission or the Division to establish the qualification of any person required to be qualified as a financial source pursuant to N.J.S.A. 5:12-84b;

4. Such information and documentation as may be requested by the Commission or the Division to demonstrate the financial stability, integrity and responsibility of the casino license applicant and each holding company or intermediary company of the applicant required to be qualified pursuant to N.J.S.A. 5:12-84a and 85 and N.J.A.C. 19:43-4, the integrity of its financial sources and adequacy of its financial resources pursuant to N.J.S.A. 5:12-84b, and sufficient business ability and the likelihood of suc-

cessful and efficient casino operations pursuant to N.J.S.A. 5:12-84d;

5. Such information and documentation as may be required by the Commission or the Division to establish compliance with N.J.S.A. 5:12-103, N.J.A.C. 19:50, Title 33 of the Revised Statutes (N.J.S.A. 33:1-1 et seq.), and the regulations, rulings and bulletins of the Division of Alcoholic Beverage Control. This information and documentation shall include, without limitation, the following:

i. A description of each casino hotel alcoholic beverage location, including the floor or level and the type of location as set forth in N.J.S.A. 5:12-103g and N.J.A.C. 19:50-1.4; and

ii. Architectural blueprints, floorplans or other such drawings, drawn to one-eighth inch scale or such other scale approved by the Commission, highlighting and identifying by name each alcoholic beverage location on those floors or levels containing such locations.

6. Such information and documentation as may be required by the Commission or the Division to establish compliance with N.J.S.A. 5:12-83, 84e and all other relevant facilities requirements of the Act and the rules of the Commission including, without limitation, the following:

i. A description of the proposed casino hotel site, including site plans, total acreage, total square footage, frontages and elevation;

ii. A description of the proposed casino hotel, including floor plans; and the total number of qualifying and non-qualifying sleeping units pursuant to N.J.S.A. 5:12-27 and 83, the number of sleeping units on each floor, the square footage of each unit and the average size of all units;

iii. A description of the casino room and casino simulcasting facility, including floor plans;

iv. The construction program, including estimated construction time and anticipated date of opening; the status of all required governmental and regulatory approvals and any conditions thereto; the project budget; and the architect, general contractor, construction manager and primary subcontractors, environmental consultant and interior designer; and

v. An impact statement and related material which establishes to the satisfaction of the Commission the suitability of the casino and related facilities in accordance with the standards set forth in N.J.S.A. 5:12-84e;

7. The information required in N.J.A.C. 19:53-2.4, 2.5, 2.6, 4.6 and 6.7 and such other information, documentation and assurances as may be requested by the Commission or the Division to ensure compliance with the equal employment and business opportunity and affirmative action requirements of N.J.S.A. 5:12-134 and 135 and N.J.A.C. 19:53;

8. The initial license fee required by N.J.A.C. 19:41-9.4; and

9. Any other information or documentation which the Commission or the Division may deem material to the qualification of the applicant, or of any person required to be licensed or qualified, pursuant to the Act and the rules of the Commission.

(b) The applicant shall file an original and three copies of each Personal History Disclosure Form required by (a) above, and an original and four copies of all other information required by (a) above, with the Commission in accordance with N.J.A.C. 19:40-3.5(b).

Amended by R.1999 d.416, effective December 6, 1999.
See: 31 N.J.R. 1585(a), 31 N.J.R. 4122(a).

In (a), inserted a new 5, recodified former 5 through 8 as 6 through 9, and in the new 6, deleted a former iv and recodified former v and vi as iv and v.

19:43-5.4 Petitions for waiver

(a) Upon the petition of a casino license applicant, the Commission, with the concurrence of the Director, may waive compliance with the qualification requirements of N.J.S.A. 5:12-85d for an officer, director, lender, underwriter, agent, employee or security holder of a holding or intermediary company of a casino licensee pursuant to N.J.S.A. 5:12-85d(1), or for an institutional investor thereof pursuant to N.J.S.A. 5:12-85f. Such petition shall be in writing and shall include the following:

1. A description of all outstanding securities of the applicant and its holding companies and intermediary companies and a list of all holders thereof; and
2. A certification in support of the petition, including the following:
 - i. Compliance with the criteria for such waivers as set forth in N.J.S.A. 5:12-85d(1) or f; and
 - ii. A statement of compliance with the notice requirements set forth in N.J.A.C. 19:43-2.5(a) and (b).

Amended by R.2003 d.313, effective August 4, 2003.
See: 35 N.J.R. 1497(a), 35 N.J.R. 3564(a).

In (a), deleted "publicly traded" following "security holder of a" in the introductory paragraph.

19:43-5.5 Statements of compliance; commitment to reserve a casino license

(a) A casino license applicant may, pursuant to N.J.S.A. 5:12-81, file a petition requesting that the Commission issue a statement of compliance that the applicant has established compliance with one or more of the eligibility criteria required by the Act or the rules of the Commission for a casino license.

(b) A statement of compliance certifying satisfaction of the requirements of N.J.S.A. 5:12-84e may be accompanied by a

written commitment by the Commission to reserve a casino license in accordance with N.J.S.A. 5:12-81c.

Administrative correction.
See: 30 N.J.R. 1432(a).

19:43-5.6 Prehearing conference; hearing

(a) All hearings and prehearing conferences regarding an application for a casino license shall be conducted in accordance with N.J.A.C. 19:42 and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) A party other than the applicant may on motion seek leave to intervene or to participate in a hearing regarding an application for a casino license in accordance with the standards and procedures set forth in N.J.A.C. 1:1-16.

SUBCHAPTERS 6 THROUGH 12. (RESERVED)

SUBCHAPTER 13. CONSERVATORSHIP

19:43-13.1 Definitions

The following words and terms are defined in the New Jersey Casino Control Act (P.L.1977, c.110, as amended) and are used in this subchapter as defined in that Act:

"Conservatorship action"

Amended by R.1994 d.31, effective January 18, 1994.
See: 25 N.J.R. 4866(a), 26 N.J.R. 486(a).

19:43-13.2 Institution of casino license conservatorship and appointment of conservators

(a) Notwithstanding any other provision of the Act, upon the revocation of a casino license or upon, in the discretion of the Commission, the suspension of a casino license or operation certificate for a period of in excess of 120 days or upon the failure or refusal to renew a casino license and notwithstanding the pendency of any appeal therefrom, the Commission shall appoint and constitute a conservator to, among other things, take over and into his possession and control all the property and business of the licensee relating to the casino and the approved hotel.

(b) Notwithstanding any other provision of the Act, upon, in the discretion of the Commission, the expiration of a temporary casino permit, except in those circumstances where a casino license has been issued or a casino license has not been issued because of the inaction of the Commission or upon the revocation of a temporary casino permit or upon, in the discretion of the Commission, the suspension of a temporary casino permit or operation certificate for a period of in excess of 60 days or upon the denial of a casino license to a temporary casino permittee and notwithstanding the pendency

of an appeal therefrom, the Commission shall appoint and constitute a conservator to, among other things, take over and into his possession and control all the property and business of the temporary casino permittee relating to the casino and the approved hotel.

(c) Notwithstanding the foregoing, no conservator shall be constituted and appointed in any instance in which the casino hotel facility for which the casino license or temporary casino permit has been issued has not been, in fact, in operation and open to the public.

(d) The Commission may proceed in a conservatorship action in a summary manner or otherwise and shall have the power to appoint and remove one or more conservators.

19:43-13.3 Qualification of conservator

(a) No person shall be appointed as a conservator unless the Commission is satisfied that he is individually qualified according to the standard applicable to casino key employees, except that casino experience shall not be necessary for qualification.

(b) The Division shall investigate and report to the Commission with regard to the qualifications of each person who is proposed as a candidate to serve as a conservator.

19:43-13.4 Bonding of conservators

Every conservator shall, before assuming his duties, execute and file a bond for the faithful performance of his duties payable to the Commission in the office of the Commission with such surety or sureties and in such form as the Commission shall approve and in such amount as the Commission shall prescribe.

19:43-13.5 Powers of multiple conservators

When more than one conservator is appointed, the provisions of this subchapter applicable to one conservator shall be applicable to all and the debts and property of the former or suspended licensee or permittee may be collected and received by any of them and the powers and rights conferred upon them shall be exercised by a majority of them.

19:43-13.6 Powers and jurisdiction of the Commission

(a) At the time of the commencement of a conservatorship action, or at any time thereafter, the Commission shall have the power to enjoin the former or suspended licensee or permittee from exercising any of its privileges and franchises, from collecting or receiving any debts and from paying out, selling, assigning or transferring any of its property to other than a conservator, except as the Commission may otherwise order.

(b) A conservator shall at all times be subject to the Act and such regulations, limitations, restrictions, terms and conditions as the Commission may from time to time prescribe.

(c) The Commission shall have such further powers as shall be appropriate for the fulfillment of the purposes of the Act.

19:43-13.7 Effect of the conservatorship on licensed casino operation

Except as may be otherwise provided in the Act, during the period of conservatorship the casino operation in the form of the conservatorship shall be deemed a licensed casino operation and any reference in the Act or regulations to any obligations or responsibilities incumbent upon a casino licensee or those persons dealing with, affiliated with, having an interest in, employed by a casino licensee shall be deemed to apply to said casino operation.

19:43-13.8 Powers, authorities and duties of conservators

(a) Upon his appointment, the conservator shall become vested with the title of all the property of the former or suspended licensee or permittee relating to the casino and the approved hotel, subject to any and all valid liens, claims, and encumbrances.

(b) The conservator shall have the duty to conserve and preserve the assets so acquired to the end that such assets shall continue to be operated on a sound and businesslike basis.

(c) Subject to the general supervision of the Commission and pursuant to any specific order it may deem appropriate, a conservator shall have power to:

1. Take into his possession all the property of the former or suspended licensee or permittee relating to the casino and the approved hotel, including its books, records and papers;
2. Institute and defend actions by or on behalf of the former or suspended licensee or permittee;
3. Settle or compromise with any debtor or creditor of the former or suspended licensee or permittee, including any taxing authority;
4. Continue the business of the former or suspended licensee or permittee and to that end enter into contracts, borrow money and pledge, mortgage or otherwise encumber the property of the former or suspended licensee or permittee as security for the repayment of the conservator's loans; provided, however, that such power shall be subject to any provisions and restrictions in any existing credit documents;
5. Hire, fire and discipline employees;
6. Review all outstanding agreements to which the former or suspended licensee or permittee is a party that fall within the purview of Section 104(b) of the Act and advise the Commission as to which, if any, of such

agreements should be the subject of scrutiny, examination or investigation by the Commission; and

7. Do all further acts as shall best fulfill the purposes of the Act.

(d) Except during the pendency of a suspension or during the pendency of an appeal from any action or event set forth in Sections 31(a) or (b) of P.L. 1978, c.7 which precipitated the conservatorship or in instances in which the Commission finds that the interests of justice so require, the conservator, subject to the prior approval of and in accordance with such terms and conditions as may be prescribed by the Commission, and after appropriate prior consultation with the former licensee or permittee as to the reasonableness of such terms and conditions, shall endeavor to and be authorized to sell, assign, convey or otherwise dispose of in bulk, subject to any and all valid liens, claims, and encumbrances, all the property of a former licensee or permittee relating to the casino and the approved hotel only upon written notice to all creditors and other parties in interest and only to such persons who shall be eligible to apply for and shall qualify as a casino licensee or temporary casino permittee in accordance with the provisions of the Act.

1. Prior to any such sale, the former licensee or permittee shall be granted, upon request, a summary review by the Commission of such proposed sale.

2. As an incident of its prior approval pursuant to this subsection of the sale, assignment, conveyance or other disposition in bulk of all property of the former licensee or permittee relating to the casino and the approved hotel, the Commission may, in its discretion, require that the purchaser thereof assume in a form and substance acceptable to the Commission all of the outstanding debts of the former licensee or permittee that arose from or were based upon the operation of either or both the casino or the approved hotel.

(e) The Commission may direct that the conservator, for an indefinite period of time, retain the property and continue the business of the former or suspended licensee or permittee relating to the casino and the approved hotel. During such period of time or any period of operation by the conservator, he shall pay when due, without in any way being personally liable, all secured obligations and shall not be immune from foreclosure or other legal proceedings to collect the secured debt, nor with respect thereto shall such conservator have any legal rights, claims, or defenses other than those which would have been available to the former or suspended licensee or permittee.

19:43-13.9 Compensation of conservators and others

In any conservatorship action, the Commission shall allow a reasonable compensation for the services, costs and expenses of the conservator, the attorney for the conservator, the appraiser, the auctioneer, the accountant and such other

persons as the Commission may appoint in connection with the conservatorship action.

19:43-13.10 Required reports of the conservator

(a) A conservator shall file with the Commission such reports with regard to the administration of the conservatorship in such form and at such intervals as the Commission or the Chairman may prescribe.

(b) The reports of the conservator to the Commission pursuant to this subsection shall be available for examination and inspection by any creditor or party in interest.

(c) The Commission may direct that copies of any such reports of a conservator to the Commission pursuant to this subsection be mailed to such creditors or other parties in interest as it may designate and that summaries of any such reports be published in such newspapers of general circulation as it may designate.

19:43-13.11 Review of action of conservator

(a) Any creditor or party in interest aggrieved by any alleged breach of a fiduciary obligation of a conservator in the discharge of his duties shall be entitled to a review thereof upon petitioning the Commission in writing. Such petition shall set forth in detail the pertinent facts and the reasons why such facts constitute the alleged breach.

(b) The Commission shall summarily review any petition filed pursuant to this subsection and take whatever action, if any, that it deems appropriate.

19:43-13.12 Payment of net earnings during the period of conservatorship

(a) No payment of net earnings during the period of conservatorship may be made by the conservator without the prior approval of the Commission.

(b) The Commission may, in its discretion, direct that all or any part of net earnings during the period of conservatorship be paid either to the suspended or former licensee or permittee or to the Casino Revenue Fund.

(c) Subject to subsection (d) of this section the Commission shall direct the payment of net earnings, or any portion thereof, to the Casino Revenue Fund unless the Commission determines that the policies of the Act and public confidence in the integrity of legalized gaming operations would not be eroded by the payment of such net earnings to the former or suspended licensee or permittee.

(d) Notwithstanding any other provisions of this section, the former or suspended licensee or permittee shall be entitled to a fair rate of return out of net earnings, if any, during the period of conservatorship on the property retained by the conservator, taking into consideration that which amounts to

a fair rate of return in the casino industry or the hotel industry, as the case may be.

19:43-13.13 Payments following a bulk sale

Following any sale, assignment, conveyance or other disposition in bulk of all the property subject to the conservatorship, the net proceeds therefrom, if any, after payment of all obligations owing to the State of New Jersey and political subdivisions thereof and of those allowances set forth in the Act, shall be paid by the conservator to the former or suspended licensee or permittee.

19:43-13.14 Discontinuation of conservatorship

(a) The Commission shall direct the discontinuation of any conservatorship action when the conservator has, pursuant to the Act and with the prior approval of the Commission, consummated the sale, assignment, conveyance or other disposition in bulk of all the property of the former licensee or permittee relating to the casino and the approved hotel.

(b) The Commission may direct the discontinuance of a conservatorship action when it determines that for any reason the cause for which the action was instituted no longer exists.

(c) Upon the discontinuation of the conservatorship action and with the approval of the Commission, the conservator shall take such steps as may be necessary in order to effect an orderly transfer of the property of the former or suspended licensee or permittee.

(d) The sale, assignment, transfer, pledge or other disposition of the securities issued by a former or suspended licensee or permittee during the pendency of a conservatorship action shall neither divest, have the effect of divesting, nor otherwise affect the powers conferred upon a conservator by the Act.

SUBCHAPTERS 14 THROUGH 16. (RESERVED)