

ASSEMBLY BILL NO. 540—ASSEMBLYMEN LESLIE AND BUCKLEY

MARCH 15, 1999

Referred to Committee on Judiciary

SUMMARY—Provides for credit against certain gaming fees for gaming licensees who sponsor construction of affordable housing. (BDR 41-1006)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to gaming; providing a credit against certain gaming fees for certain gaming licensees who sponsor the construction of affordable housing for persons of low income; requiring the housing division of the department of business and industry and the gaming commission to adopt certain regulations; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 463 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 15, inclusive, of this act.
3 **Sec. 2.** *As used in sections 2 to 15, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 3, 4*
5 *and 5 of this act have the meanings ascribed to them in those sections.*
6 **Sec. 3.** *“Division” means the housing division of the department of*
7 *business and industry.*
8 **Sec. 4.** *“Nonrestricted licensee” means a person who holds a*
9 *nonrestricted license.*
10 **Sec. 5.** *“Persons of low income” has the meaning ascribed to it in*
11 *NRS 315.260.*
12 **Sec. 6. 1.** *A nonrestricted licensee may apply to the division for a*
13 *credit against the fees imposed pursuant to NRS 463.370. Such an*
14 *application must be submitted not later than March 1 of the calendar*
15 *year immediately preceding the calendar year in which the applicant will*
16 *apply a credit pursuant to subsection 1 of section 12 of this act.*

1 2. An applicant for a credit against the fees imposed pursuant to
2 NRS 463.370 shall:

3 (a) Provide proof satisfactory to the division that the applicant intends
4 to provide grants to one or more nonprofit organizations or otherwise
5 sponsor the construction and completion within 2 years of a housing
6 project which includes dwellings that are affordable to persons of low
7 income;

8 (b) Provide a description of the housing project;

9 (c) Specify the number of dwellings in the housing project that will be
10 occupied by persons of low income, which number must be at least one-
11 third of the total number of dwellings in the housing project;

12 (d) Specify the amount of monthly rent or other payments that persons
13 of low income will be required to pay to occupy dwellings within the
14 housing project; and

15 (e) Provide other information concerning the housing project as
16 requested by the division.

17 3. The division shall make a determination as to the sufficiency of
18 each such application not later than June 1 of the year in which the
19 division received the application. From the applications received, the
20 division shall, within the limits set forth in section 8 of this act, select one
21 or more of the proposed housing projects that the division determines are
22 appropriate to assist the division in evaluating the effectiveness of
23 sections 2 to 15, inclusive, of this act in providing affordable housing for
24 persons of low income.

25 Sec. 7. 1. If the division determines that such an application is
26 appropriate and qualifies for eligibility for a credit against the fees
27 imposed pursuant to NRS 463.370, the division shall, not later than July
28 1 of the year in which the division received the application:

29 (a) Provide written notice of its determination to the nonrestricted
30 licensee who submitted the application; and

31 (b) Transmit to the commission a certificate of eligibility which
32 authorizes the nonrestricted licensee to apply a credit against the fees
33 imposed pursuant to NRS 463.370.

34 2. Not more than 30 days after a nonrestricted licensee receives
35 written notice from the division pursuant to paragraph (a) of subsection
36 1, the nonrestricted licensee shall provide to the commission a written
37 estimate of liability which provides an estimate of the total amount of
38 fees that the nonrestricted licensee will owe pursuant to NRS 463.370 for
39 the next succeeding calendar year. If the nonrestricted licensee has been
40 operating for at least 12 calendar months, the written estimate of liability
41 must be based upon the total amount of fees that the nonrestricted
42 licensee paid to the commission pursuant to NRS 463.370 for the
43 immediately preceding 12 calendar months. If the nonrestricted licensee

1 *has been operating for fewer than 12 calendar months, the written*
2 *estimate of liability must be based upon the total amount of fees that the*
3 *nonrestricted licensee has paid pursuant to NRS 463.370 for each month*
4 *that he has been in operation.*

5 *3. Upon receipt of a written estimate of liability from a nonrestricted*
6 *licensee and a certificate of eligibility issued by the division for that*
7 *nonrestricted licensee, the commission shall, on or before November 1 of*
8 *the calendar year in which the division received the certificate of*
9 *eligibility, determine the total amount of credit, specified as a percentage,*
10 *it will grant to the nonrestricted licensee who may apply the credit*
11 *against the fees imposed pursuant to NRS 463.370. The percentage*
12 *specified by the commission must be:*

13 *(a) Based upon a pro rata allocation of the total amount of credits*
14 *available in that calendar year, as set forth in section 8 of this act; and*

15 *(b) Equal to or less than 25 percent of the nonrestricted licensee's*
16 *written estimate of liability.*

17 *4. The commission shall provide written notice to the nonrestricted*
18 *licensee and the division of its determination.*

19 **Sec. 8.** *The commission shall not approve more than \$500,000 in*
20 *credits pursuant to section 7 of this act in one calendar year. The*
21 *commission shall allocate the credits available in one calendar year to*
22 *each nonrestricted licensee for whom the commission has received a*
23 *certificate of eligibility from the division on or before July 1 of that*
24 *calendar year. The commission shall apply the credit for the fiscal year*
25 *that begins during the calendar year for which the credits were allocated.*

26 **Sec. 9. 1.** *Upon receipt of written notice from the commission*
27 *pursuant to section 7 of this act, the nonrestricted licensee may enter into*
28 *a written agreement with the division not later than December 31 of the*
29 *calendar year in which the division approved the application of the*
30 *nonrestricted licensee. The written agreement must include:*

31 *(a) The amount of the credit granted to the nonrestricted licensee*
32 *pursuant to section 7 of this act;*

33 *(b) The number of dwellings in the housing project that will be*
34 *occupied by persons of low income, which number must equal at least*
35 *one-third of the total number of dwellings in the housing project;*

36 *(c) The minimum period for which the dwellings specified in*
37 *paragraph (b) must be occupied by persons of low income only;*

38 *(d) The amount of monthly rent or other payments that persons of low*
39 *income will be required to pay to occupy dwellings within the housing*
40 *project;*

41 *(e) The term of the agreement; and*

42 *(f) The signatures of the administrator of the division and the*
43 *nonrestricted licensee.*

1 2. A written agreement entered into pursuant to subsection 1
2 becomes effective on January 1 of the calendar year immediately
3 succeeding the date on which the division and the nonrestricted licensee
4 entered into the agreement.

5 **Sec. 10.** The division shall oversee and monitor the progress of a
6 housing project that is covered by a written agreement entered into
7 pursuant to section 9 of this act. The division may provide assistance to a
8 nonrestricted licensee to ensure that a housing project is completed
9 within 2 years after the effective date of the written agreement.

10 **Sec. 11.** 1. If a housing project is completed by a nonrestricted
11 licensee and approved by the division, the division shall conduct a review
12 to ensure that the housing project of the nonrestricted licensee complies
13 with the conditions set forth in the written agreement entered into
14 pursuant to section 9 of this act. The nonrestricted licensee shall comply
15 with all requests for information by the division that are related to the
16 review. A review must be conducted at least annually for the term of the
17 written agreement.

18 2. If, as a result of a review, the division determines that a
19 nonrestricted licensee has violated a condition of the written agreement,
20 the division shall provide written notice of the violation to the
21 nonrestricted licensee. The written notice must prescribe a period, not
22 fewer than 30 days, for the nonrestricted licensee to correct the violation.
23 If the nonrestricted licensee does not correct the violation within the
24 prescribed period, the division shall provide written notice of the
25 violation to the commission. Upon receipt of a written notice of such a
26 violation, the commission shall issue to the nonrestricted licensee a
27 written order to repay, in accordance with subsection 2 of section 13 of
28 this act, the full amount of the credit that the nonrestricted licensee
29 applied pursuant to section 12 of this act.

30 **Sec. 12.** If a nonrestricted licensee has entered into a written
31 agreement pursuant to section 9 of this act, the nonrestricted licensee
32 may:

33 1. In the year in which the written agreement becomes effective,
34 apply a credit against the fees imposed pursuant to NRS 463.370 in an
35 amount which is less than or equal to 60 percent of the total credit that
36 was specified in the written agreement pursuant to paragraph (a) of
37 subsection 1 of section 9 of this act. The credit must be applied in
38 accordance with the regulations adopted by the commission pursuant to
39 section 15 of this act.

40 2. If the housing project is completed by the nonrestricted licensee
41 and approved by the division within 2 years after the effective date of the
42 written agreement, apply a credit against the fees imposed pursuant to
43 NRS 463.370 for the 12 months immediately succeeding the approval of

1 *the housing project in an amount which is equal to the remaining*
2 *balance of the total credit that was specified in the written agreement*
3 *pursuant to paragraph (a) of subsection 1 of section 9 of this act. The*
4 *credit must be applied in accordance with the regulations adopted by the*
5 *commission pursuant to section 15 of this act.*

6 **Sec. 13. 1.** *If a housing project is not completed by a nonrestricted*
7 *licensee and approved by the division within 2 years after the effective*
8 *date of the written agreement, the nonrestricted licensee shall repay to*
9 *the commission the amount of the credit that he applied pursuant to*
10 *subsection 1 of section 12 of this act. The nonrestricted licensee shall pay*
11 *interest on the amount due at the rate most recently established pursuant*
12 *to NRS 99.040 for each month, or portion thereof, from the last day of*
13 *the month following the period for which the payment would have been*
14 *made had the credit on the fees not been granted until the date of the*
15 *actual payment of the fees.*

16 **2.** *If a nonrestricted licensee receives a written order to repay from*
17 *the commission pursuant to subsection 2 of section 11 of this act, the*
18 *nonrestricted licensee shall repay to the commission the amount of the*
19 *credit that he applied pursuant to section 12 of this act. The nonrestricted*
20 *licensee shall pay interest on the amount due at the rate most recently*
21 *established pursuant to NRS 99.040 for each month, or portion thereof,*
22 *from the last day of the month following the period for which the*
23 *payment would have been made had the credit on the fees not been*
24 *granted until the date of the actual payment of the fees.*

25 **Sec. 14. 1.** *The division shall adopt regulations that:*

26 *(a) Set forth the criteria for approval of:*

27 *(1) An application for a credit against the fees imposed pursuant to*
28 *NRS 463.370; and*

29 *(2) A housing project, including, without limitation, a requirement*
30 *that a nonrestricted licensee demonstrate to the satisfaction of the*
31 *division that the number of dwellings specified in the written agreement*
32 *pursuant to paragraph (b) of subsection 1 of section 9 of this act will be*
33 *occupied by persons of low income;*

34 *(b) Ensure that a licensee who receives a credit pursuant to sections 2*
35 *to 15, inclusive, of this act offers affordable housing for persons of low*
36 *income for a time deemed acceptable by the division; and*

37 *(c) Prescribe the manner in which the division will:*

38 *(1) Oversee and monitor a housing project pursuant to section 10 of*
39 *this act; and*

40 *(2) Conduct a review pursuant to section 11 of this act.*

41 **2.** *The division may adopt regulations necessary to carry out the*
42 *provisions of sections 6, 9, 10 and 11 of this act.*

1 **Sec. 15. 1. The commission shall adopt regulations that prescribe:**

2 *(a) The formula that the commission will use to determine the total*
3 *amount of credit against the fees imposed pursuant to NRS 463.370 that*
4 *will be granted to an applicant pursuant to section 7 of this act. The*
5 *formula must grant to a licensee an equal amount of credit for each*
6 *dollar that he spends on the project, up to the maximum amount of credit*
7 *that he is allowed in 1 year.*

8 *(b) The manner in which the credit may be applied by the licensee*
9 *against his monthly payment of the fees imposed pursuant to NRS*
10 *463.370; and*

11 **2. The commission may adopt regulations necessary to carry out the**
12 **provisions of sections 7, 8, 12 and 13 of this act.**

13 **Sec. 16.** NRS 463.370 is hereby amended to read as follows:

14 463.370 1. Except as otherwise provided in NRS 463.373, *and*
15 *sections 2 to 15, inclusive, of this act*, the commission shall charge and
16 collect from each licensee a license fee based upon all the gross revenue of
17 the licensee as follows:

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19 Three percent of all the gross revenue of the licensee which does not
20 exceed \$50,000 per calendar month;

21 Four percent of all the gross revenue of the licensee which exceeds
22 \$50,000 per calendar month and does not exceed \$134,000 per
23 calendar month; and

24 Six and one-quarter percent of all the gross revenue of the licensee
25 which exceeds \$134,000 per calendar month.

26
27 2. Unless the licensee has been operating for less than a full calendar
28 month, the commission shall charge and collect the fee prescribed in
29 subsection 1, based upon the gross revenue for the preceding calendar
30 month, on or before the 24th day of the following month. Except for the fee
31 based on the first full month of operation, the fee is an estimated payment
32 of the license fee for the third month following the month whose gross
33 revenue is used as its basis.

34 3. When a licensee has been operating for less than a full calendar
35 month, the commission shall charge and collect the fee prescribed in
36 subsection 1, based on the gross revenue received during that month, on or
37 before the 24th day of the following calendar month of operation. After the
38 first full calendar month of operation, the commission shall charge and
39 collect the fee based on the gross revenue received during that month, on or
40 before the 24th day of the following calendar month. The payment of the
41 fee due for the first full calendar month of operation must be accompanied
42 by the payment of a fee equal to three times the fee for the first full
43 calendar month. This additional amount is an estimated payment of the

1 license fees for the next 3 calendar months. Thereafter, each license fee
2 must be paid in the manner described in subsection 2. Any deposit held by
3 the commission on July 1, 1969, must be treated as an advance estimated
4 payment.

5 4. All revenue received from any game or gaming device which is
6 operated on the premises of a licensee, regardless of whether any portion of
7 the revenue is shared with any other person, must be attributed to the
8 licensee for the purposes of this section and counted as part of the gross
9 revenue of the licensee. Any other person who is authorized to receive a
10 share of the revenue is liable to the licensee for his proportionate share of
11 the license fees paid pursuant to this section.

12 5. Any person required to pay a fee pursuant to this section shall file
13 with the commission, on or before the 24th day of each calendar month, a
14 report showing the amount of all gross revenue received during the
15 preceding calendar month. Each report must be accompanied by:

16 (a) The fee due based on the revenue of the month covered by the
17 report; and

18 (b) An adjustment for the difference between the estimated fee
19 previously paid for the month covered by the report, if any, and the fee due
20 for the actual gross revenue earned in that month. If the adjustment is less
21 than zero, a credit must be applied to the estimated fee due with that report.

22 6. If the amount of license fees required to be reported and paid
23 pursuant to this section is later determined to be greater or less than the
24 amount actually reported and paid, the commission shall:

25 (a) Charge and collect the additional license fees determined to be due,
26 with interest thereon until paid; or

27 (b) Refund any overpayment to the person entitled thereto pursuant to
28 this chapter, with interest thereon.

29 Interest must be computed at the rate prescribed in NRS 17.130 from the
30 first day of the first month following either the due date of the additional
31 license fees or the date of overpayment until paid.

32 7. Failure to pay the fees provided for in this section shall be deemed a
33 surrender of the license at the expiration of the period for which the
34 estimated payment of fees has been made, as established in subsection 2.

35 8. Except as otherwise provided in NRS 463.386, the amount of the fee
36 prescribed in subsection 1 must not be prorated.

37 9. Except as otherwise provided in NRS 463.386, if a licensee ceases
38 operation, the commission shall:

39 (a) Charge and collect the additional license fees determined to be due
40 with interest; or

41 (b) Refund any overpayment, with interest thereon, to the licensee,

1 based upon the gross revenue of the licensee during the last 3 months
2 immediately preceding the cessation of operation, or portions of those last
3 3 months.

4 10. If in any month, the amount of gross revenue is less than zero, the
5 licensee may offset the loss against gross revenue in succeeding months
6 until the loss has been fully offset.

7 11. If in any month, the amount of the license fee due is less than zero,
8 the licensee is entitled to receive a credit against any license fees due in
9 succeeding months until the credit has been fully offset.

10 **Sec. 17.** This act becomes effective on January 1, 2001.

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