

CHAPTER 440a. MANAGEMENT COMPANIES

- Sec.
440a.1. General requirements.
440a.2. Applications.
440a.3. Management company license term and renewal.
440a.4. Management company responsibilities.
440a.5. Management contracts.
440a.6. Change in ownership or control of a management company licensee.

Authority

The provisions of this Chapter 440a issued under 4 Pa.C.S. §§ 1202(b)(9), (13)—(20), (23) and (30), 1202.1(b) and (e), 1205, 1311.1, 1311.2, 1317, 1317.1, 1319, 1321(a)(1) and (2), 1325, 1326, 1331 and 1406, unless otherwise noted.

Source

The provisions of this Chapter 440a adopted October 26, 2007, effective October 27, 2007, 37 Pa.B. 5752, unless otherwise noted.

§ 440a.1. General requirements.

(a) A management company shall obtain a management company license from the Board prior to the commencement of gaming operations. If a slot machine licensee has already started gaming operations, a management company may not provide services to the slot machine licensee prior to obtaining a license from the Board.

(b) An applicant for or holder of a management company license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies may not apply for or hold a manufacturer or supplier license.

Authority

The provisions of this § 440a.1 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 440a.1 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial page (353441).

§ 440a.2. Applications.

(a) An applicant for a management company license shall file:

- (1) A completed application and disclosure form.
- (2) The nonrefundable application fee posted on the Board's web site.

(b) In addition to the application required under subsection (a), an applicant for a management company license shall comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

440a-1

Authority

The provisions of this § 440a.2 amended under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 440a.2 amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial page (353441).

§ 440a.3. Management company license term and renewal.

(a) A management company license or renewal will be valid for 3 years from the date on which the initial license is issued or the renewal is approved by the Board. The management company license will not be issued or renewed until all fees and costs have been paid.

(b) A renewal application shall be submitted to the Bureau of Licensing at least 60 days prior to the expiration of a management company license.

(c) A management company license for which a completed renewal application and fee has been received by the Bureau of Licensing will continue in effect until the Board sends written notification to the holder of the management company license that the Board has approved or denied the management company license.

(d) A management company license issued by the Board is nontransferable.

Authority

The provisions of this § 440a.3 amended under 4 Pa.C.S. §§ 1103, 1202(b)(9)—(23) and (30), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 1317(c), 1317.1(c), 1317.2, 1326, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 440a.3 amended October 22, 2010, effective October 23, 2010, 40 Pa.B. 6083; amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (353441) to (353442).

§ 440a.4. Management company responsibilities.

(a) Notwithstanding any provision to the contrary in a management contract, a management company will be deemed to be an agent of the slot machine licensee for purposes of imposing liability for any act or omission of the management company in violation of the act or this part.

(b) Notwithstanding any provision to the contrary in a management contract, a management company may be jointly and severally liable for any act or omission by the slot machine licensee in violation of the act or this part regardless of actual knowledge by the management company of the act or omission.

§ 440a.5. Management contracts.

(a) A management contract between a slot machine applicant or licensee and management company licensee will not become effective until the Board has approved the management contract.

(b) A management company licensee shall submit any amendment to a management contract 30 days prior to the effective date of the proposed amendment. The amendment will not become effective until a petition is submitted and the Board has approved the amendment.

(c) A management contract or amendment will not be approved by the Board unless the management company proves by clear and convincing evidence that the approval of the contract would not create a monopoly on the control of licensed gaming facilities in this Commonwealth.

(d) A management company that requests Board approval of a management contract shall disclose its financial interests in the slot machine applicant or licensee and, if applicable, any exercisable option that may constitute a change in ownership or control of a slot machine licensee as described in § 441a.17 (relating to change in ownership or control of slot machine licensee and multiple slot machine license prohibition).

(e) A management contract, submitted to the Board for approval, must contain the following:

(1) A provision that provides the grounds and mechanisms for modifying or terminating the contract.

(2) A provision that states that the contract will not be effective unless it is approved by the Board.

(3) A provision that describes with particularity the method of compensating and reimbursing the management company.

(4) Provisions that contain a mechanism to resolve patron disputes and disputes between the slot machine licensee and the management company.

(5) A provision that indicates whether and to what extent contract assignments and subcontracting are permissible.

(6) A provision that specifies the duration of the management contract. A management contract may not contain a provision that provides for the automatic renewal of the management contract.

(f) A management contract submitted for approval must specify the terms and conditions of the management contract and the responsibilities of the slot machine applicant or licensee and management company. At a minimum, the terms should address whether, and to what extent, the management company is involved in the following:

(1) Operation of the following departments:

(i) Information technology.

(ii) Internal audit.

(iii) Slot accounting.

- (iv) Slot management.
 - (v) Security.
 - (vi) Surveillance.
 - (vii) Table games.
- (2) Design, construction, improvement and maintenance of the licensed facility.
 - (3) Sources of operating capital and financing for the development of the licensed facility.
 - (4) Payment of the slot machine license fee and the table games operation certificate fee, if applicable.
 - (5) Purchase or lease of slot machines, table games, table game devices or associated equipment.
 - (6) Design, implementation and amendment of the system of internal controls required under section 1322 of the act (relating to slot machine accounting controls and audits) and this part including the financial reporting requirements.
 - (7) Hiring, terminating, training and promoting of employees and the employment practices attendant thereto.
 - (8) The payment of local, State and Federal taxes and slot machine license deposit required under the act and this part and any penalties imposed by the Board for violations thereof.
 - (9) Advertising, player incentive or marketing programs.
 - (10) Compliance with section 1325(b)(1) of the act (relating to license or permit issuance).
 - (11) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage.
 - (12) Procurement of gaming service providers and gaming junket enterprises.
 - (13) Selection of the licensed facility's independent auditor.
- (g) Notwithstanding subsections (a)—(f), a slot machine licensee and licensed management company may not contract for the delegation of any benefits, duties or obligations specifically granted to or imposed upon the slot machine licensee by the act.

Authority

The provisions of this § 440a.5 amended under 4 Pa.C.S. §§ 1103, 1202(b)(9)—(23) and (30), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 1317(c), 1317.1(c), 1317.2, 1326, 13A11, 13A12—13A14, 13A15 and 1802 and Chapters 13 and 16.

Source

The provisions of this § 440a.5 amended October 22, 2010, effective October 23, 2010, 40 Pa.B. 6083; amended May 13, 2011, effective May 14, 2011, 41 Pa.B. 2439; amended June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829. Immediately preceding text appears at serial pages (353442) and (357077) to (357078).

§ 440a.6. Change in ownership or control of a management company licensee.

(a) A management company licensee shall notify the Bureau and the Bureau of Licensing by filing a Notification of Proposed Transfer of Interest Form prior to or immediately upon becoming aware of a proposed or contemplated change in ownership or control of the management company licensee by a person or group of persons acting in concert which involves any of the following:

(1) More than 5% of a management company licensee's securities or other ownership interests.

(2) More than 5% of the securities or other ownership interests of a corporation or other form of business entity that owns, directly or indirectly, at least 20% of the voting or other securities or other ownership interest of the management company licensee.

(3) Any other interest in a management company licensee which allows the acquirer to control the management company license.

(b) A transaction in subsection (a) may not be consummated without:

(1) Obtaining the prior approval of the Board.

(2) Each principal involved in the transaction obtaining a license in accordance with Chapter 433a (relating to principal licenses).

(c) A request for approval required under subsection (b)(1) shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(d) Notwithstanding the requirement in subsection (b)(2), the Board may approve a transaction under subsection (a) prior to the licensure of the person or group of persons acting in concert if all of the following apply:

(1) The person or group of persons acting in concert are proposing to acquire 20% or less of the voting securities of a publicly traded holding company of a management company licensee.

(2) The person or group of persons acting in concert affirm that the person or group of persons will not control or influence the affairs of or benefit from the management company or slot machine licensee prior to being licensed as principals in accordance with Chapter 433a.

(3) The person or group of persons have filed applications with the Board for licensure as principals in accordance with Chapter 433a.

(4) The approval of the transaction is expressly conditioned upon the person or group of persons being licensed as principals in accordance with Chapter 433a.

(e) The Board will not approve a transaction under subsection (a) which involves a change in control unless the person or group of persons acting in concert demonstrates by clear and convincing evidence that the slot machine licensee's gaming facility will remain or become a financially successful, suitable and efficient business operation.

- (f) The following transactions are not be subject to subsections (a)—(c):
- (1) A transaction through which an underwriter will possess a security for less than 90 days.
 - (2) A transaction through which an institutional investor acquires less than 20% of the securities of a management company licensee's holding company, provided that the securities were acquired for investment purposes only and the institutional investor complies with § 433a.5 (relating to institutional investors).

Authority

The provisions of this § 440a.6 issued under 4 Pa.C.S. §§ 1202(b)(9)—(23), 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, 13A11, 13A12—13A14, 13A15 and 1802 and Chapter 13.

Source

The provisions of this § 440a.6 adopted June 12, 2015, effective June 13, 2015, 45 Pa.B. 2829.

[Next page is 441-1.]

440a-6