

205 CMR 131.00: AWARDING OF A NEW GAMING LICENSE

Section

131.01: Commencement of Application Process

131.02: Application and Award of a New Gaming License

131.01: Commencement of Application Process

In the event of a revocation of, or failure to renew a gaming license the commission shall initiate proceedings in accordance with 205 CMR 131.00 to award a new gaming license to a qualified applicant as promptly as possible.

131.02: Application and Award of a New Gaming License

(1) Prior to soliciting applications, the commission shall determine the required minimum capital investment by an applicant into the preexisting gaming establishment. In making the determination the commission shall consider, among other things, the length of time the establishment has been in operation, the amount of the initial capital investment, and reason the previous gaming license was revoked or not renewed.

(2) The new gaming licensee's gaming establishment must be located at the site of the preexisting gaming establishment.

(3) Upon transfer of good, clear, record, marketable title in the gaming establishment to the new licensee, the new licensee shall pay to the prior licensee the fair market value of the gaming establishment. If the new licensee and the prior licensee are unable to come to an agreement on the fair market value within 60 days of the date that the new licensee is approved by the commission, the following arbitration procedure shall apply:

(a) The new licensee and the prior licensee shall select a neutral, independent arbitrator and submit their calculated fair market value to the arbitrator and to the other party along with any supporting materials. If the parties cannot mutually select such single arbitrator, each party shall select one neutral, independent arbitrator who shall then mutually choose a third neutral, independent arbitrator. In the event that a third neutral, independent arbitrator is not selected within five days of the first two arbitrators being selected, the commission or its designee shall select the third neutral, independent arbitrator. The parties shall promptly submit their calculated fair market value for the gaming establishment to the arbitrators and the other party along with any supporting materials. The three arbitrators shall preside over the matter and determine the fair market value of the gaming establishment by majority vote.

(b) The reasonable fees and expenses of the single arbitrator shall be paid by the prior licensee. In the event that three arbitrators are engaged, two thirds of the reasonable fees and expenses shall be paid by the prior licensee and $\frac{1}{3}$ shall be paid by the new licensee.

(c) Within 30 days after receipt of the parties' submissions under 205 CMR 131.02(3)(a), the arbitrator(s) shall conduct any necessary proceedings and file with the commission, and issue to the parties, a report specifying the fair market value of the gaming establishment. In reaching the final decision, the arbitrator(s) shall employ procedures customarily accepted by the appraising profession as valid.

(4) The commission shall request applications for the available license in accordance with 205 CMR 110.00: *Issuance of Request for Category 1 and Category 2 License Applications*. The applications shall be in conformance with 205 CMR 111.00: *Phase 1 Application Requirements*. The applicant shall pay all application fees and additional fees for investigation in conformance with 205 CMR 114.00: *Fees*. The process of review and determination of suitability shall be in conformance with 205 CMR 115.00: *Phase 1 Suitability Determination, Standards and Procedures*, 116.00: *Persons Required to Be Licensed or Qualified*, and 117.00: *Phase 1 Determination of Financial Stability*.

(5) Upon a positive determination of suitability, the applicant shall file with the commission an application to operate the gaming establishment on a form prescribed by the commission.

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(6) The applicant shall agree to assume and be bound by all obligations imposed upon the original licensee provided in any applicable host community agreement(s), surrounding community agreement(s), and impacted live entertainment venue agreement(s).

(7) Upon award of a new gaming license, the new gaming licensee shall pay the original licensing fee required under M.G.L. c. 23K in the manner prescribed by 205 CMR 121.00: *Licensing Fee*.

(8) The commission shall review and award the new license in accordance with 205 CMR 119.00: *Phase 2 Application*. The new license shall incorporate such terms and conditions as the commission, in its discretions, considers necessary and appropriate.

REGULATORY AUTHORITY

205 CMR 131.00: M.G.L. c. 23K, §§ 1(9), 4(15, 17, 19, 27, 37), 5, 10, 12, 15, 21, 23(b), 34 and 35(d).