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Gaming; Administrative Resolution of Gaming Disputes

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strument to a bank within the time restrictions of Chapter 344, however, does not affect its legal validity or enforceability,¹³ but will subject the licensee to the penalties imposed by the Nevada Gaming Commission.¹⁴

The provisions of Chapter 344 permit a licensee to accept redeeming credit instruments from a patron on or after June 1, 1983, only if *all* credit instruments accepted from the patron before June 1, 1983, are paid.¹⁵ Furthermore, a patron cannot redeem a credit instrument dated before June 1, 1983, by creating a new credit instrument dated on or after June 1, 1983.¹⁶ Finally, Chapter 344 explicitly states that its provisions are neither retroactive,¹⁷ nor do they affect the establishment of an account by a deposit of cash or instruments equivalent to cash.¹⁸

Furthermore, if the redeeming credit instrument is for more than \$50,000, then the instrument must be presented within 120 calendar days after the date of the oldest instrument redeemed. *Id.* c. 344, §3(6)(b), at 828.

13. *Id.* c. 344, §3(8), at 829.

14. *Id.* c. 344, §3(10), at 829; *see also* NEV. REV. STAT. §463.0145 (definition of Nevada Gaming Commission); *id.* §463.310(4) (generally the commission may limit, condition, suspend or revoke the license, keep the licensee off the premises, withhold the licensee's remuneration or profits, and impose a fine).

15. 1983 Nev. Stat. c. 344, §3(5), at 828; *id.* c. 344, §3(7), at 829.

16. *Id.* c. 344, §3(7), §3(5), at 828, 829.

17. *Id.* c. 344, §5, at 830.

18. *Id.* c. 344, §3(9), at 829.

Gaming; administrative resolution of gaming disputes

NEV. REV. STAT. §463.— (new).

AB 536 (Vergiels); 1983 STAT. Ch 582

(Effective May 26, 1983)

Chapter 582 creates a new procedure for the resolution of gaming debt disputes initiated by a patron against a licensee.¹ In addition, an equal opportunity for judicial review is provided to both parties upon a final decision or order of the Nevada Gaming Control Board² (hereinafter referred to as the Board).

Prior Administrative Procedures

Prior to the enactment of Chapter 582, administrative procedures existed for dealing with claims brought by a patron regarding a disputed

1. 1983 Nev. Stat. c. 582, §§2-8, at 1846-47; NEV. REV. STAT. §463.0171 (definition of licensee).

2. *See* 1983 Nev. Stat. c. 582, §6(1), at 1847.

gaming debt.³ Under these procedures, an agent of the Board investigated the complaint and rendered a decision on the merits.⁴ Reconsideration of the agent's decision could be requested by either party,⁵ resulting in either a review of the file or an informal hearing before the Board.⁶ If the Board decided against the licensee, payment of the patron's claim was ordered.⁷ If, however, the licensee refused to pay the claim, the Board could initiate a hearing before the Nevada Gaming Commission (hereinafter referred to as the Commission) by filing a complaint.⁸ A final decision or order by the Commission in favor of the patron was always judicially reviewable upon request.⁹ Conversely, if the Commission decided in favor of the licensee, judicial review was not available to the aggrieved patron.¹⁰

New Administrative Procedures

Chapter 582 establishes a new procedure for resolving gaming debt disputes not evidenced by a credit instrument.¹¹ When a licensee refuses to pay alleged winnings to a patron, the licensee must immediately notify the Board.¹² Failure to provide this notice constitutes grounds for disciplinary action.¹³ After the licensee notifies the Board, an agent of the Board must conduct an investigation of the dispute and make a determination.¹⁴ The aggrieved party may request reconsideration of the agent's decision by filing a petition for a hearing before the Board within twenty days after the agent's written determination is submitted to the Board.¹⁵ Failure to file a timely petition will render the decision of the agent final and, consequently, that decision will no

3. See *Zaika v. Del E. Webb Corporation*, 508 F.Supp. 1005, 1008 (1981); *State Gaming Control Board v. Breen*, 99 Nev. Adv. Op. 66, 661 P.2d 1309, 1310 (1983) (discussing Nevada Gaming Control Board Bulletin No. 7, Dec. 5, 1972).

4. 508 F.Supp. at 1008.

5. *Id.*

6. 99 Nev. Adv. Op. at 66; 661 P.2d at 1310.

7. 508 F.Supp. at 1008.

8. 99 Nev. Adv. Op. at 66; 661 P.2d at 1310; 508 F.Supp. at 1008.

9. 99 Nev. Adv. Op. at 66; 661 P.2d at 1310 (an unequal right to review is justified by the different property interests held by the licensee and the patron).

10. 508 F.Supp. at 1010; 99 Nev. Adv. Op. at 66, 661 P.2d at 1310.

11. 1983 Nev. Stat. c. 582, §2(2), at 1846; see *id.* c. 582, §2(1), at 1846 (except as provided, gaming debts not evidenced by a credit instrument are void and unenforceable and do not give rise to any administrative or civil cause of action).

12. *Id.* c. 582, §3(1), at 1846.

13. *Id.* c. 582, §3(3), at 1846.

14. *Id.* c. 582, §3(1), at 1846. The agent is required to notify the Board, the licensee and the patron, in writing, of the determination within 30 days. *Id.* c. 582, §3(2), at 1846.

15. *Id.* c. 582, §4(1), at 1846. The Board is given the authority to conduct a hearing for the purpose of sustaining, modifying or reversing the agent's decision, based upon findings of fact. *Id.* c. 582, §§4(5), 5(2), at 1847. The party requesting reconsideration must provide a copy of the petition to the other party. *Id.* c. 582, §4(3), at 1846. The petition must set forth the basis of the request for reconsideration. *Id.* c. 582, §14(1), at 1846.

longer be subject to (1) reconsideration by the Board, or (2) review by the Commission or any court.¹⁶ The party requesting reconsideration bears the burden of showing why the agent's decision should be reversed or modified.¹⁷ Within fifteen days after the service of a petition for reconsideration, the responding party may answer the allegations by filing a written response with the Board.¹⁸ The Board will then schedule a hearing and notify each party of the date, time and location of the hearing.¹⁹

Chapter 582 provides that the Board must deliver or mail to each party, or to each party's attorney of record, a copy of its final determination.²⁰ A licensee ordered to pay a patron's claim must do so within twenty days or be subject to disciplinary action by the Board.²¹ In addition, the final decision of the Board is subject to judicial review upon the request of either party.²² The Board may not, however, entertain a petition for rehearing.²³

16. *Id.* c. 582, §4(2), at 1846.

17. *Id.* c. 582, §5(1), at 1847.

18. *Id.* c. 582, §4(4), at 1847.

19. *Id.* c. 582, §4(5), at 1847.

20. *Id.* c. 582, §5(2), at 1847.

21. *Id.* c. 582, §7, at 1847.

22. *Id.* c. 582, §6(1), at 1847. The party requesting judicial review must bear all of the costs of transcribing the proceedings before the Board and of transmitting the record on review. *Id.* c. 582, §6(2), at 1847. The decision of the Board is subject to judicial review pursuant to NEV. REV. STAT. 463.315. *Id.* c. 582, §6(1), at 1847.

23. *Id.*

Gaming; exemptions from casino entertainment tax

NEV. REV. STAT. §463.401 (amended).

AB 514 (Jeffrey); 1983 STAT. Ch 253

Existing law exempts certain licensed gaming establishments¹ from paying a casino entertainment tax.² Under prior law, establishments that were licensed for fewer than four games were exempt.³ With the enactment of Chapter 253, establishments licensed for fewer than six games are now exempt from the entertainment tax.⁴

1. Nev. Rev. Stat. §463.0169 (definition of licensed gaming establishment).

2. *Id.* §463.401(2).

3. 1979 Nev. Stat. c. 664, §2(a), at 1558 (amending NEV. REV. STAT. §463.401).

4. Compare NEV. REV. STAT. §463.401 (amended by 1983 Nev. Stat. c. 253, §1(2)(a), at 592) with 1979 Nev. Stat. c. 664, §2(a), at 1558 (amending NEV. REV. STAT. §463.401).