

FIRST SENATORIAL DISTRICT DELEGATION
ELEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

ROTA LOCAL LAW NO. 11-3

H. L. B. NO. 11-24

SIXTH SPECIAL SESSION, 1999

A LOCAL REVENUE BILL FOR AN ACT FOR THE FIRST SENATORIAL DISTRICT

To repeal and re-enact Chapter 4 of Division 1 of Title 10 of the Commonwealth Code, to regulate the operation of gaming in the First Senatorial District; and for other purposes.

BE IT ENACTED BY THE FIRST SENATORIAL DISTRICT DELEGATION PURSUANT TO
CHAPTER 4 OF DIVISION 1 OF TITLE 1 OF THE COMMONWEALTH CODE:

Section 1. Repeal and re-enactment. Chapter 4 of Division 1 of Title 10 of the Commonwealth Code, the Rota Cockfighting Act of 1990, is hereby repealed and re-enacted as follows:

“§ 1401. **Short Title.** This Chapter may be known and cited as the Rota Gaming Act of 1999.

§ 1402. **Definitions.** In this Act, unless contrary intention appears:

(a) ‘Balentia’ means cockfighting where knives or other sharp instruments are not used.

(b) ‘Amara’ means cockfight where knives or other sharp instruments are used.

(c) ‘Bingo’ means a lottery game of chance, played at a fixed location, involving the distribution of tickets or play-slips to players, by either sale or in exchange for anything of value, with each of such tickets or play-slips usually containing a ‘free’ square in the center plus various numbers or symbols, which numbers or symbols are printed in such a manner that each ‘set’ of bingo tickets or play-slips distributed for play contain a series of tickets or play-slips having different series of tickets or play-slips numbering not less than 2,000; with each of the 2,000 tickets or play-slips having a different series or configuration of numbers or symbols (also within the bingo industry

referred to as ‘faces’) before any one ticket or play-slip is duplicated or replicated; with the tickets or play-slips only sold at the location where the bingo game is conducted; with the first sale of tickets not to be made more than one-half hour prior to the conducting the drawing of the first bingo game; with the bingo tickets or play-slips sold to players being the only basis for the award or payment of prizes; with players winning prizes only on the basis of matching upon his or her bingo ticket or play-slips various numbers or symbols drawn by lot, at random, by the caller of the game or select through some similar random method; with the winner of each game being the first player or players who match such numbers or symbols on their ticket or play-slip to create a previously selected and announced winning pattern used in bingo games which include, but are not limited to, small diamond, large diamond, four corners, horizontal, vertical, diagonal, window pane, picture frame, X, coverall, etc.; with the drawing of numbers or symbols to conduct the lottery game of bingo limited to determining the winner of each bingo game and such numbers or symbols not being used for any other purpose including, but not limited to, any additional side-games or incidental games as a result of or pursuant to the conduct of the bingo game as defined herein; Provided, that:

(1) In order to constitute the game of bingo which may be licensed by the Municipality of Rota, all wagers must be placed in the presence of all persons playing the bingo game; and all winners must be determined in the presence of all persons playing the bingo game; and, the distribution of prizes must be made in the presence of all persons playing the bingo game.

(2) The offering for sale or sale of cards or tickets having numbers or symbols (whether or not similar in design to a bingo game card), sometimes called break-open tickets, instant lottery tickets, instant bingo tickets, scratch-off tickets, pull-tab tickets, pickle jar games, etc., which numbers or

symbols are somehow concealed and printed in a manner to provide for the distribution of a specific number of prizes or set dollar amount of prizes from each set or series of cards or tickets, does not constitute the game of bingo; rather, the foregoing constitutes a lottery ticket with all such games subject, exclusively, to licensing and regulation by the CNMI Lottery and, therefore, any such tickets may not be sold by the holder of the Rota Municipal Bingo License unless the sale of such game is also approved by the CNMI governmental entity regulating the CNMI Lottery.

(d) 'Batu' means a game played at a fixed location in which a player throws a disk or other similar object a certain number of times and for a certain distance in an attempt to knock down a pin or a stick. The players and other present wager whether after a throw or series of throws the pin or stick will be knocked over. The number of throws, the distance, and the pin or stick to be knocked down shall be determined before the wagers are placed. The wagers must be placed and the winners must be determined and the prizes must be made in the presence of all persons placing wagers in such a game.

§ 1403. Rota Gaming Board Formed; Term; Compensation; Removal; Qualifications.

a) There is hereby established for the First Senatorial District (Rota) a Rota Gaming Board, hereinafter referred to as the 'Board.' The Board shall consist of five members appointed by the Mayor of Rota with the advice and consent of the Rota Municipal Council. Subsection (g) of Title 1, CMC, § 2901 shall not apply to the Board. The purpose of the Board is to regulate Cockfighting, Bingo and Batu.

(b) Board members shall serve a term of two years.

(c) Board Members shall serve without compensation but may receive compensation for meeting attendance, travel and extraordinary expenses pursuant to 1 CMC § 8247. All compensation

shall come from the Special Account established by § 1419 of this Act.

(d) Any board member appointed by the Mayor or to serve on the Board shall serve at the pleasure of the Mayor and may be removed by the Mayor with or without cause.

(e) In addition to other qualifications required by law (1 CMC, § 2901), Board Members must be registered voters of the First Senatorial District and shall not be holders of a license to operate a cockpit or operate bingo or batu game or have any financial interest in any cockpit, bingo or batu game or operation or be a gambling referee of any sort.

(f) No person may be appointed to the Board who has been convicted of a crime carrying a maximum sentence of imprisonment of more than six months unless a full pardon has been granted or unless a period of three years has elapsed since the time of the conviction or from completion of any sentence, whichever is later.

(g) Board members serving pursuant to the Rota Cockfighting Act of 1990 (Title 10, CMC, § 1401 et seq.) shall cease serving on the effective date of this Act and shall be replaced by new Mayoral appointees.

§ 1404. Powers and Duties of the Board. The Board shall have all power reasonably necessary and incidental to allow for the implementation of the purposes of this Act, including but not limited to the following:

(a) To promulgate rules and regulations pertaining to the organization of the Board and to the regulation of the forms of gambling enumerated in this Act. Such regulations shall be promulgated consistent with Commonwealth law.

(b) To receive, review, and award all licenses authorized by this Act.

(c) To receive, review, and decide any dispute arising from the awarding or revocation of a license authorized by this Act. The decision of the Board shall be final, except that the aggrieved party

may seek review of the Board's decision in the Commonwealth Superior Court pursuant to 1 CMC, § 9112.

§ 1405 Number of Licenses. Subject to the provisions of this Act for the longer term prescribed for the initial cockfighting franchise license, there shall be no more than one annual license issued for cockfight, bingo, and batu. The cockfighting license allows the holder to engage in either Balentia or Amara forms of cockfighting, one form not to be at the exclusion of the other.

§ 1406. No Assignment - Not For Profit - Temporary Activities. Franchise licensees may not sell, transfer, or assign their license rights. Provided, however, that franchise licensees may, in their discretion, but with the endorsement and prior written approval of the Board, assign their license right to another for temporary, non-profit gaming activities - cockfighting, bingo, batu - when such activities do not exceed three calendar (3) days and are conducted in connection with non-profit community events such as village fiestas, celebrations of legal or traditional holidays and holy days. To qualify for such the assignee must apply all revenues raised from this non-for-profit gaming to charitable, educational, or other purposes constituting the basis for a gross revenue exemption pursuant to 4 CMC § 1305(g). Assignees shall be bound by all provisions of this Act made applicable to the franchise licensee.

§ 1407. Exclusive Franchise License - Indemnity of Government.

(a) Cockfighting - Construction of Cockpit - Lease Back

The Board shall issue a cockfighting franchise license to the highest, responsible bidder.

(1) Due to the financial burden of erecting a cockpit facility, the exclusive franchise to operate a cockpit shall be for an initial fifteen (15) year period so that the initial licensee has ample time to recover the cost of building the facility required by this Act. All subsequent cockfighting licenses shall be limited to one (1) year.

(2) Within one year of award of a franchise license, the winning bidder of the initial franchise license shall construct a building for cockfighting. The design shall be approved by the Board and the Rota Public Works Department in direct consultation with the Mayor. The cockpit shall be a modern, typhoon-resistant structure and shall cost no less than \$75,000.00 and no more than \$100,000. During the construction period (not to exceed one year), the licensee is authorized to operate a temporary cockfight facility at a location(s) approved by the Board.

(3) Providing that, pursuant to Article XI, Section 5(b) of the Constitution and Public Law No. 10-57, § 2674(d), public land for a cockpit site is transferred to the Municipality of Rota, the franchise licensee shall construct the cockpit building on this public land. If public land is not available, the licensee may construct the cockpit on private land, provided, however, that this location must have the approval of the Board.

(4) The franchise licensee shall hold the title to the cockpit building as long as a valid license is held and until such time (not to exceed 15 years) as the licensee's gross revenues from cockfighting activities and related operations and sales equal the cost of the cockpit construction. For this purpose, and the purpose of setting the rent for lease back, the licensee shall make available to the Board all tax returns and information necessary to determine gross revenues. Within fifteen (15) years or upon revocation of the license or at such time as the licensee has recovered costs of construction, whichever event occurs first, the licensee shall convey title of the cockpit building to the Municipality of Rota. This provision shall be self-executing. In turn, the Municipality will lease the cockpit facility to the licensee or subsequent licensees at a rent of five (5) percent of gross revenues per annum or upon such terms as the parties may mutually agree. At all times, licensee

shall be responsible for maintenance and utilities. The Office of the Mayor shall be responsible for the administration of the lease.

(b) **Bingo and Batu.** The Board shall issue one-year, bingo and one-year, batu franchise licenses to the highest, responsible bidder for those licenses.

(c) **Indemnity.** All licensees — cockfighting, bingo, and batu — shall indemnify and hold harmless the Board, its members, the Commonwealth government, the Municipality of Rota and their officers, agents and employees from all liability and claims for damages made by third parties arising from or as a result of the licensees gaming activities and related operations.

§ 1408. Board Exclusive Licensing Authority. The Rota Gaming Board shall be the only entity authorized to issue licenses for the operation of a cockpit, bingo, and batu.

§ 1409. Repeal — Rota Municipal Code. All provisions of the Rota Municipal Code pertaining to the licensing of cockfighting, bingo, or batu (batto), including but not limited to those found in Section 6.10 and Section 6.11 of the Rota Municipal Code, are hereby expressly repealed and superseded by this Act.

§ 1410. Notice of Bid. Notice of invitation to bid for the award of a license for operation of a cockpit, bingo and batu games shall be posted in at least six public places on Rota and published or announced in at least three of the local news media accessible to Rota. Publication or announcement must be for a period of seven consecutive days within twenty days prior to the deadline stated in the notice for the submission of bid proposals.

§ 1411. Bid Procedure: Minimum Bid: Time of Payment: Local Preference.

(a) Bids must be submitted within at least fifteen (15) days prior to the expiration of an existing license. Each bid shall be sealed and accompanied by a deposit of 20 percent of the total amount of the bid. The deposit shall be in the form of cash, postal or express money

order, cashier's check, or bank draft, payable to the CNMI treasurer. Bid deposits of unsuccessful bidders shall be promptly returned by the Board.

(b) The minimum bids for each category of gaming which can be received and accepted by the Board shall be as follows: Five thousand (\$5,000.00) dollars for a cockpit license; One thousand (\$1,000.00) dollars for a bingo license; and One thousand (\$1,000.00) dollars for a batu license.

(c) As proof of financial responsibility, the highest or most responsible bidder must pay the full amount of the bid no later than the close of the next business day following the Board's announcement of the highest bidder. The method of payment shall be the same as that designated in this Act for bid deposits. If the highest or most responsible bidder fails to make full payment as required by this subsection, the Board reserves the right to award the franchise license to the next highest, responsible bidder or to reject all bids and seek new bids.

(d) All bids shall be publicly open and announced by the Board. The hour and place of opening bids shall be stated in the notice of invitation to bid.

(e) The Board reserves the right, by majority vote, to reject any and all bids for good cause: to make further invitation for bids in the same manner as the original invitation; and to waive immaterial irregularities in the bidding process. For the purpose of this subsection, 'good cause' shall include a prior felony conviction of any bidder by a court of competent jurisdiction.

§ 1412. Revocation of License. Upon a hearing provided by the Board, the Board, by majority vote, may revoke a license awarded under this Act, if it finds that the licensee has violated any of the provisions of this Act, any regulation promulgated by the Board, or if the licensee has violated or permitted the violation of any municipal ordinance or Commonwealth law in the operation of a cockpit or of a bingo or batu game.

§ 1413. Hours of Operation. Consistent with the Commonwealth law and municipal ordinance, the licensee may set the hours and days of operation for gaming licensed under this Act.

§ 1414. Fees and Other Deductions. Licensee is authorized to charge an admission fee of not more than ten (10) dollars per person per day. The licensee is also authorized to deduct ten percent from all winning paid to winning betters in accordance with the regulations promulgated by the Board.

§ 1415. Drinks and Food Concession. Providing that the Licensee is in full compliance with all Commonwealth-wide laws and regulations controlling the possession and sale of food and alcoholic beverages, the Licensee is authorized to sell food and alcoholic beverages on the premises where the gaming activities take place. Provided, however, that alcoholic drinks shall not be sold at bingo games.

§ 1416. Employees. The Licensees may hire employees at their own expense for the operation of cockpits, bingo and batu games and activities related to those operations.

§ 1417. Admission Tax. Pursuant to Title 1, CMC, § 1402(c)(3), the Municipality of Rota shall levy an admission tax of 30% on any admission fee collected by the licensee.

§ 1418. Gross Revenue Surtax. Pursuant to Title 1, CMC, § 1402(c)(1), the Municipality of Rota shall levy a gross revenue surtax of one percent on all gross revenue derived from gaming and derived from the sale of food and beverages associated with licensed gaming activities.

§ 1419. Funds Collected — Appropriation and Expenditure. Except for the fees and revenues generated for the licensee pursuant to § 1414 and §1415 of this Act, all other fees and taxes collected under this Act shall, pursuant to Title 1, CMC, § 1408, be deposited in the General Fund in a special ‘Municipality of Rota Gaming Revenue’ account to be established by the Secretary of Finance. Funds in this account shall be annually appropriated by the Rota Legislative Delegation pursuant to Title 1, CMC, § 1407. The Mayor of Rota shall exercise expenditure authority over all Legislative Delegation appropriations from this special account.

§ 1420. Violations and Penalties.

(a) Violations.

(1) No person, firm, corporation, partnership, business association or to other entity shall operate a cockpit or operate a cockfight, bingo or batu game at a time and place where a fee is charged for admission or betting takes place unless licensed pursuant to this Act.

(2) No person or individual shall engage or participate in cockfighting, bingo or batu, at a time and place where a fee is charged for admission or betting takes place, unless that gaming activity is licensed pursuant to this Act.

(3) No licensee shall permit any person under eighteen (18) years of age to attend or be present, unless with parental or adult supervision, or to under any circumstances wager at a licensed cockpit, bingo or batu game.

(b) Penalties. Any person or individual who willfully or knowingly violates any provision of this Act or any rule or regulation duly promulgated by the Board pursuant to this Act, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than two (2) thousand dollars or imprisoned not more than thirty (30) days, or both, for each violation.

§ 1421. Private Right of Action to Enforce Franchise. To protect its franchise granted by this Act, there is hereby created a private right of action on behalf of all licensees. Pursuant to the rules of civil procedure for the Commonwealth courts, a licensee may bring any and all types of civil actions, including but not limited to injunctive of damage actions, against those who, in any manner of form, infringe, diminish, or interfere with the licensee's franchise. In all such suits or actions where it prevails, the licensee shall be awarded its reasonable attorneys fees and costs of suit."

Section 2. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its

provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 3. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 4. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

Date: July 27, 1999

Introduced by: /s/ Rep. Alejo M. Mendiola, Jr.

CERTIFIED BY:

/s/ Edward U. Maratita
EDWARD U. MARATITA
CHAIRMAN
ROTA LEGISLATIVE DELEGATION

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
SPEAKER OF THE HOUSE

Approved this 15th day of October, 1999.

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS