

MICHIGAN GAMING CONTROL AND REVENUE ACT (EXCERPT)
Initiated Law 1 of 1996

432.206 Issuance of casino licenses; eligibility; limitations.

Sec. 6.

(1) The board shall issue a casino license to a person who applies for a license, who pays the nonrefundable application fee required under section 5(5) and a \$25,000.00 license fee for the first year of operation, and who the board determines is eligible and suitable to receive a casino license under this act and the rules promulgated by the board. It is the burden of the applicant to establish by clear and convincing evidence its suitability as to character, reputation, integrity, business probity, experience, and ability, financial ability and responsibility, and other criteria considered appropriate by the board. The criteria considered appropriate by the board must not be arbitrary, capricious, or contradictory to the expressed provisions of this act. A person is eligible to apply for a casino license if all of the following criteria are met:

(a) The applicant proposes to locate the casino in a city where the local legislative body enacted an ordinance approving casino gaming that may include local ordinances governing casino operations, occupational licensees, and suppliers that are consistent with this act and rules promulgated by the board.

(b) The applicant entered into a certified development agreement with the city where the local legislative body enacted an ordinance approving casino gaming.

(c) The applicant or its affiliates or affiliated companies has a history of, or a bona fide plan for, either investment or community involvement in the city where the casino will be located.

(2) A city shall not certify or submit and have pending before the board more than 3 certified development agreements. If an applicant is denied a casino license by the board, the city may then certify a development agreement with another applicant and submit the certified development agreement to the board. Nothing in this act prevents the city from entering into more than 3 development agreements.

(3) The board shall not issue more than 3 licenses in any city. The board shall not issue a license for a casino to be located on land held in trust by the United States for a federally recognized Indian tribe. In evaluating the eligibility and suitability of all applicants under the standards provided in this act, the board shall establish and apply the standards to all applicants in a consistent and uniform manner. If more than 3 applicants meet the standards for eligibility and suitability provided for in subsections (4) and (5), the board shall first issue licenses to those eligible and suitable applicants that submitted any casino gaming proposal for voter approval before January 1, 1995, in the city in which the casino will be located and the voters approved the proposal.

(4) An applicant is ineligible to receive a casino license if any of the following circumstances exist:

(a) The applicant has been convicted of a felony under the laws of this state, any other state, or the United States. However, the board may waive the requirements under this subdivision if the conviction occurred more than 10 years before the applicant applies for a license under this section and the board is convinced of both of the following:

(i) That the applicant does not pose a threat to the integrity of gaming.

(ii) That the applicant otherwise meets the requirements of this section.

(b) The applicant has been convicted of a misdemeanor involving gambling, theft, dishonesty, or fraud in any state or a local ordinance in any state involving gambling, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state. However, the board may waive the requirements under this subdivision if the conviction occurred more than 5 years before the applicant applies for a license under this section and the board is convinced of both of the following:

(i) That the applicant does not pose a threat to the integrity of gaming.

(ii) That the applicant otherwise meets the requirements of this section.

(c) The applicant has submitted an application for a license under this act that contains false information.

(d) The applicant is a member of the board.

(e) The applicant fails to demonstrate the applicant's ability to maintain adequate liability and casualty insurance for its proposed casino.

(f) The applicant holds an elective office in the city or county where the casino is located, state elective office, or federal elective office, or is employed by a city or county where the casino is located or by a gaming regulatory body of a governmental unit in this state, another state, or the federal government. This section does not apply to an elected officer of or an employee of a federally recognized Indian tribe or to an elected precinct delegate. As used in this subdivision, "state elective office" means that term as defined in section 12 of the Michigan campaign finance act, 1976 PA 388, MCL 169.212.

(g) The applicant or affiliate owns more than a 10% ownership interest in any entity holding a casino license issued under this act.

(h) The board concludes that the applicant lacks the requisite suitability as to integrity, moral character, and

reputation; personal and business probity; financial ability and experience; responsibility; or means to develop, construct, operate, or maintain the casino proposed in the certified development agreement.

(i) The applicant fails to meet other criteria considered appropriate by the board. The criteria considered appropriate by the board must not be arbitrary, capricious, or contradictory to the expressed provisions of this act.

(5) In determining whether to grant a casino license to an applicant, the board shall also consider all of the following:

(a) The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility of the applicant and of any other person or means to develop, construct, operate, or maintain a casino that either:

(i) Controls, directly or indirectly, the applicant.

(ii) Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.

(b) The prospective total revenue to be derived by the state from the conduct of casino gambling.

(c) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.

(d) The sources and total amount of the applicant's capitalization to develop, construct, maintain, and operate the proposed casino.

(e) Whether the applicant has adequate capitalization to develop, construct, maintain, and operate for the duration of a license the proposed casino in accordance with the requirements of this act and rules promulgated by the board and to responsibly pay off its secured and unsecured debts in accordance with its financing agreement and other contractual obligations.

(f) The extent and adequacy of any compulsive gambling programs that the applicant will adopt and implement if licensed.

(g) The past and present compliance of the applicant and its affiliates or affiliated companies with casino or casino-related licensing requirements, casino-related agreements, or compacts with this state or any other jurisdiction.

(h) Whether the applicant has been indicted, charged, arrested, convicted, pleaded guilty or nolo contendere, forfeited bail concerning, or had expunged any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise.

(i) Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt.

(j) Whether the applicant has been served with a complaint or other notice filed with any public body regarding a payment of any tax required under federal, state, or local law that has been delinquent for 1 year or more.

(k) The applicant has a history of noncompliance with the casino licensing requirements of any jurisdiction.

(l) The applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.

(m) Whether at the time of application the applicant is a defendant in litigation involving its business practices.

(n) Whether awarding a license to an applicant would undermine the public's confidence in the gaming industry in this state.

(o) Whether the applicant meets other standards for issuing a casino license that the board may promulgate by rule. The rules promulgated under this subdivision must not be arbitrary, capricious, or contradictory to the expressed provisions of this act.

(6) Each applicant must submit with its application, on forms provided by the board, a photograph and 2 sets of fingerprints for each person having a greater than 5% direct or indirect pecuniary interest in the casino, and each person who is a director or is a managerial employee of the applicant who performs the function of principal executive officer, principal operation officer, or principal accounting officer.

(7) The board shall review all applications for casino licenses and shall inform each applicant of the board's decision. Before rendering its decision, the board shall provide a public investigative hearing at which the applicant for a license has the opportunity to present testimony and evidence to establish its suitability for a casino license. Other testimony and evidence may be presented at the hearing, but the board's decision must be based on the whole record before the board and is not limited to testimony and evidence submitted at the public investigative hearing.

(8) A license is issued for a 1-year period. All licenses are renewable annually upon payment of the license fee and upon the transmittal to the board of an annual report to include information required under rules promulgated by the board.

(9) All applicants and licensees must consent to inspections, searches, and seizures and the providing of handwriting exemplar, fingerprints, photographs, and information as authorized in this act and in rules promulgated by the board.

(10) Applicants and licensees are under a continuing duty to provide information requested by the board and to cooperate in any investigation, inquiry, or hearing conducted by the board.

(11) Failure to provide information requested by the board to assist in any investigation, inquiry, or hearing of the board, or failure to comply with this act or rules promulgated by the board, may result in denial, suspension, or,

upon reasonable notice, revocation of a license.

(12) A casino licensee under this act shall comply with the bank secrecy act of 1970, 31 USC 5311 to 5332.

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