

RESOLUTION 2009-164

A RESOLUTION ADOPTING LSA DOCUMENT #09-361 AS A FINAL RULE

The Indiana Gaming Commission (“Commission”) adopts the following resolution pursuant to the authority granted to it under IC 4-32.2.

The Commission has considered the following factors:

1. The Commission began promulgation of the attached LSA Rule Document #09-361 under IC 4-22. A Notice of Intent to adopt LSA Document #09-361 was posted at DIN: 20090527-IR-068090361NIA on the *Indiana Register* website on May 27, 2009. The proposed rule was then posted at DIN: 20090715-IR-068090361PRA on the *Indiana Register* website on July 15, 2009.
2. The Commission held a public hearing on this rule in compliance with IC 4-22. The public hearing was held on September 1, 2009 at 9:30 a.m. in the offices of the Indiana Gaming Commission, in Indianapolis, IN. The transcript of the hearing and all written comments that were received, including the Indiana Economic Development Commission comments, were fully considered and implemented where appropriate. The transcript of the hearing has been reviewed by Commission members.
3. If the Commission approves this Resolution adopting the attached rule document as a final rule, the rule will be forwarded to the Office of the Attorney General and the Governor for approval, and filed thereafter with the *Indiana Register*. The rule will be effective 30 days after it is filed with the *Indiana Register*.

NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION, THAT THE FOLLOWING RESOLUTION IS ADOPTED:

SECTION 1: SCOPE

This resolution applies to all persons subject to the authority granted to the Commission by the General Assembly in Indiana Code 4-32.2, 4-33, and 4-35 including, but not limited to, all persons and entities licensed by the Commission, and all persons or entities that have applied to the Commission for licensure.

SECTION 2: DEFINITIONS

The definitions set forth in IC 4-32.2, IC 4-33, IC 4-35, and 68 IAC apply to this resolution.

SECTION 3: ADOPTION OF FINAL RULES

The Commission adopts the following rules as reflected on the attached final rule document:

68 IAC 7-1-10

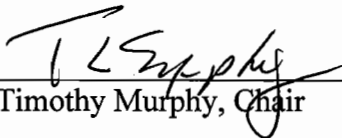
Pursuant to IC 4-22-2, the Commission adopts the attached final rule document. The rule will be forwarded to the Office of the Attorney General for approval as to legality under IC 4-22-2-32. Upon approval by the Office of the Attorney General, the rule will be submitted to the Governor's Office for approval pursuant to IC 4-22-2-33. After the rule has been approved or deemed approved by the Governor, the rule will be submitted to the *Indiana Register* for filing in accordance with IC 4-22-2-35.

SECTION 4: EFFECTIVE DATE

This resolution is effective immediately.

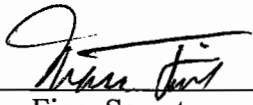
ADOPTED THIS THE 17th DAY OF SEPTEMBER, 2009.

THE INDIANA GAMING COMMISSION:



Timothy Murphy, Chair

ATTEST:



Marc Fine, Secretary

TITLE 68 INDIANA GAMING COMMISSION

Final Rule
LSA Document #09-361

DIGEST

Amends 68 IAC 7-1-10 to comply with IC 4-21.5-3-14(c) placing the burden of proof in administrative proceedings on the Indiana Gaming Commission. Makes numerous technical changes. Effective 30 days after filing with the Publisher.

68 IAC 7-1-10

SECTION 1. 68 IAC 7-1-10 IS AMENDED TO READ AS FOLLOWS:

68 IAC 7-1-10 Proceedings

Authority: IC 4-33-4; IC 4-35-4

Affected: IC 4-21.5-3; IC 4-33; IC 4-35.

Sec. 10. ~~(a) The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing by a preponderance of the evidence that:~~

- ~~(1) the petitioner should have been awarded a license;~~
- ~~(2) the license should have been renewed;~~
- ~~(3) the transfer of ownership should have been approved; or~~
- ~~(4) the petitioner should not have been placed on the exclusion list.~~

~~(b) Any testimony shall be given under oath or affirmation. (a) The hearing officer or recorder shall be administrative law judge is authorized to administer oaths.~~

~~(e)(b) Both parties may present an opening statement on the merits. The petitioner commission proceeds first, followed by the respondent petitioner. The respondent petitioner may not reserve the opening statement for a later time. The hearing officer administrative law judge may determine the length of time each party is permitted for the presentation of an opening statement statements.~~

~~(d) (c) The petitioner shall commission must then present the petitioner's commission's case-in-chief.~~

~~(e) (d) Upon conclusion of the petitioner's commission's case-in-chief, the respondent petitioner may move for a directed finding. The hearing officer administrative law judge may:~~

- ~~(1) hear arguments on the motion; or may~~
- ~~(2) grant, deny, or reserve any decision thereon, with or without argument.~~

~~(f) (e) If:~~

- ~~(1) no motion for directed finding is made; or if such~~
- ~~(2) the motion is denied or decision reserved thereon;~~

~~the respondent petitioner may present its case.~~

~~(g) (f) Each party may conduct cross-examination of adverse witnesses.~~

~~(h) (g) Upon conclusion of the respondent's petitioner's case, the petitioner commission may present evidence in rebuttal.~~

~~(f) (h) The hearing officer administrative law judge may:~~

- ~~(1) ask questions of the witnesses; and may~~
- ~~(2) request or allow additional evidence at any time, including additional rebuttal evidence.~~

~~(f) (i) Both parties may present a closing argument. The petitioner commission proceeds first, then the respondent, petitioner, and, thereafter, the petitioner commission may present rebuttal argument. The hearing officer administrative law judge may determine the length of time each party is permitted for the presentation of closing argument arguments.~~

~~(f) (j) The hearing officer administrative law judge may require or allow the parties to submit posthearing briefs, proposed findings of fact and conclusions of law, or both, within:~~

- ~~(1) ten (10) days of the conclusion of the hearing; or within~~
- ~~(2) such other time period the hearing officer administrative law judge might order.~~

(Indiana Gaming Commission; 68 IAC 7-1-10; filed Nov 10, 1994, 11:00 a.m.: 18 IR 510; filed Apr 19, 1996, 3:00 p.m.: 19 IR 2251; readopted filed Oct 15, 2001, 4:34 p.m.: 25 IR 898; readopted filed Sep 14, 2007, 1:40 p.m.: 20071003-IR-068070354RFA)