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Gaming; Appointment of Supervisors

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2. 1977 Nev. Stats. ch. 571 §§3 ¶5, 5 ¶2, at 1425 (NRS 463.165(5), 463.645(2), amended by 1979 Nev. Stats. ch. 320 (hereinafter "Ch. 320") §1, 2). Note that NRS 463.165 is also amended by 1979 Nev. Stats. ch. 662 §15 to add limited partnerships.
3. 1977 Nev. Stats. ch. 571 §§3 ¶6; 5 ¶3, at 1425 (NRS 463.165(6), 463.645(3), amended by Ch. 320 §1, 2).
4. 1977 Nev. Stats. ch. 571 §§3 ¶4, 5 ¶1, at 1426 (NRS 463.165(4), 463.645(1), amended by Ch. 320 §1, 2).
5. Id.
6. Id.
7. 1977 Nev. Stats. ch. 571 §§3 ¶5, 5 ¶2, at 1426 (NRS 463.165(5), 463.645(2), amended by Ch. 320 §1, 2).
8. Ch. 320 §1, 2 (amending NRS 463.165(5), (6), 463.645(1), (2), (3)).
9. Ch. 320 §1, 2 (amending NRS 463.165(4), 463.645(1)).
10. U.S. CONST. art I §10; NEV. CONST. art. 1 §15 (prohibiting state impairment of obligation of contract). But see Koscot Interplanetary, Inc. v. Draney, 90 Nev. 450, 457-58, 530 P.2d 108, 113 (1974) (constitutional interdiction against the impairment of the obligation of contract does not prevent a state in the reasonable exercise of its police power from enacting laws to intended to benefit the public).
11. Ch. 320 §1, 2 (amending NRS 463.165(5), 463.645(2)).
12. Ch. 320 §1, 2 (amending NRS 463.165(4), (5), (6), 463.645).
13. Ch. 320 §1 (adding NRS 463.165(7)). See Ch. 320 §2 (amending NRS 463.645).

GAMING; APPOINTMENT OF SUPERVISORS

Adds to NRS Title 41

Amends NRS 463.315

SB 500 (Committee on Judiciary); STATS 1979, Ch 441

Chapter 441 allows the Nevada gaming commission (hereinafter "commission") to petition for appointment of a supervisor to manage a gaming establishment after a license is suspended or revoked. This will allow a gaming establishment to remain in business though an essential person has lost his license. The purpose of the bill is to avoid the damaging economic results of closing a gaming establishment without

sacrificing proper regulation.¹ Chapter 441 applies only to establishments with sixteen or more slot machines, or any number of slot machines together with any other game or gaming device.²

If a person³ whose license is essential to the operation of the establishment loses his license through revocation, suspension or failure to renew, the commission may ex parte petition the county's district court for appointment of a supervisor.⁴ The petition must include the names of two people qualified to manage the establishment.⁵ The district court will then appoint one of the listed candidates.⁶

The commission may petition for appointment of a supervisor even if the suspension or revocation is subject to judicial review.⁷ The commission may not petition if the establishment has never been opened, or if the commission grants a rehearing on the revocation or suspension.⁸ No district court may stay the appointment of a supervisor.⁹

The supervisor is subject to all provisions of NRS Chapter 463 and the commission's regulations as if he were a licensee.¹⁰ The supervisor is deemed a licensee, and may perform all required or permitted acts without approval or other action by the city or county.¹¹ Upon appointment, all right, title and interest in the establishment vests in the supervisor, subject to any liens and encumbrances.¹² The supervisor performs all duties of the owner, including hiring and firing personnel,¹³ prosecuting and defending actions,¹⁴ entering contracts¹⁵ or leases,¹⁶ or encumbering the establishment's property.¹⁷ The supervisor is not, however, personally liable for the establishment's debts or penalties, or any act or omission made in the exercise of prudent business judgment.¹⁸

The supervisor will take possession of the establishment, including all records, and manage the establishment on a prudent, businesslike basis.¹⁹ The supervisor must file reports on the administration of the establishment with the appointing court and the commission.²⁰

If the owners of a majority of the equity interest (that is, the owners before title automatically vested in the supervisor, or their assigns—hereinafter "equitable owners") approve a sale to a licensed buyer, the supervisor must petition the court for approval of the sale.²¹ The supervisor must initiate sale proceedings if requested in writing by the equitable owners.²² Otherwise, the supervisor will initiate sale proceedings six months after the former licensee's right to review of the commission's decision is exhausted.²³

The supervisor must exert his best efforts to secure a buyer at a fair price.²⁴ The buyer must possess a gaming license, or the sale must be conditioned upon the buyer's obtaining a license.²⁵ Once a buyer is found, the supervisor must petition the district court for approval of the sale.²⁶

All known creditors and the equitable owners must receive thirty days notice of the hearing on the approval of any sale.²⁷ Any creditor or equitable owner may file objections no later than ten days before the hearing.²⁸ The supervisor's final duty after a sale is to pay the equitable owners and transfer all right, title and interest in the establishment to the buyer.²⁹

The supervisor may hire legal counsel and accountants.³⁰ The appointing court will allow reasonable compensation for the supervisor and any person he engages to aid him, to be paid out of the revenue of the gaming establishment.³¹ The supervisor may periodically distribute earnings to the equitable owners, if the court approves.³²

No district court may issue an order enjoining a supervisor from exercising his duties and powers.³³ Transfers of interest in any security issued by a former licensee do not affect the powers of the supervisor.³⁴

The supervisor's appointment will terminate if the establishment is sold,³⁵ or if the commission's ruling (to revoke or suspend an essential license) is overruled.³⁶ The commission may petition the appointing court for removal of the supervisor at any time.³⁷ Any person may petition the appointing court for a review of the supervisor and file an objection with the commission if he has been financially injured, or is likely to suffer financial injury as a result of a decision made by the supervisor.³⁸ If the district court concludes that a supervisor should be replaced, the court will request the commission to submit the names of two or more possible replacements.³⁹

It is unlawful to transfer or hypothecate any property of a gaming establishment or to withhold records or property during any appointment proceeding or the period of supervision.⁴⁰ The punishment for violation of these provisions is one to six years imprisonment, or a fine of not more than \$5,000, or both.⁴¹

Chapter 441 does not prevent a creditor from proceeding to collect a debt, and the appointment of a supervisor will not precipitate a default or acceleration under a note or credit extension.⁴²

Chapter 441 provides that judicial review of any case in which a supervisor has been appointed shall be given priority over other civil actions.⁴³

Lorne Malkiewich

FOOTNOTES

1. 1979 Nev. Stats. ch. 441 (hereinafter "Ch. 441") §6 ¶4 (All provisions of this bill add to NRS Title 41 unless otherwise indicated).
2. Ch. 441 §7.
3. "Person" means any natural person, association, firm, partnership, limited partnership, corporation, trust or other form of business organization. Ch. 441 §4.
4. Ch. 441 §9 ¶1.
5. Id. §9 ¶2.
6. Id. §9 ¶3.
7. Id. §9 ¶4.
8. Id. §9 ¶5.
9. Id. §11. See State Gaming Control Board v. Eighth District Court, 82 Nev. 38, 40, 409 P.2d 974, 975 (1966).
10. Ch. 441 §12 ¶1. See Ch. 441 §8 ¶1.
11. Id. §13.
12. Id. §14 ¶1.
13. Id. §17 ¶1.
14. Id. §17 ¶4.
15. Id. §17 ¶5.
16. Id. §17 ¶6.
17. Id. §17 ¶5.
18. Id. §19.
19. Id. §§14, 16.
20. Id. §21 ¶1.
21. Id. §24.
22. Id. §25 ¶1(a).
23. Id. §25 ¶1(b)-(d).

24. Id. §25 ¶ 3.
25. Id. §25 ¶ 4.
26. Id. §25 ¶ 5.
27. Id. §26 ¶ 1.
28. Id.
29. Id. §26 ¶ 2.
30. Id. §17 ¶ 2.
31. Id. §18.
32. Id. §22.
33. Id. §11 ¶ 2.
34. Id. §15.
35. Id. §26 ¶ 2.
36. Id. §27.
37. Id. §23 ¶ 4.
38. Id. §23 ¶ ¶1, 2.
39. Id. §23 ¶ 3.
40. Id. §29 ¶1. But under §17 the supervisor may hypothecate property in continuing the operation.
41. Id. §29 ¶ 2.
42. Id. §20.
43. Id. §31 (adding NRS 463.315(14)).

INSURANCE; LIMITING RECOVERY UNDER MULTIPLE
CASUALTY INSURANCE POLICIES ("STACKING")

Adds to NRS Chapter 687B

AB 617 (Committee on Commerce); STATS 1979, Ch 544

Chapter 544 specifies the limit of recovery where two or more casualty insurance policies cover the same loss and allows recovery under "uninsured motorist" coverage if the other motorist is under-insured.

Chapter 544 allows insurance companies to limit their liability where two policies or provisions cover the same loss.¹ A policy may limit the recovery to the higher applicable limit, and provide that the recovery be prorated between coverages in proportion to the aggregate of their limits.² For example, suppose two