

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Pennsylvania Gaming Control Board

(2) I.D. Number (Governor's Office Use)

125 - 87

IRRC Number:

2706

(3) Short Title

Trusteeship

(4) PA Code Cite

58 Pa. Code Chapter 443a
§§ 443a.1 - 443a.12

(5) Agency Contacts & Telephone Numbers

Primary Contact: Richard Sandusky
717-214-8111 / rsandusky@state.pa.us

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

This proposal adds a new Chapter 443a which outlines the circumstances under which the Board may appoint a trustee and the obligations, powers and duties of the trustee.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

§ 1202(b)(30) of the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. § 1202(b)(30)) provides the Board with the authority to adopt regulations necessary for the administration of the Act.

§§ 1102(1), (3), (5), (8) and (11) and 1202(a)(1) and (b)(12), (b)(14) and (b)(15) of the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. §§ 1102(1), (3), (5), (8) and (11) and 1202(a)(1) and (b)(12), (b)(14) and (b)(15)) provide more specific authority for the Board to appoint a trustee.

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The Board's existing regulations do not address what would happen in the event that a slot machine licensee's license or the license of a principal that controls a slot machine licensee expires, is suspended or is revoked.

The Board has developed this rulemaking to provide for the continued operation of a licensed facility which would continue to provide direct employment, economic development and tax revenue for property tax reductions as intended under the Act.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environmental or general welfare risks affected by this rulemaking.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Slot machine licensees and principals whose license has expired, is suspended or is revoked will have a better understanding of how the Board will respond.

Employees at an affected licensed facility, parties that conduct business with an affected licensed facility and the general public will be able to anticipate how the Board will react when a slot machine licensee's or a principal's license expires, is suspended or is revoked.

There is currently one licensed facility that is operating under a Board appointed trustee.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Because a licensed facility will continue to operate under the Board appointed trustee, the adverse impacts of the expiration, suspension or revocation of a license will be minimized.

The former or suspended licensee will be responsible for paying for all of the cost associated with the appointment of a trustee. These costs will be paid from any net earnings generated by the licensed facility. The exact amount will be a function of the size of the licensed facility and the length of time the facility remains under the control of the trustee.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Slot machine licensees and principals whose license has expired, is suspended or is revoked and trustees appointed by the Board will be required to comply with this regulation.

Currently there is one Board appointed trustee and one controlling principal whose license has been suspended.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

No specific public input was solicited prior to the proposal of this rulemaking.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

There will be no savings for affected parties as a result of this regulation.

As previously stated, a former or suspended licensee will be responsible for paying for all of the costs associated with the appointment of a trustee.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

The Board anticipates that there will be no costs or direct savings to local governments as a result of this rulemaking.

Counties and local governments who may receive local share revenues will benefit from the continued operation of a licensed facility.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There will be no costs or savings to the Board or other agencies in state government as a result of this amendment.

Any costs incurred by the Board associated with the appointment of a trustee will be charged to the former or suspended licensee.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(20a) Explain how the cost estimates listed above were derived.

Because the costs associated with the appointment of a trustee will vary widely, the Board has not attempted to provide an estimate of the costs that would be incurred by the former or suspended licensee in the chart above.

The expenses for the Mt. Airy trustee for the first six months totaled approximately \$880,000. Expenses for the next six months are anticipated to be less.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Board Budget	\$13,200,000	\$26,400,000	\$29,984,000	\$33,300,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

By appointing a trustee, continued operation of an affected licensed facility will be assured. This will allow employees at the licensed facility to continue working, will allow businesses that provide goods and services to the licensed facility to continue to do business with the licensed facility and the Commonwealth and political subdivisions will continue to receive tax revenue from the licensed facility.

These benefits will far exceed the costs associated with the appointment of a trustee.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The Board considered just appointing trustees by Board order. However, the Board believes promulgating regulations will give affected parties and the general public advanced notice as to how the Board will respond to an expiration, suspension or revocation of a license.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other regulatory schemes were considered.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no corresponding Federal requirements.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Nothing in this amendment will put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will add Chapter 443a to 58 Pa. Code.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No additional hearings or meetings have been scheduled.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The trustee will have to complete an application for a principal license, will have to apply for and obtain a performance bond and will have to submit periodic reports to the Board as ordered by the Board.

The application form for a principal's license is available on the Board's website (pgcb.state.pa.us).

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

There are none.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

These regulations will be effective upon publication as a final rule in the *Pennsylvania Bulletin*.

It is anticipated that final regulations will be adopted in the fourth quarter of 2008.

(31) Provide the schedule for continual review of the regulation.

No formal review schedule has been established. Instead, the Board will be constantly reviewing its regulations and proposing amendments as the need arises.

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Copy below is hereby approved as to form and legality.
Attorney General

By: _____
(Deputy Attorney General)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be true and correct
copy of a document issued, prescribed or promulgated
by:

Pennsylvania Gaming
Control Board

FISCAL NOTE NO. : 125- 87

DATE OF ADOPTION: 10-14-08

BY: Mary DiGiorgio
Mary DiGiorgio Collins, CHAIRMAN

Copy below is hereby approved as to form and legality
Executive or Independent Agencies

BY: R. Douglas Sherman
R. Douglas Sherman, Acting Chief Counsel

10-14-08
DATE OF APPROVAL

(Deputy General Counsel)
(Chief Counsel - Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General Approval or
objection within 30 days after submission.

FINAL-FORM RULEMAKING
COMMONWEALTH OF PENNSYLVANIA

58 PA. CODE, SUBPART C
CHAPTER 443a

RULES AND REGULATIONS

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA.CODE CHAPTER 443a]

TRUSTEESHIP

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and specific authority contained in 4 Pa.C.S. §§ 1102(1), (3), (5), (8) and (11) (relating to legislative intent) and § 1202(a)(1) and (b)(12), (14) and (15) adds Chapter 443a (relating to trusteeship) to read as set forth in Annex A.

Purpose of the Final-form Rulemaking

This final-form rulemaking adds a new chapter outlining the circumstances under which the Board may appoint a trustee and the obligations, powers and duties of the trustee.

Explanation of Chapter 443a

Section 443a.1 (relating to definitions) defines the terms "trustee" and "trusteeship action" which are used in this chapter.

Section 443a.2 (relating to appointment of trustees) provides that the Board may appoint a trustee in the event of the failure to renew, revocation or suspension of a slot machine licensee's license or a principal's license when the principal controls the slot machine licensee.

Section 443a.3 (relating to qualifications of trustees) requires trustees to obtain a principal license and authorizes the Board to issue a trustee a temporary principal credential under § 435a.8 (relating to temporary credentials for principals and key employees).

Section 443a.4 (relating to bonding of trustees) requires a trustee to obtain a performance bond payable to the Board. The cost of that bond shall be paid by the former or suspended licensee.

Section 443a.5 (relating to effect of the trusteeship on slot machine and principal licensees) bars the former or suspended licensee from exercising any control over the licensed facility or being involved in the financial matters of the licensed facility without prior approval of the Board during the period of the trusteeship.

Section 443a.6 (relating to powers and duties of trustees) sets forth the powers and duties of a trustee that the Board may include in the order appointing the trustee. These powers and duties are typical of what would be necessary to allow a trustee to continue the operation of a licensed facility and allow the Board to maintain effective oversight of the trustee. While the Board anticipates that most or all of these powers and duties will be included in an order appointing a trustee, the Board also recognizes that each trusteeship action will be unique. Therefore, the powers and duties of any trustee will be tailored by the Board order to fit the particular circumstances of the specific situation.

Section 443a.7 (relating to compensation of trustees and payment of costs associated with the trusteeship) establishes that the compensation of a trustee will be set by the Board and that all expenses related to the trusteeship will be reviewed and approved by the Board. Payment of all costs approved by the Board will be the responsibility of the former or suspended licensee.

Section 443a.8 (relating to required reports of the trustees) requires a trustee to file periodic reports with the Board as required by the Board's order. While these reports may contain confidential or proprietary information, this section also provides that copies or portions of these reports may be sent to creditors and that the Board may make summaries of these reports available to the public and post them on the Board's website.

Section 443a.9 (relating to review of actions of the trustees) allows creditors or parties in interest to file a petition with the Board using the procedures established in § 493a.4 (relating to petitions generally) if they are aggrieved by an alleged breach of a delegated power or duty by the trustee. The petition must provide the relevant facts and the reason why the trustee's actions constitute a breach of the trustee's duties. The Board will review these petitions and take whatever action is determined to be appropriate.

Section 443a.10 (relating to disposition of net earnings during the period of trusteeship) requires that the trustee establish an escrow account into which all net earnings will be deposited during the trusteeship. No payments may be made from this account without prior approval of the Board. This section also allows the former or suspended licensee to petition the Board for distribution of all or a portion of the net earnings.

Section 443a.11 (relating to payments following a bulk sale) mandates that in the event of the sale or other disposition of all of the property subject to the trusteeship, the Board will conduct a hearing to determine the distribution of the assets remaining after all obligations to this Commonwealth, political subdivisions and other funds set forth in the Act have been satisfied.

Section 443a.12 (relating to discontinuation of trusteeship) specifies the circumstances under which a trusteeship may be discontinued.

Comment and Response Summary

Notice of proposed rulemaking was published at 38 Pa.B. 3820 (July 12, 2008).

The Board received comments from HSP Gaming, LP (HSP) during the public comment period. By letter dated September 10, 2008, the Independent Regulatory Review Commission (IRRC) also submitted comments. All of these comments were reviewed by the Board and are discussed in the following paragraphs.

HSP suggested numerous changes, the bulk of which would provide greater clarity in the regulation. The Board agrees with most of the suggestions and has incorporated them into the final-form rulemaking. Examples of these changes include replacing "trustees" with "trustee" in many sections of the regulation to reflect the fact that in most instances only a single trustee will be appointed and adding specific language in § 443a.6(b) requiring the trustee to conserve and preserve the assets of the slot machine licensee.

In a few sections, the Board has not incorporated all of HSP's suggestions. In § 443a.2(a), the Board did not include "has sole control" because there could be a circumstance where there is more than one individual with significant ownership interests, but where only one individual actually has been exercising control over the licensed facility. In § 443a.7(a),

most of the suggested revisions were not included because they were not necessary and repeated requirements that appear in subsection (b). In § 443a.10(a), the phrase "during the period of the trusteeship" was not added at the end of the sentence because it appears at the beginning of the sentence.

In its comments, IRRRC noted that the citation in § 443a.7(b) appeared to be incorrect.

The Board agrees and has corrected the citation in the final-form regulation.

Additional Revisions

The Board has also made a few additional minor wording changes to improve the clarity of the final-form regulation and for consistency with the revisions made in response to the comments received.

Affected Parties

This final-form rulemaking will affect any slot machine licensee or principal that controls a slot machine licensee whose license has expired or has been suspended or revoked.

Fiscal Impact

Commonwealth

There will be no new costs or savings to the Board or other Commonwealth agencies as a result of this final-form rulemaking.

Political Subdivisions

This final-form rulemaking will have no fiscal impact on political subdivisions of this Commonwealth.

Private Sector

Affected slot machine or principal licensees will be responsible for paying all of the costs associated with the trusteeship. The amount of these costs will vary depending on the size of the licensed facility and the length of the trusteeship.

General Public

This final-form rulemaking will have no fiscal impact on the general public.

Paperwork Requirements

A trustee will have to complete an application for a principal license, will have to apply for and obtain a performance bond and will have to submit periodic reports to the Board as ordered by the Board.

Effective Date

The final-form rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

Contact Person

The contact person for questions about this final-form rulemaking is Richard Sandusky, Director of Regulatory Review, at (717) 214-8111.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (act) (71 P.S. § 745.5(a), on June 25, 2008, the Board submitted a copy of the proposed rulemaking, published at 38 Pa.B. 3820 (July 12, 2008), and a copy of the Regulatory Analysis Form to IRRC and the Chairpersons of the House Gaming Oversight Committee and the Senate Committee on Community, Economic and Recreational Development.

Under section 5(c) of the act (71 P.S. § 745.5(c)), IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the act (71 P.S. § 745.5a(j.2)), the final-form rulemaking was deemed approved by the House Gaming Oversight Committee and the Senate Committee on Community, Economic and Recreational Development on , 2008. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)) IRRC met on , 2008 and approved the final-form rulemaking.

Findings

The Board finds that:

(1) Public notice of intention to adopt these amendments was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(a) The regulations of the Board, 58 Pa. Code Chapter 443a are amended by adding §§ 443a.1 - 443a.12 to read as set forth in Annex A.

(b) The Chairman of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

MARY DIGIACOMO COLINS,
Chairman

Annex A

Title 58. RECREATION

PART VII. GAMING CONTROL BOARD

SUBPART C. SLOT MACHINE LICENSING

CHAPTER 443a. TRUSTEESHIP

§ 443a.1. Definitions.

§ 443a.2. Appointment of trustees.

§ 443a.3. Qualifications of trustees.

§ 443a.4. Bonding of trustees.

§ 443a.5. Effect of the trusteeship on slot machine and principal licensees.

§ 443a.6. Powers and duties of trustees.

§ 443a.7. Compensation of trustees and payment of costs associated with the trusteeship.

§ 443a.8. Required reports of the trustees.

§ 443a.9. Review of actions of the trustees.

§ 443a.10. Disposition of net earnings during the period of trusteeship.

§ 443a.11. Payments following a bulk sale.

§ 443a.12. Discontinuation of trusteeship.

§ 443a.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the content clearly indicates otherwise:

Trustee - A fiduciary appointed by the Board for the purpose of preserving the viability of a licensed gaming entity, and the integrity of gaming in the Commonwealth.

Trusteeship Action - An action brought before the Board for the appointment of a trustee.

§ 443a.2. Appointment of trustees.

(a) Upon the revocation or suspension of a slot machine license or a principal license of an individual who the Board has determined controls a slot machine licensee, the Board may appoint ~~trustees to act on behalf of the interests of the Commonwealth and the Board~~ A TRUSTEE to assure compliance with the act, this part, and any conditions imposed upon the slot machine license under § 423a.6 (relating to license, permit, registration and certification issuance and statement of conditions).

(b) Upon the ~~expiration of~~ FAILURE TO RENEW a slot machine license or a principal license of an individual who the Board has determined controls a slot machine licensee, the Board may appoint a trustee who shall have all of the power and duties granted by the Board until the ~~slot machine or principal license is renewed or until the Board approves a change in ownership of~~

~~the slot machine license~~ DISCONTINUATION OF THE TRUSTEESHIP AS PROVIDED IN § 443a.12 (RELATING TO DISCONTINUATION OF TRUSTEESHIP).

(c) The Board will have the power to appoint and remove one or more trustees as necessary.

§ 443a.3. Qualifications of trustees.

(a) ~~Trustees~~ A TRUSTEE shall be required to file an application for and obtain a principal license.

(b) The Board may appoint a trustee and award the trustee a temporary principal credential under § 435a.8 (relating to temporary credentials for principals and key employees) when necessary.

§ 443a.4. Bonding of trustees.

(a) Before assuming duties, a trustee shall execute and file a bond for the faithful performance of the trustee's duties.

(b) The bond required under subsection (a) must be payable to the Board with SUCH sureties and in the amount and form AS required by Board order.

(c) The cost of the bond required under subsection (a) shall be paid by the former or suspended licensee.

§ 443a.5. Effect of the trusteeship on slot machine and principal licensees.

After the adoption of a trusteeship action, the former or suspended slot machine or principal licensee may not exercise any of its privileges, collect or receive any debts and pay out, sell, assign or transfer any of its property to anyone without prior approval of ~~the appointed trustee~~ and the Board.

§ 443a.6 Powers and duties of trustees.

(a) The Board's order appointing ~~trustees~~ A TRUSTEE will set forth the powers, duties, and responsibilities of the ~~trustees which may include:~~ TRUSTEE. THE TRUSTEE SHALL EXERCISE ONLY THOSE POWERS AND PERFORM THOSE DUTIES EXPRESSLY CONFERRED ON THE TRUSTEE BY THE BOARD OR THIS CHAPTER.

(B) A TRUSTEE SHALL HAVE THE DUTY TO CONSERVE AND PRESERVE THE ASSETS OF THE SLOT MACHINE LICENSEE.

(C) SUBJECT TO THE DIRECT SUPERVISION OF THE BOARD, THE WRITTEN ORDER OF THE BOARD DESCRIBED IN SUBSECTION (A) MAY VEST A TRUSTEE WITH THE FOLLOWING POWERS:

(1) Maintaining and operating the licensed facility in a manner that complies with the act, this part, the slot machine licensee's statement of conditions and the Board's order appointing the ~~trustees~~ TRUSTEE.

(2) Maintaining and operating the licensed facility consistent with the measures generally taken in the ordinary course of business including:

(i) Entering into contracts.

(ii) Borrowing money.

(iii) Pledging, mortgaging or otherwise encumbering the SLOT MACHINE LICENSEE'S property ~~as security for the repayment of the trustee's loans~~; provided, however, that power shall be subject to any provisions and restrictions in any existing credit documents.

(iv) Hiring, firing and disciplining employees.

(V) SETTLING OR COMPROMISING WITH ANY DEBTOR OR CREDITOR OF THE FORMER OR SUSPENDED LICENSEE, INCLUDING ANY TAXING AUTHORITY.

(3) Exercising the rights and obligations of the former or suspended licensee.

(4) Taking possession of all of the property of the former or suspended licensee, including its books, records and papers.

(5) Establishing accounts with financial institutions, which are not affiliated, owned, or otherwise influenced by the former or suspended licensee, to carry out the business of the former or suspended licensee.

(6) Meeting with the former or suspended licensee.

(7) Meeting with principals and key employees at the licensed facility.

(8) Meeting with the independent audit committee, if there is one.

(9) Meeting with the Board's Executive Director and keeping the Board's Executive Director apprised of actions taken and the trustee's plans and goals for the future.

(10) Hiring legal counsel, accountants, or other consultants or assistants, with approval of the Board, as necessary to carry out the trustee's duties and responsibilities.

~~(11) Settling or compromising with any debtor or creditor of the former or suspended licensee, including any taxing authority.~~

~~(12)~~ Reviewing outstanding agreements to which the former or suspended licensee is a party and advising the Board as to which, if any, of the agreements should be the subject of scrutiny, examination or investigation by the Board.

~~(13)~~ (12) Obtaining Board approval prior to any sale, change of ownership, change of control, financial status, restructuring, transfer of assets, or execution of A contract OR ANY OTHER ACTION TAKEN outside of the ordinary course of business.

~~(14)~~ (13) Obtaining Board approval for any payments outside of those in the ordinary course of business.

§ 443a.7. Compensation of trustees and payment of costs associated with the trusteeship.

(a) The Board will establish the compensation of the trustees TRUSTEE.

(b) The Board will review and approve reasonable costs and expenses of trustees THE TRUSTEE, the legal counsel, accountants, or other consultants or assistants hired by the trustees TRUSTEE under § 443a.6(a)(9) 443a.6(a)(10) (relating to powers and duties of trustees) and other persons the Board may appoint in connection with the trusteeship action.

(c) The costs in subsections (a) and (b) shall be paid by the former or suspended licensee.

§ 443a.8. Required reports of the trustees.

(a) ~~Trustees~~ A TRUSTEE shall file reports with regard to the administration of the trusteeship with the Board in the form and at intervals as the Board orders.

(b) The Board may direct that copies or portions of the trustees' TRUSTEE'S reports be mailed to creditors or other parties in interest and make summaries of the reports available to the public and post them on the Board's web site (www.pgcb.state.pa.us).

§ 443a.9. Review of actions of the trustees.

(a) A creditor or party in interest aggrieved by any alleged breach of a delegated power or duty of a trustee in the discharge of the trustee's duties may request a review of the

trustee's action or inaction by filing a petition in accordance with § 493a.4 (relating to petitions generally).

(b) The petition must set forth in detail the pertinent facts and the reasons why the facts constitute the alleged breach.

(c) The Board will review any petition filed under this section and take whatever action, if any, it deems appropriate.

§ 443a.10. Disposition of net earnings during the period of trusteeship.

(a) During the period of trusteeship, net earnings, IF ANY, shall be deposited in an ESCROW account maintained for that purpose.

(b) ~~Payment~~ DISTRIBUTIONS of net earnings during the period of trusteeship may not be made by the ~~trustees~~ TRUSTEE without the prior approval of the Board.

(c) A suspended or former principal or slot machine licensee may request ~~payment~~ A DISTRIBUTION of all or a portion of the net earnings during the period of trusteeship by filing a petition in accordance with § 493a.4 (relating to petitions generally). The suspended or former principal or slot machine licensee shall have the burden of demonstrating good cause for the ~~payment~~ DISTRIBUTION of the net earnings requested.

§ 443a.11. Payments following a bulk sale.

Following the sale, assignment, conveyance or other disposition in bulk of all the property subject to a trusteeship and the payment of all obligations to the Commonwealth and political subdivisions and other funds set forth in the act, the Board will conduct a hearing to determine the distribution of the remaining assets.

§ 443a.12 Discontinuation of trusteeship.

(a) The Board may direct the discontinuation of a trusteeship when:

(1) The Board determines that the cause for which the trusteeship action was instituted no longer exists.

(2) The trustee has, with the prior approval of the Board, consummated the sale, assignment, conveyance or other disposition in bulk of all the property of the former principal or slot machine licensee relating to the slot machine license.

(b) Upon the discontinuation of the trusteeship AND with the approval of the Board, ~~trustees~~ THE TRUSTEE shall take steps as may be necessary to affect an orderly transfer of the property of the former or suspended principal or slot machine licensee.

**COMMENTATORS WHO REQUESTED NOTICE
OF THE FINAL-FORM REGULATION**

FISCAL NOTE: 125-87

While § 5.1(a) of the Regulatory Review Act only requires the Board to provide a list of the commentators who have requested additional information and a copy of the final-form regulation, the PGCB sends a copy of the preamble, Regulatory Analysis Form and the final-form regulation to all commentators. These copies are sent by mail or emailed to the commentator if they request electronic delivery. For this rulemaking, copies of these materials have been sent to the following:

**HSP Gaming, LP
Michael D. Sklar, Esquire
Levine, Staller, Sklar, Chan, Brown & Donnelly, P.A.
3030 Atlantic Avenue
Atlantic City, NJ 08401**

