

TITLE 10: LOCAL LAWS
DIVISION 2: SECOND SENATORIAL DISTRICT (TINIAN, ETC.)

§ 2521. Tinian Casino Gaming Control Commission.

(a) There is hereby established a Tinian Casino Gaming Control Commission charged with the administration of this chapter. The commission shall be composed of five members to be appointed by the mayor with the advice and consent of the Tinian Municipal Council. The commissioners shall serve a term of six years, except that upon the first five appointments, two shall serve six year terms, two shall serve five year terms, and one shall serve a four year term, to be determined by drawing of lots by the members after their confirmation. A person shall not serve more than one term as commissioner.

(b) The mayor shall within 45 days after January 1, 1990 submit his appointments to the council. To assist in such appointments, the mayor shall appoint commissioners from a list of qualified candidates. This list shall be composed by the office of the mayor and published in a local newspaper before the appointments are made. This list shall include nominees from all Tinian political parties which are registered with the Commonwealth Board of Elections.

(c) The council shall, within 45 days from date of submission by the mayor, act by conducting public hearings on the appointments and to notify the mayor in writing that:

- (1) It has confirmed an appointee; or
- (2) It has rejected an appointee.

(d) An appointed member may at any time resign his office by notice in writing to the mayor. Upon resignation, removal or expiration of the term of appointment, the member shall cease to sit on the commission and shall not be included in a quorum count. Removal of a commissioner before the expiration of his term shall occur only by act of the mayor and on grounds of gross neglect or dereliction of duty, conviction of a misdemeanor or felony, or mental or physical incapacity, except that upon conviction of any felony or upon the finding of a violation under this chapter, the commissioner shall lose his position automatically. Removal may be made after:

- (1) The member has been served with a copy of the charges against him; and
- (2) A public hearing before the mayor is held upon the charges, if requested by the member concerned. The request for a public hearing must be made within 10 days after service upon such member of the charges. If a hearing is not requested, a member is removed effective 10 days after service of charges upon him. A record of the proceedings shall be kept.

An appeal to the Commonwealth Superior Court may be had by the commission member from an adverse ruling by the mayor. The Commonwealth Superior Court shall uphold the decision if there is substantial evidence in the record to support it. No new evidence may be presented to the Commonwealth Superior Court on appeal.

(e) A vacancy in the commission shall be filled in the same manner as in the original appointment, and the newly-appointed member shall only serve the term remaining created by such vacancy.

- (f) To be eligible for appointment as a commission member; a person must:
- (1) Be at least 25 years old;

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(2) Be a domiciliary of Tinian for not less than five years and a qualified voter of Tinian preceding his appointment;

(3) Submit a personal financial statement covering the last three years prior to his appointment;

(4) Not have been convicted of a violation of this chapter or a felony; and

(5) Be of good moral character.

(g) Commission members shall elect from among themselves a chairman and a vice-chairman to serve a term of two years. The chairman and the vice-chairman may be reelected. Members shall, no later than 60 days after the commission receives its first application and application fee for a casino license, devote full time, without engaging in any other employment, to the affairs of the commission during their tenure. Each member shall receive compensation not to exceed \$75,000 annually from a budget adopted by the commission for its operations and approved by the Tinian Municipal Council. Each member shall receive compensation no less than \$50,000 annually with or without the approval of the Tinian Municipal Council. The chairman shall receive \$5,000 per annum in addition to his compensation as a member of the commission if he receives the minimum salary specified herein. All members of the commission shall have paid or be entitled to reimbursement for their expenses actually and necessarily incurred in the performance of their duties, including expenses of travel outside the Municipality of Tinian. Each member of the commission shall serve for the duration of his term and until his successor shall be duly appointed and qualified. In the event that a successor is not duly appointed and qualified within 120 days after the expiration of the member's term, a vacancy shall be deemed to exist.

(h) *Duties and Powers of the Commission.* The Tinian Casino Gaming Control Commission shall have general responsibility for the implementation of this chapter, as hereinafter provided, including, without limitation, the responsibility:

(1) To hear and decide promptly and in a reasonable order all license, registration, certificate, and permit applications and causes affecting the granting, suspension, revocation, or renewal thereof;

(2) To conduct all hearings pertaining to civil violations of this chapter or regulations promulgated thereunder;

(3) To promulgate such regulations as in its judgment may be necessary to fulfill the policies of this chapter;

(4) To collect all license and registration fees and taxes imposed by this chapter and the regulations issued pursuant thereto;

(5) To levy and collect penalties for the violation of provisions of this chapter and the regulations promulgated hereunder;

(6) To be present through its inspectors and agents at all times during the operation of any casino for the purpose of certifying the revenue thereof, receiving complaints from the public, and conducting such investigations into the conduct of the games and the maintenance of the equipment as from time to time the commission may deem necessary and proper;

(7) To demand access to and inspect, examine, photocopy and audit all papers, books and records of applicants and licensees on their premises, or elsewhere as practicable, and in the presence of the licensee or his agent, respecting the gross income produced by any gaming business, and require verifica-

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tion of income, and all other matters affecting the enforcement of the policy or any of the provisions of this section; and

(8) To review and rule upon any complaint by a casino licensee regarding any investigative procedures of the division which are unnecessarily disruptive of casino operations. The need to inspect and investigate shall be presumed at all times. The disruption of licensee's operations shall be proved by clear and convincing evidence, and establish that:

(i) The procedures had no reasonable law enforcement purposes, and

(ii) The procedures were so disruptive as to unreasonably inhibit casino operations.

(i) *Denials and Sanctions.* The commission shall assure, to the extent required by this chapter, that licenses, approvals, certificates, or permits shall not be issued to nor held by, nor shall there be any material involvement, directly or indirectly, with the licensed casino operation or the ownership thereof by, an unqualified or disqualified person or persons whose operations are conducted in a manner not conforming with the provisions of this chapter. In enforcing the provisions of this chapter, the commission shall have the power and authority to deny any application; limit or restrict any license, registration, certificate, permit or approval; suspend or revoke any license, registration, certificate, permit or approval; and impose a penalty on any person licensed, registered, or previously approved for any cause deemed reasonable by the commission pursuant to rules and regulations promulgated thereby, except that no such denial, limitation, suspension or revocation shall be issued solely by reason of the fact that an applicant, registrant, or licensee holds an interest in or is associated with any licensed casino enterprise in any other jurisdiction.

(j) *Subpoenas; Oaths.* The commission shall have the power and authority to issue subpoenas and to compel the attendance of witnesses at any place within the municipality, and to administer oaths and to require testimony under oath before the commission in the course of any investigation or hearing conducted under this chapter. The commission may serve or cause to be served its process of notice in a manner provided for the service of process and notice in civil actions in accordance with the rules of court. The commission shall have the authority to propound written interrogatories and the commission may appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpoenas, propound written interrogatories, oral depositions, and require testimony under oath.

(k) *Investigative Hearings.* The commission shall have the authority to conduct investigative hearings concerning the conduct of gaming and gaming operations as well as the development and well-being of the industries controlled by this chapter.

(l) *Testimonial Immunity.* The commission may order any person to answer a question or questions or to produce evidence of any kind, and may confer immunity as provided in this subsection. If, in the course of an investigation or hearing conducted under this chapter, a person refuses to answer a question or produce evidence on the ground that he will be exposed to criminal prosecution thereby, then in addition to any other remedies or sanctions provided for by this chapter, the commission may, by resolution of four of its members and after the

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written approval of the Commonwealth Attorney General, issue an order to answer or to produce evidence with immunity.

If, upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him or evidence derived therefrom, used to expose him to criminal prosecution, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence in accordance with the order of the commission; provided, however, that no period of incarceration for contempt shall exceed 18 months in duration pursuant to this subsection. Any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury; upon any investigation, proceeding or trial against him for such contempt; or in any manner consonant with Commonwealth and constitutional provisions.

(m) *Officers of the Commission.* The commission shall appoint as officers an executive director, a deputy director, inspectors and other employees as deemed necessary for the effectual administration of this chapter. The executive director and deputy director are, ex officio, inspectors for the purposes of this chapter.

(n) *Appointment of Other Persons.* In addition to the appointments of officers in subsection (m) of this section, the commission may appoint other persons to perform such functions and duties as the commission from time to time determines for the effectual administration of this chapter.

(o) Persons appointed under this section shall be appointed on such terms and conditions as to enumeration and otherwise and are not subject to the Commonwealth Civil Service System, except that all employees other than the executive director and deputy director may be dismissed only for cause.

(p) *Meetings and Quorum.*

(1) Meetings of the commission will be held at the discretion of the chairman at such times and places as he may deem necessary and convenient, or at the call of three members of the commission.

(2) The commission shall in all respects hold open meetings of all of its proceedings.

(3) Any other law, rule or regulation to the contrary notwithstanding, the commission shall take all necessary steps to ensure that all interested persons are given adequate notice of commission meetings, and the agenda of such meetings, through the utilization of all media engaged in the dissemination of information.

(4) A majority of a full commission shall determine any action of the commission, except that no casino license or interim casino authorization may be issued without the approval of four members. In the event that a vacancy has existed in the commission for more than 60 days, a majority of the full commission may act with respect to any matter, including the issuance of a casino license or interim casino authorization.

(q) *Minutes and Records.*

(1) The commission shall cause to be made and kept a verbatim record of all proceedings held at public meetings of the commission, which record shall be open to public inspection. A true copy of the minutes of every meeting of

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the commission and of any regulations finally adopted by the commission shall be forthwith delivered, by and under the certification of the chairman, to the Mayor of Tinian and the Tinian Municipal Council.

(2) The commission shall keep and maintain a list of all applicants for licenses and registrations under this chapter together with a record of all actions taken with respect to such applicants, which file and record shall be open to public inspection; provided, however, that the foregoing information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after five years from the date of such action.

(3) The commission shall maintain such other files and records as may be deemed desirable.

(4) Except as provided in subsection (q)(8) of this section, all information and data required by the commission to be furnished hereunder, or which may otherwise be obtained, relative to the internal controls specified herein or to the earnings or revenue of any applicant, registrant, or licensee shall be considered to be confidential and shall not be revealed in whole or in part except in the course of the necessary administration of this chapter, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

(5) All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the commission from any source shall be considered confidential and shall be withheld in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

(6) Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsection (q)(4) or (q)(5) of this section, shall be given to any applicant, registrant, or licensee in a manner prescribed by the rules and regulations adopted by the commission.

(7) Files, records, reports and other information in possession of the Commonwealth government pertaining to licensees shall be made available to the commission as may be necessary to the effective administration of this chapter.

(8) The following information, to be reported periodically to the commission by a casino licensee, shall not be considered confidential and shall be made available for public inspection:

(i) A licensee's gross revenue from all authorized games as herein defined;

(ii)(A) The dollar amount of patron checks initially accepted by a licensee;

(B) The dollar amount of patron checks deposited to the licensee's bank account;

(C) The dollar amount of patron checks initially dishonored by the bank and returned to the licensee as "uncollected", and

(D) The dollar amount of patron checks ultimately "uncollected", after all reasonable efforts.

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(iii) The amount of gross revenue tax actually paid.

(iv) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements.

(v) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments.

(vi) All quarterly and annual financial statements presenting historical data which are submitted to the commission, including all annual financial statements which have been audited by an independent certified public accountant licensed to practice in the Commonwealth.

Nothing in this subsection shall be construed to limit access by the public to all forms and documents required to be filed pursuant by the commission.

(r) *Commission May Refuse to Reveal Certain Matters in Court or Administrative Proceedings.* The commission may refuse to reveal in any court or administrative proceeding, except a proceeding brought by the municipality, the identity of an informant, or the information obtained from the informant, or both the identity and the information.

(s) *Powers Not Enumerated.* The commission may exercise any proper power or authority necessary to perform the duties assigned to it by law, and no specific enumeration of powers in this chapter shall be read to limit the authority of the commission to administer this chapter.

Source: Tinian Local Initiative 1, § 5.