

MICHIGAN GAMING CONTROL AND REVENUE ACT (EXCERPT)
Initiated Law 1 of 1996

432.224 Conservatorship.

Sec. 24.

(1) Notwithstanding any other provision of this act, when the board revokes a casino license, or suspends a casino license for a period in excess of 120 days, or refuses to renew a casino license, whether or not an appeal is pending, the board, with notice to the mayor of the city in which the casino is located, shall appoint a conservator to, among other things, take into his or her possession and control all the property and business of the licensee relating to the casino. However, this subsection shall not apply in any instance in which the casino for which the casino license had been issued has not been in operation and open to the public. A person shall not be appointed as conservator unless the board is satisfied that he or she is qualified.

(2) The board may proceed in a conservatorship action in a summary manner and shall have the power to appoint and remove 1 or more conservators and to enjoin the former or suspended licensee from exercising any of its privileges from collecting any debts and from selling, assigning, or transferring any of its property to a person other than a conservator, except as the board may order. The board shall have the further powers necessary for fulfilling the purposes of this act.

(3) Every conservator shall, before assuming his or her duties, execute and file a bond for the faithful performance of his or her duties payable to the board in the office of the board with the surety or sureties and in the form that the board shall approve and in the amount prescribed by the board.

(4) When more than 1 conservator is appointed pursuant to this section, each conservator is subject to this act. Each conservator may collect the debts and property of the former or suspended licensee. The powers and rights conferred upon the conservators shall be exercised only when a majority of the conservators have agreed to the proposed action.

(5) Upon his or her appointment, the conservator shall become vested with the title of all the property of the former or suspended licensee relating to the casino. Subject to any and all valid liens, claims, and encumbrances, the conservator shall have the duty to conserve and preserve the assets to ensure that the assets shall continue to be operated on a sound and businesslike basis.

(6) Subject to the general supervision of the board and pursuant to any specific order it may consider appropriate, a conservator shall have power to do all of the following:

(a) Take into his or her possession all the property of the former or suspended licensee relating to the casino and the approved hotel, including its books, records, and papers.

(b) Institute and defend actions by or on behalf of the former or suspended licensee.

(c) Settle or compromise with any debtor or creditor of the former or suspended licensee, including any taxing authority.

(d) Continue the business of the former or suspended licensee including entering into contracts, borrowing money, and pledging, mortgaging, or otherwise encumbering the property of the former or suspended licensee as security for the repayment of the conservator's loans. However, the power shall be subject to any provisions and restrictions in any existing credit documents.

(e) Hire, fire, and discipline employees.

(f) Review all outstanding agreements to which the former or suspended licensee is a party that fall within the purview of this act and advise the board on which, if any, of the agreements should be the subject of scrutiny, examination, or investigation by the board.

(g) Do all acts that best fulfill the purposes of this act.

(7) Except as otherwise provided in subsection (8), the conservator shall sell, assign, or otherwise transfer ownership of all of the property, in bulk, of a former licensee that was part of the casino or an approved hotel to a person who meets all of the requirements of this act and rules promulgated under this act to receive a casino license under this act subject to all of the following:

(a) Prior approval of the board with the consent of the mayor of the city in which the casino is located.

(b) Prior consultation with the former licensee about the reasonableness of the terms and conditions of the sale, assignment, or transfer.

(c) Prior written notice to all creditors and other persons required to be notified pursuant to court rule or statute.

(8) The conservator shall not conduct a sale, assignment, or transfer under subsection (7) under any of the following circumstances:

(a) A suspension of the casino license is pending.

(b) An appeal from an action that precipitated the conservatorship is pending.

(c) The board has not approved a sale, assignment, or transfer.

(9) Upon the request of the conservator, prior to a sale, assignment, or transfer under subsection (7), the board

shall conduct a summary review of the proposed sale, assignment, or transfer of ownership.

(10) The board may direct that the conservator retain the property and continue the business of the former or suspended licensee relating to the casino and the approved hotel for an indefinite period of time. Without being personally liable, during any period of operation by the conservator, the conservator shall pay when due all secured obligations. The conservator is not immune from foreclosure or other legal proceedings to collect the secured debt. The conservator shall have all of the legal rights, claims, or defenses that would have been available to the former or suspended licensee.

(11) In a proceeding described in subsection (10), the board shall allow a reasonable compensation for the services, costs, and expenses for the conservator, the attorney for the conservator, the appraiser, the auctioneer, the accountant, and the other persons as the board may appoint in connection with the conservatorship.

(12) As an incident of its prior approval of the sale, assignment, or other transfer, in bulk, of all property of the former licensee that was a part of the casino, the board may require that the purchaser of the property assume in a form acceptable to the board all of the outstanding debts of the former licensee that arise from or were based upon the operation of the casino.

(13) The conservator shall not make a payment of net earnings during the period of the conservatorship without the prior approval of the board, which may direct that all or any part of the net earnings be paid to the suspended or former licensee or to the state casino gaming fund or the state services fee fund or to the city as a municipal services fee or tax or municipal wagering tax, in accordance with rules promulgated by the board. The former or suspended licensee is entitled to a fair rate of return out of net earnings, if any, during the period of the conservatorship on the property retained by the conservator.

(14) Following any sale, assignment, or other transfer, in bulk, of all the property subject to the conservatorship, the conservator shall pay the net proceeds from the sale that remain after payment of all obligations owing to the state of Michigan and any political subdivisions of the state and of those allowances set forth in this act to the former or suspended licensee.

(15) A conservator appointed pursuant to this act shall at all times be subject to this act and the rules, limitations, restrictions, terms, and conditions as the board may prescribe. Except as otherwise provided in this act, during the period of any conservatorship imposed by this act, the casino operation in the form of the conservatorship shall be considered a licensed casino operation subject to this act.

(16) The board shall direct the discontinuation of a conservatorship when the conservator has, with the prior approval of the board, consummated the sale, assignment, or other transfer, in bulk, of all of the property of the former licensee that was part of the casino.

(17) The board may direct the discontinuation of any conservatorship when it determines that the reason for which the action was instituted no longer exists.

(18) Upon the discontinuation of the conservatorship and with the approval of the board, the conservator shall take the steps necessary to effect an orderly transfer of the property of the former or suspended licensee.

(19) The sale, assignment, transfer, pledge, or other disposition of the securities issued by a former or suspended licensee during the pendency of a conservatorship instituted pursuant to this act does not divest or otherwise affect the powers conferred upon a conservator by this act.

(20) A conservator appointed pursuant to this act shall file with the board reports on the administration of the conservatorship in the form and at the intervals the board shall prescribe. Such reports shall be available for examination and inspection by any creditor or party in interest and, in addition, the board may direct that copies of the reports be mailed to designated creditors or other persons and that summaries of any reports be published in designated newspapers of general circulation.

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