

# PROPOSED AMENDMENT

## HB 1038 # 9

### DIGEST

Relocation of gaming operations. Specifies a process by which a current licensed owner or permit holder may apply to the Indiana gaming commission (commission) to relocate the Ohio County riverboat license to an inland casino in Allen County, DeKalb County, Steuben County, or Wayne County. Specifies application requirements, including local government support and the applicant's commitment and plan to invest at least \$500,000,000 for the development of a casino and nongaming amenities. Requires the commission to: (1) make the filed applications and an informational summary available to the public not later than January 15, 2027; and (2) issue a final decision approving or denying each application not later than April 15, 2027. Requires an approved applicant to pay \$50,000,000 to the commission and \$30,000,000 total to the city of Rising Sun and Ohio County. Requires the commission to contract with an independent third party consultant to determine the fair market value of the Ohio County license. Requires an approved applicant to pay the fair market value of the license determined by the independent third party to the owner of the Ohio County license, unless the approved applicant is the owner of the Ohio County license. Specifies fees that apply to the sale or transfer of the licensed owner's or permit holder's interest in the owner's license within 10 years. Allows the owner of the Ohio County license to continue gambling operations on the riverboat in Ohio County until one day before the date the commission has approved gambling operations to begin under the relocated owner's license.

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- 1        Replace the effective dates in SECTIONS 1 through 10 with
  - 2        "[EFFECTIVE UPON PASSAGE]".
  - 3        Page 1, line 14, after "County" insert ", **DeKalb County, Steuben**
  - 4        **County, or Wayne County**".
  - 5        Page 2, line 3, reset in roman "ten (10)".
  - 6        Page 2, line 3, delete "eleven (11)".
  - 7        Page 2, line 15, delete "A" and insert "**Not more than a**".
  - 8        Page 2, line 28, after "County" insert ", **DeKalb County, Steuben**
  - 9        **County, or Wayne County**".
  - 10       Page 2, line 33, delete "A" and insert "**Except as provided in**
  - 11       **IC 4-33-6.8, a**".
  - 12       Page 3, between lines 12 and 13, begin a new line block indented
  - 13       and insert:
  - 14       "**(5) If the commission approves an application of a licensed**
  - 15       **owner or permit holder to relocate gaming operations from**
  - 16       **Ohio County under IC 4-33-6.8, a new owner's license may**
  - 17       **not be issued to authorize gaming operations in Ohio County**

after gaming operations are relocated to Allen County, DeKalb County, Steuben County, or Wayne County."

Page 3, line 16, after "County" insert ", DeKalb County, Steuben County, or Wayne County".

Page 3, line 18, delete "Allen" and insert "the county in which the casino conducts gaming operations."

Page 3, delete line 19.

Page 3, line 27, after "County" insert ", DeKalb County, Steuben County, or Wayne County".

Page 4, line 33, after "County" insert ", DeKalb County, Steuben County, or Wayne County".

Page 4, delete lines 35 through 42, begin a new paragraph and insert:

"SECTION 6. IC 4-33-6.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 6.8. Relocation of Casino Operations**

**Sec. 1.** For purposes of this chapter, "Ohio County license" means an owner's license for a riverboat operated from Ohio County.

**Sec. 2.** For purposes of this chapter, "permit holder" has the meaning set forth in IC 4-31-2.1-27.

**Sec. 3.** The commission may authorize in the manner required by this chapter the relocation of the Ohio County license to an inland casino in Allen County, DeKalb County, Steuben County, or Wayne County.

**Sec. 4. (a)** A licensed owner or permit holder may apply to own and operate the Ohio County license by submitting the following to the commission not later than December 1, 2026:

(1) A written application that contains the following information:

(A) The county in which the applicant is proposing to operate an inland casino. For purposes of this clause, the application must select Allen County, DeKalb County, Steuben County, or Wayne County.

(B) Documented and verifiable information describing the following:

(i) The proposed site of the inland casino.

(ii) Evidence of site control or real estate options.

(iii) Conceptual plans for casino and nongaming

- 1 facilities.
- 2 (iv) Estimated construction and total development costs.
- 3 (v) A phased investment and construction timeline.
- 4 (vi) Market and feasibility information.
- 5 (vii) The financial capacity of the applicant.
- 6 (C) The applicant's commitment and plan to invest at least
- 7 five hundred million dollars (\$500,000,000) for the
- 8 development of a casino and nongaming amenities onsite
- 9 in the county selected under clause (A) in the following
- 10 manner:
- 11 (i) At least sixty percent (60%) of the amount invested in
- 12 the initial phase of development.
- 13 (ii) The remaining amount invested, and the relocation
- 14 and development of the casino and nongaming amenities
- 15 completed, not later than five (5) years after gaming
- 16 operations begin at the relocated casino under this
- 17 chapter.
- 18 (D) Any other information requested by the commission.
- 19 (2) The local government support documents required under
- 20 section 5(a) of this chapter.
- 21 (b) An application submitted under subsection (a) may include
- 22 financial commitments to the horse racing industry.
- 23 (c) The commission must begin accepting applications under
- 24 subsection (a) not later than October 1, 2026.
- 25 (d) For purposes of subsection (a), the commission may not
- 26 accept:
- 27 (1) an application from a person that is not a licensed owner
- 28 or permit holder;
- 29 (2) subject to section 7 of this chapter, more than one (1)
- 30 application from a licensed owner or permit holder;
- 31 (3) an application that proposes to operate an inland casino in
- 32 a county other than Allen County, DeKalb County, Steuben
- 33 County, or Wayne County; or
- 34 (4) an application that does not include the information and
- 35 documents required under subsection (a).
- 36 Sec. 5. (a) An applicant must submit the following with an
- 37 application under section 4 of this chapter:
- 38 (1) A copy of a resolution adopted by a majority of the board
- 39 of county commissioners of the county selected by the
- 40 applicant under section 4(a)(1)(A) of this chapter that

1 supports:

2 (A) the applicant's proposed relocation; or

3 (B) the relocation of the Ohio County license to an inland  
4 casino in the county without identifying a specific  
5 applicant.

6 (2) If the proposed casino will be located within a  
7 municipality, a letter of support for the proposed relocation  
8 signed by the mayor of the municipality.

9 (b) Except as provided in section 7 of this chapter, a unit (as  
10 defined in IC 36-1-2-23) may:

11 (1) privately negotiate with an applicant before an application  
12 is submitted; and

13 (2) support or decline to support specific applicants in a letter  
14 or resolution under subsection (a).

15 Sec. 6. (a) Following the submission of applications under  
16 section 4 of this chapter, the commission shall review the filed  
17 applications in the manner required by subsections (c) and (d). Not  
18 later than January 15, 2027, the commission shall:

19 (1) make the filed applications available to the public; and

20 (2) prepare an informational summary of the filed  
21 applications and make the summary available to the public.

22 The commission may redact information that it determines to be  
23 confidential in the applications or informational summary made  
24 available to the public.

25 (b) The commission may hire independent consultants or  
26 experts to assist with evaluating applications.

27 (c) The commission must decide whether to approve or deny an  
28 application submitted under section 4 of this chapter based on  
29 documented and verifiable information, including the following:

30 (1) The net economic benefit to the state.

31 (2) Increased state and local tax revenue.

32 (3) The number and quality of jobs created.

33 (4) The amount of capital investment planned by the applicant  
34 under section 4(a)(1)(C) of this chapter.

35 (5) The quality and durability of proposed facilities.

36 (6) The financial stability of the applicant.

37 (7) Site feasibility and infrastructure readiness.

38 (8) Market sustainability.

39 (9) The impact on other Indiana casinos and the horse racing  
40 industry.

1           (10) Regulatory compliance history.

2           (11) The total public value of a supplemental bid under  
3           section 7 of this chapter, if applicable.

4           (12) Any other factor deemed appropriate by the commission.

5           (d) The commission may not decide whether to approve or deny  
6           an application submitted under section 4 of this chapter based on  
7           lobbying, political pressure, or unverifiable claims.

8           (e) The commission may hold executive sessions under  
9           IC 5-14-1.5-6.1(b)(1) to review and discuss applications submitted  
10          under this chapter.

11          Sec. 7. (a) This section applies if the commission receives more  
12          than one (1) application proposing to operate an inland casino in  
13          the same county.

14          (b) The commission may, after making the filed applications  
15          available to the public under section 6 of this chapter, solicit and  
16          accept a supplemental bid from one (1) or more of the licensed  
17          owners or permit holders that submitted an application described  
18          in subsection (a).

19          (c) The following apply to a supplemental bid submitted under  
20          subsection (b):

21           (1) A supplemental bid:

22               (A) must be submitted only to the commission; and

23               (B) subject to subsection (e), must be sealed and is  
24               confidential.

25           (2) A supplemental bid may include proposed payments to one  
26           (1) or more of the following:

27               (A) The state.

28               (B) The community in which the proposed inland casino  
29               will be located.

30               (C) The city of Rising Sun.

31               (D) Ohio County.

32           (3) Each supplemental bid must clearly identify the amount,  
33           recipient, and timing of a proposed payment under  
34           subdivision (2).

35           (4) An applicant may include in a supplemental bid  
36           modifications to the information submitted by the applicant  
37           under:

38               (A) section 4(a)(1)(B)(iii) through 4(a)(1)(B)(v) of this  
39               chapter; and

40               (B) section 4(a)(1)(C) of this chapter.

(5) A unit (as defined in IC 36-1-2-23) may not negotiate directly with a licensed owner or permit holder submitting a supplemental bid.

(d) If a supplemental bid is submitted under this section, the commission is not required to consider only applications accompanied by a supplemental bid. The commission may approve an application that was not accompanied by a supplemental bid.

(e) After the commission makes a final decision under section 8 of this chapter, the commission must make public each supplemental bid received under this section.

Sec. 8. (a) After issuing the informational summary required under section 6(a)(2) of this chapter, and not later than April 15, 2027, the commission shall issue a final decision approving or denying each application. The final decision must include written findings explaining the decision.

(b) The commission may:

- (1) approve only one (1) application under subsection (a); and
- (2) deny all of the filed applications if the commission determines that none of the applications serve the interests of the state.

Sec. 9. (a) If the commission approves an application of a licensed owner or permit holder to relocate gaming operations under section 8 of this chapter, the commission:

- (1) shall require the licensed owner or permit holder to pay to the commission a fee of fifty million dollars (\$50,000,000) in the manner described in subsection (b);
- (2) shall require the licensed owner or permit holder to make a one (1) time payment in the total amount of thirty million dollars (\$30,000,000) to the city of Rising Sun and Ohio County, due on the date set by the commission under section 12 of this chapter for the license transfer; and
- (3) may impose other requirements that the commission deems necessary and appropriate to protect the interest of the state and the person whose application is approved under section 8 of this chapter.

(b) The payment required by subsection (a)(1) must be paid to the commission in five (5) annual payments of equal amounts. The first payment required by this section is due within thirty (30) days of the approval of the application under section 8 of this chapter. The four (4) remaining annual payments are each due on the

anniversary date of the first payment.

(c) The commission shall deposit the fee received under subsection (a) in the state general fund.

Sec. 10. (a) The commission shall contract with an independent third party consultant to determine the fair market value of the Ohio County license. IC 5-22 does not apply to procurement by the commission with respect to the contract required under this subsection.

(b) The fair market value determined under subsection (a) must be disclosed to the public not later than October 1, 2026.

(c) This subsection does not apply if the commission approves an application to relocate gaming operations under section 8 of this chapter submitted by the current owner of the Ohio County license. The licensed owner or permit holder whose application was approved under section 8 of this chapter shall pay the amount determined under subsection (a) to the owner of the Ohio County license.

Sec. 11. (a) The commission may enforce the phasing and completion timelines to which the licensed owner or permit holder committed under section 4(a) of this chapter.

(b) If the licensed owner or permit holder whose application was approved by the commission under section 8 of this chapter sells or otherwise transfers the licensed owner's or permit holder's interest in the owner's license within ten (10) years from the date the application was approved, the following apply:

(1) The licensed owner or permit holder shall pay a fee of fifty million dollars (\$50,000,000) to the commission before the sale or transfer of the license may be approved by the commission. Any payment required under this subdivision shall be deposited in the state general fund.

(2) If, at the time of the transfer of ownership, the five hundred million dollar (\$500,000,000) investment to which the licensed owner or permit holder committed under section 4(a)(1)(C) of this chapter has not been met, the person acquiring the owner's license shall, not later than ten (10) years from the date the application was approved by the commission under section 8 of this chapter, invest in the casino and nongaming amenities an amount that is at least equal to the difference between five hundred million dollars (\$500,000,000) and the amount actually invested by the person

transferring the owner's license.

**Sec. 12. (a) The owner of the Ohio County license may continue gambling operations on the riverboat in Ohio County:**

**(1) during the application, review, and approval process under this chapter; and**

**(2) if an application is approved under section 8 of this chapter, until one (1) day before the date the commission has approved gambling operations to begin under the relocated owner's license in Allen County, DeKalb County, Steuben County, or Wayne County.**

**(b) If the commission approves an application to relocate gaming operations under section 8 of this chapter, the following apply:**

**(1) The owner of the Ohio County license shall cease gambling operations on the riverboat in Ohio County not later than one (1) day before the date the commission has approved gambling operations to begin under the relocated owner's license in Allen County, DeKalb County, Steuben County, or Wayne County.**

**(2) After gambling operations cease on the riverboat in Ohio County under subdivision (1), and before the date the commission has approved gambling operations to begin under the relocated owner's license, the commission shall promptly transfer the owner's license issued under IC 4-33-6-1(a) to the licensed owner or permit holder whose application was approved under section 8 of this chapter.**

**(3) The licensed owner or permit holder to whom the owner's license is transferred under subdivision (2) is authorized to begin gambling operations in a casino in Allen County, DeKalb County, Steuben County, or Wayne County in accordance with IC 4-33-6-1(a)(7) and this chapter."**

Delete pages 5 and 6.

Page 7, delete lines 1 through 14.

Page 7, line 40, after "County" insert ", DeKalb County, Steuben County, or Wayne County under IC 4-33-6.8".

Page 9, line 12, delete "County." and insert "County, DeKalb County, Steuben County, or Wayne County under IC 4-33-6.8".

Page 9, line 15, delete "located in Allen County:" and insert ":".

Page 9, line 18, delete "Allen County." and insert "the county in which the casino conducts gaming operations."



- 1       Page 10, line 35, delete "or Allen County;" and insert ", **Allen**  
2       **County, DeKalb County, Steuben County, or Wayne County;**".  
3       Page 13, line 35, delete "or Allen County." and insert ", **Allen**  
4       **County, DeKalb County, Steuben County, or Wayne County.**".  
5       Page 14, line 41, delete "or Allen County." and insert ", **Allen**  
6       **County, DeKalb County, Steuben County, or Wayne County.**".  
7       Page 15, line 30, delete "or Allen County." and insert ", **Allen**  
8       **County, DeKalb County, Steuben County, or Wayne County.**".  
9       Page 17, after line 30, begin a new paragraph and insert:  
10      "**SECTION 11. An emergency is declared for this act.**".  
      (Reference is to HB 1038 as introduced.)