



Ohio Revised Code

Section 3772.10 Granting or maintaining privileges; considerations.

Effective: September 28, 2012

Legislation: Senate Bill 337, House Bill 386 - 129th General Assembly

(A) In determining whether to grant or maintain the privilege of a casino operator, management company, holding company, key employee, casino gaming employee, or gaming-related vendor license, the Ohio casino control commission shall consider all of the following, as applicable:

(1) The reputation, experience, and financial integrity of the applicant, its holding company, if applicable, and any other person that directly or indirectly controls the applicant;

(2) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance and to provide an adequate surety bond;

(3) The past and present compliance of the applicant and its affiliates or affiliated companies with casino-related licensing requirements in this state or any other jurisdiction, including whether the applicant has a history of noncompliance with the casino licensing requirements of any jurisdiction;

(4) If the applicant has been indicted, convicted, pleaded guilty or no contest, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations;

(5) If the applicant has filed, or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt;

(6) If the applicant has been served with a complaint or other notice filed with any public body regarding a payment of any tax required under federal, state, or local law that has been delinquent for one or more years;

(7) If the applicant is or has been a defendant in litigation involving its business practices;



(8) If awarding a license would undermine the public's confidence in the casino gaming industry in this state;

(9) If the applicant meets other standards for the issuance of a license that the commission adopts by rule, which shall not be arbitrary, capricious, or contradictory to the expressed provisions of this chapter.

(B) All applicants for a license under this chapter shall establish their suitability for a license by clear and convincing evidence. If the commission determines that a person is eligible under this chapter to be issued a license as a casino operator, management company, holding company, key employee, casino gaming employee, or gaming-related vendor, the commission shall issue such license for not more than three years, as determined by commission rule, if all other requirements of this chapter have been satisfied.

(C) The commission shall not issue a casino operator, management company, holding company, key employee, casino gaming employee, or gaming-related vendor license under this chapter to an applicant if:

(1) The applicant has been convicted of a disqualifying offense, as defined in section 3772.07 of the Revised Code.

(2) The applicant has submitted an application for license under this chapter that contains false information.

(3) The applicant is a commission member.

(4) The applicant owns an ownership interest that is unlawful under this chapter, unless waived by the commission.

(5) The applicant violates specific rules adopted by the commission related to denial of licensure.

(6) The applicant is a member of or employed by a gaming regulatory body of a governmental unit in this state, another state, or the federal government, or is employed by a governmental unit of this



state. This division does not prohibit a casino operator from hiring special duty law enforcement officers if the officers are not specifically involved in gaming-related regulatory functions.

(7) The commission otherwise determines the applicant is ineligible for the license.

(D)(1) The commission shall investigate the qualifications of each applicant under this chapter before any license is issued and before any finding with regard to acts or transactions for which commission approval is required is made. The commission shall continue to observe the conduct of all licensees and all other persons having a material involvement directly or indirectly with a casino operator, management company, or holding company to ensure that licenses are not issued to or held by, or that there is not any material involvement with a casino operator, management company, or holding company by, an unqualified, disqualified, or unsuitable person or a person whose operations are conducted in an unsuitable manner or in unsuitable or prohibited places or locations.

(2) The executive director may recommend to the commission that it deny any application, or limit, condition, or restrict, or suspend or revoke, any license or finding, or impose any fine upon any licensee or other person according to this chapter and the rules adopted thereunder.

(3) A license issued under this chapter is a revocable privilege. No licensee has a vested right in or under any license issued under this chapter. The initial determination of the commission to deny, or to limit, condition, or restrict, a license may be appealed under section 2505.03 of the Revised Code.

(E)(1) An institutional investor may be found to be suitable or qualified by the commission under this chapter and the rules adopted under this chapter. An institutional investor shall be presumed suitable or qualified upon submitting documentation sufficient to establish qualifications as an institutional investor and upon certifying all of the following:

(a) The institutional investor owns, holds, or controls securities issued by a licensee or holding, intermediate, or parent company of a licensee or in the ordinary course of business for investment purposes only.

(b) The institutional investor does not exercise influence over the affairs of the issuer of such securities nor over any licensed subsidiary of the issuer of such securities.



(c) The institutional investor does not intend to exercise influence over the affairs of the issuer of such securities, nor over any licensed subsidiary of the issuer of such securities, in the future, and that it agrees to notify the commission in writing within thirty days if such intent changes.

(2) The exercise of voting privileges with regard to securities shall not be deemed to constitute the exercise of influence over the affairs of a licensee.

(3) The commission shall rescind the presumption of suitability for an institutional investor at any time if the institutional investor exercises or intends to exercise influence or control over the affairs of the licensee.

(4) This division shall not be construed to preclude the commission from requesting information from or investigating the suitability or qualifications of an institutional investor if:

(a) The commission becomes aware of facts or information that may result in the institutional investor being found unsuitable or disqualified; or

(b) The commission has any other reason to seek information from the investor to determine whether it qualifies as an institutional investor.

(5) If the commission finds an institutional investor to be unsuitable or unqualified, the commission shall so notify the investor and the casino operator, holding company, management company, or gaming-related vendor licensee in which the investor invested. The commission shall allow the investor and the licensee a reasonable amount of time, as specified by the commission on a case-by-case basis, to cure the conditions that caused the commission to find the investor unsuitable or unqualified. If during the specified period of time the investor or the licensee does not or cannot cure the conditions that caused the commission to find the investor unsuitable or unqualified, the commission may allow the investor or licensee more time to cure the conditions or the commission may begin proceedings to deny, suspend, or revoke the license of the casino operator, holding company, management company, or gaming-related vendor in which the investor invested or to deny any of the same the renewal of any such license.



(6) A private licensee or holding company shall provide the same information to the commission as a public company would provide in a form 13d or form 13g filing to the securities and exchange commission.

(F) Information provided on the application shall be used as a basis for a thorough background investigation of each applicant. A false or incomplete application is cause for denial of a license by the commission. All applicants and licensees shall consent to inspections, searches, and seizures and to the disclosure to the commission and its agents of confidential records, including tax records, held by any federal, state, or local agency, credit bureau, or financial institution and to provide handwriting exemplars, photographs, fingerprints, and information as authorized in this chapter and in rules adopted by the commission.

(G) The commission shall provide a written statement to each applicant for a license under this chapter who is denied the license that describes the reason or reasons for which the applicant was denied the license.

(H) Not later than January 31 in each calendar year, the commission shall provide to the general assembly and the governor a report that, for each type of license issued under this chapter, specifies the number of applications made in the preceding calendar year for each type of such license, the number of applications denied in the preceding calendar year for each type of such license, and the reasons for those denials. The information regarding the reasons for the denials shall specify each reason that resulted in, or that was a factor resulting in, denial for each type of license issued under this chapter and, for each of those reasons, the total number of denials for each such type that involved that reason.

The Legislative Service Commission presents the text of this section as a composite of the section as amended by multiple acts of the General Assembly. This presentation recognizes the principle stated in R.C. 1.52(B) that amendments are to be harmonized if reasonably capable of simultaneous operation.