

Act 32-23

An Act amending Title 15, Chapter 1 of the Mille Lacs Band Statutes (“MLBS”), to make comprehensive reforms to the Gaming Regulatory Act.

The District II Representative introduced the following Bill on the 7th day of June, 2023.

BE IT ENACTED BY THE BAND ASSEMBLY OF THE NON-REMOVABLE MILLE LACS BAND OF OJIBWE:

Section 1. Amending Title 15 (Independent Agencies), Chapter 1 (Gaming Regulatory Act).

SUBCHAPTER 1

GENERAL PROVISIONS

Section

1. Findings.
2. Declaration of Purpose.
3. Definitions.
4. Severability.

§ 1. Findings.

The Mille Lacs Band of Ojibwe Assembly finds that:

- (a) ~~t~~The Mille Lacs Band of Ojibwe has a long history of conducting different forms of gaming within our sovereign territory. Prior to entering into treaties with the United States, the Band allowed many traditional forms of gaming;
- (b) gGaming on Band lLands is a valuable means of generating revenues needed by the Band to enhance economic development and self-sufficiency, promote and strengthen self-governance, increase Band member employment, and ~~to~~ fund essential Band social programs and services; and
- (c) Band rRegulation and control of gaming on Band lLands is necessary in order to ensure the welfare and best interests of the Band, its members, and patrons of the Band’s gaming enterprises,; prevent any proliferation of organized crime and other corrupting influences on Band lLands,; protect the fairness of gaming conducted on Band lLands; and preserve the political integrity of the Band.

§ 2. Declaration of Purpose.

The express purposes of this ~~Gaming Regulatory Act~~ chapter are:

- (a) to provide a statutory basis for the regulation of gaming on Band ~~L~~ands to ensure that gaming is shielded from organized crime and other corrupting influences, to ensure that the Band is the primary beneficiary of the gaming operation, and to enassure that gaming is conducted fairly and honestly by both the operator and the player;
- (b) to regulate and control gaming on Band ~~L~~ands for the protection of gaming as a means of promoting economic development, self-sufficiency, and strong tribal government;
- (c) to foster a spirit of cooperation with federal officials in the regulation of gaming;
- (d) to foster a spirit of cooperation with Minnesota officials in the conduct of cClass III gaming pursuant to any tribal-state gaming cCompacts;
- (e) to ensure that gaming on Band ~~L~~ands is conducted in conformity with Band law, the ~~Indian Gaming Regulatory Act (IGRA)~~, (25 U.S.C. § 2701 et seq.) and regulations promulgated pursuant thereto, applicable sState law, and ~~the any tribal-state c~~Compacts;
- (f) to ensure that the construction and maintenance of gaming facilities and the operation of all gaming conducted at such facilities is conducted in a manner which adequately protects the environment, public health, and safety; and
- (g) to establish an independent regulatory authority charged with oversight and enforcement of gaming regulatory matters under Band law, with the goal of becoming self-regulating under the IGRA and regulations promulgated thereto.

§ 3. Definitions.

For the purposes of this ~~A~~chapter, the following definitions shall apply:

- (a) **“Authority”** means the Mille Lacs Band Gaming Regulatory Authority established by this ~~A~~chapter, which may also be known as the Tribal Gaming Commission.
- (b) **“Authority ~~d~~Data”** means all information, files, reports, records, correspondence, and other data collected, created, received, maintained, or disseminated by the Authority, regardless of its physical form, storage method, or conditions of use.
- (c) **“Applicant”** means an individual or entity that applies for a Band gaming license or certification.

- (d) **“Background Investigation”** has the meaning given in 25 C.F.R. ~~§Part~~ 556.4.
- (e) **“Band”** or **“Mille Lacs Band”** means the Mille Lacs Band of Ojibwe.
- (f) **“Band Gaming Laws”** means this Act chapter and all subsequent amendments thereto, and all ~~D~~etailed Gaming Regulations promulgated thereunder.
- (g) **“Band Lands”** means any land within the jurisdiction of the Band upon which gaming activities pursuant to the IGRA may be conducted.
- (h) **“Board”** means the Board of Directors of the Gaming Regulatory Authority.
- (i) **“Closely associated independent contractor”** means any contractor that shares common ownership, officers, or directors with any management principal or person related thereto.
- (j) **“Chairperson”** means the ~~c~~Chairperson of the Board.
- (k) **“Charitable Gaming”** means any ~~g~~Gaming carried out by an Indian ~~c~~Charitable ~~o~~rganization on Band ~~I~~Lands.
- ~~(k)~~(l) **“Class I gaming”** means:
- (1) social games played solely for prizes of minimal value; or
 - (2) traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.
- (m) **“Class II gaming”** means:
- (1) bingo or lotto (whether or not electronic, computer, or other technologic aids are used) when players (A) play for prizes with cards bearing numbers or other designations; (B) cover numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined; and (C) win the game by being the first person to cover a designated pattern on such cards;
 - (2) pull-tabs, punch boards, tip jars, instant bingo, and other games similar to bingo, if played in the same location as bingo or lotto; or
 - (3) non-banking card games that (A) state law explicitly authorizes, or does not explicitly prohibit, and are played legally anywhere in the state; and (B) players play in conformity with state laws and regulations concerning hours, periods of operation, and limitations on wagers and pot sizes.
- (n) **“Class III gaming”** means all forms of gaming that are not class I or class II gaming, including but not limited to:

- (1) any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house-banking games), and casino games such as roulette, craps, and keno;
- (2) any slot machines, as defined in 15 U.S.C. § 1171(a)(1), and electronic or electromechanical facsimiles of any game of chance;
- (3) any sports betting and pari-mutuel wagering, including but not limited to wagering on horse racing, dog racing, or jai alai; and
- (2)(4) lotteries.

(l) ~~“Compact(s)”~~ means any Class III tribal state gaming compact in effect between the Band and the State of Minnesota to govern the conduct of certain Class III Gaming Activities on Band Land.

(m)(o) ~~“Compliance”~~ means that any gaming and gaming-related activity regulated by this Act chapter is conducted in accordance with applicable laws.

(n)(p) ~~“Compliance dDetermination”~~ has the meaning given in section 11(d)(5) § 309 of this Act chapter.

(o)(q) ~~“Confidential dData”~~ means a Authority dData on a pPerson that by Band statute, regulation or order, or by applicable federal law, is not made available to the public. The term includes Confidential Limited Availability Data and Confidential Restricted Availability Data.

(p)(r) ~~“Confidential fFinancial iInformation”~~ means any financial accounting records, ledgers, reports, and audits; and any profit and loss statements, cash flow projections, tax returns, invoices, checks, bank records, or other data on the revenues, expenditures, or financial obligations of a pPerson, other than a gGaming eEnterprise.

(q)(s) ~~“Confidential lLimited aAvailability dData”~~ means cConfidential dData that by Band statute, regulation or order, or by applicable federal law is made accessible to the subject of the data, (if any).

(r)(t) ~~“Confidential rRestricted aAvailability dData”~~ means cConfidential dData that is not available to the subject of the data.

(s)(u) ~~“Corporate VenturesCommission”~~ means Mille Lacs Corporate Ventures (formerly known as the Corporate Commission of the Mille Lacs Band of Ojibwe) Indians as established by 16 MLBSA § 101 et seq.

(t)(v) ~~“Corporate Commissioner”~~ means the Mille Lacs Band Commissioner for Corporate Affairs.

~~(u)~~(w) **“District Court**~~Court of Central Jurisdiction”~~ or **“CCJ”** means the District Court of Central Jurisdiction of the Mille Lacs Band of Ojibwe Indians established by 5 MLBSA §~~section 21~~ et seq.

(x) **“Detailed Gaming Regulations”** or **“DGR”** means a full and complete set of gambling regulations promulgated by the Authority pursuant to § 306 of this chapter to:

(1) ensure effective, independent oversight and regulation of all gaming conducted on Band lands;

(2) ensure that persons who hold key positions in the Band’s gaming enterprises are honest, trustworthy, and of good moral character;

(3) protect Band assets through implementation of strong, effective financial accounting and internal cash controls;

(4) comply with all applicable law, including Band law, federal law, and tribal-state compacts; and

~~(4)~~(5) clearly define and distinguish the respective duties and powers of casino management and gaming regulation so that they complement one another in such a manner as to maximize the benefits of gaming to the Band and the surrounding non-Indian community.

~~(v)~~(y) **“Director”** means the director of the Office of ~~Gaming~~Business Regulation and Compliance as described § ~~401~~~~section 12~~ of this ~~A~~etchapter.

~~(w)~~(z) **“Exclusion ~~I~~List”** means a list prepared pursuant to § ~~313~~~~section 11(d)(9)~~ of this chapterAet that contains the names of ~~p~~Persons who shall not be permitted in any ~~g~~Gaming ~~e~~Enterprise.

~~(x)~~(aa) **“Financial ~~I~~Information on a ~~g~~Gaming ~~e~~Enterprise”** includes, but is not limited to, any financial accounting records, ledgers, reports, and audits; and any profit and loss statements, cash flow projections, tax returns, invoices, checks, bank records, or other data on the revenues, expenditures, or financial obligations of a ~~g~~Gaming ~~e~~Enterprise.

~~(y)~~(bb) **“Gaming”** means an activity in which a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event, not under her or his~~his or her~~ control or influence, upon an agreement or understanding that the person, or someone else, will receive something of value in the event of a certain outcome, but shall not include a bona fide business transaction.

~~(z)~~(cc) **“Gaming ~~a~~Activity”** or **“Gaming ~~a~~Activities”** means any ~~c~~Class I, ~~c~~Class II, or ~~c~~Class III gaming activity as defined by the ~~IGR~~Indian Gaming Regulatory Aet and conducted by or under the jurisdiction of the Band.

~~(aa)~~(dd) **“Gaming Compliance Officer”** or **“GCO”** means the officer described in § 402(a)(4)section 12(b)(1)(D) of this Aetchapter.

~~(bb)~~(ee) **“Gaming cContractor”** means any person or entity that supplies gaming devices or other gaming equipment, personnel, or services, including gaming management or consulting services, to any gGaming aActivity or gGaming eEnterprise.

~~(cc)~~(ff) **“Gaming eEnterprise(s)”** means the Grand Casino Mille Lacs, the Grand Casino Hinckley, and any other commercial facility or business ~~owned by the Band through the Corporate Commission and~~ operated, in whole or in part, for the conduct of gGaming or related to gGaming aActivities within the jurisdiction of the Band.

~~(dd)~~(gg) **“Gaming Regulatory Authority”** means the independent agency established herein and designated with responsibility for performing the Band’s regulatory responsibilities and duties under the IGRA, this chapterAet, and any tribal-state cCompacts. The Gaming Regulatory Authority is comprised of both the Board and the Office of Gaming Regulation & Compliance.

~~(ee)~~(hh) **“Gaming sSupplier”** means any contractor or other supplier of gaming goods, supplies, materials, equipment, or services to any gGaming eEnterprise, the aggregate annual cost of which to the Band’s gGaming eEnterprises is at least \$25,000.00. The term “gGaming sSupplier” shall be more particularly defined in Detailed Ggaming Rregulations ~~to be~~ promulgated by the Authority.

~~(ff)~~(ii) **“Hearing eExaminer”** means an individual employed or contracted with by the Authority for the purpose of conducting a hearing pursuant to ~~section 11~~ of this chapterAet. Such person shall: (1) be independent of any claimant, ~~the Corporate VenturesCommission~~, any gGaming eEnterprise, and any affiliates of the foregoing; (2) be an attorney in good standing licensed by the ~~Mille Laes~~ Band and any sState; and (3) have relevant legal experience.

~~(gg)~~(jj) **“Immediate fFamily”** or **“related to”** ~~refers to~~ means persons who are the subject individual’s spouse, parents, siblings, and children, ~~(either adopted or biological).~~

~~(hh)~~(kk) **“Indian cCharitable oOrganization”** means any non-profit association or corporation, or unincorporated community group, with a primary purpose of engaging in social, educational, cultural, religious or charitable activities, or a combination thereof within the tribal community.

~~(ii)~~(ll) **“Indian Gaming Regulatory Act”** or **“IGRA”** means the Act of October 17, 1988, Public Law 100-497, 25 U.S.C. ~~§section~~ 2701 et seq. as amended, and all regulations promulgated pursuant thereto.

~~(jj)~~(mm) **“Information on a pPending cCompliance rRecommendation”** means (1) any data gathered by the Director in connection with an ongoing investigation for which a Compliance Recommendation is required pursuant to § 402(b)section 12(b)(2) of this

chapterAet or (2) any cCompliance rRecommendation that has been completed by the Director but not yet finally acted upon by the Authority.

~~(kk)~~(nn) **“Information on a pPending License aApplication”** means any data submitted by the applicant or gathered by the Director or the Authority in connection with a pending application for a license required by this chapterAet.

~~(ll)~~ **“Initial Detailed Gaming Regulations”** means a full and complete set of gambling regulations, to be the first regulations promulgated by the Authority pursuant to section 11(d)(2) herein and submitted to the Band Assembly for final approval, to comprehensively regulate all aspects of gaming necessary to (1) ensure effective, independent oversight and regulation of all gaming conducted on Reservation lands; (2) ensure that Persons who hold key positions in the Band’s gaming enterprises are honest, trustworthy and of good moral character; (3) protect Band assets through implementation of strong, effective financial accounting and internal cash controls; (4) comply with all applicable law, including Band law, federal law, and Band/State gaming compacts; and (5) clearly define and distinguish the respective duties and powers of casino management and gaming regulation so that they compliment one another in such a manner as to maximize the benefits of gaming to the Band and the surrounding non Indian community.

(oo) **“Key eEmployee”** means:

(1) any person who performs one (1) or more of the following functions for a gaming enterprise: (A) bingo caller; (B) counting room supervisor; (C) chief of security; (D) floor manager; (E) pit boss; (F) dealer; (G) croupier; (H) approver of credit; (I) custodian of gaming systems as defined in 25 C.F.R. § 547.2 and similar class III systems, gaming cash or gaming cash equivalents, or gaming system records; or (J) custodian of surveillance systems or surveillance system records; as defined in 25 C.F.R. Part 502.14 and any other persons who may, pursuant to the Detailed Gaming Regulations, be included under the definition of “Key Employee” and become subject to such requirements

(2) any person authorized by a gaming enterprise for unescorted access to restricted areas designated as restricted areas by the Authority;

(3) if not otherwise licensed as a key employee or primary management official, the four (4) persons most highly compensated by a gaming enterprise; and

~~(1)~~(4) all persons employed by a gaming enterprise within the accounting, human resources, information technology or services, and marketing departments.

(pp) **“Management pPrincipal”** means any person who is an officer or member of the Board of Directors or other person defined as a pPrimary mManagement oOfficial as defined in 25 C.F.R. §~~P~~art 502.19.

~~(mm)~~(qq) **“Member”** means a member of the Gaming Regulatory Authority Board of Directors.

~~(nn)~~(rr) **“National Indian Gaming Commission”** or **“NIGC”** means the commission established within the U.S. Department of the Interior under 25 U.S.C. § 2704.

~~(oo)~~(ss) **“Net Revenues”** means gross gaming revenues of an Indian gaming operation less: (1a) amounts paid out as, or paid for, prizes; and (2b) Total gaming-related operating expenses, including all those expenses of the gaming operation commonly known as operating expenses and non-operating expenses consistent with professional accounting pronouncements, excluding management fees.

~~(pp)~~(tt) **“Non-Key Employee”** means any person employed by a Gaming Enterprise or the Corporate Ventures Commission, who is not otherwise defined as a Key Employee or Primary Management Official.

~~(qq)~~(uu) **“Office of Gaming Regulation and Compliance”** or **“OGR&C”** means the office charged with the responsibility of, inter alia, regulating gaming activity within the jurisdiction of the Band.

~~(rr)~~(vv) **“Person”** means any individual, partnership, corporation, association, business trust, joint stock company, unincorporated association or society, any other business or non-business entity, or the legal representative of such entity.

~~(ss)~~(ww) **“Personnel Data”** means data on individuals collected because the individual is or was an associate of, or an applicant for employment with, the Authority or the OGR&C, or acts as an independent contractor therefor.

~~(xx)~~ **“Primary Management Official”** means: any person as defined in 25 C.F.R. Part 502.19 and any other persons who, at the discretion of the Authority, may be included under the definition of “Primary Management Official” and become subject to such requirements

(1) the Corporate Commissioner;

(2) any person having management responsibility for a management contract;

(3) any person who has authority to (i) hire and fire employees of a gaming enterprise; (ii) establish policy for a gaming enterprise; or (iii) supervise a key employee of a gaming enterprise;

(4) the chief financial officer or a position with duties similar to a chief financial officer;

(5) the general manager or a position with duties similar to a general manager; or

~~(1)~~(6) any employees of a gaming enterprise who are reasonably understood by the Authority to be executives.

~~(#)~~(yy) **“Security i**n**formation”** means ~~a~~Authority ~~d~~Data the disclosure of which would be likely to substantially jeopardize the security of ~~g~~Gaming ~~e~~Enterprise information, possessions, associates, guests, or property against theft, tampering, improper use, illegal disclosure, trespass, or physical injury.

~~(zz)~~ **“Trade s**e**cret i**n**formation”** means Authority ~~d~~Data, including formula, pattern, compilation, program, device, method, technique, or process ~~(1)~~that was ~~(1)~~ supplied by the affected ~~p~~Person; ~~(2)~~ that is the subject of efforts by the affected ~~p~~Person to maintain its secrecy; and ~~(3)~~ that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other ~~p~~Persons who can obtain economic benefit from its disclosure or use.

~~(uu)~~(aaa) **“Tribal-state compact”** means an agreement between the Band and the state of Minnesota about class III gaming under 25 U.S.C. § 2710(d).

§ 4. Severability.

If any provision or application of this ~~chapter~~Aet is determined by judicial review to be invalid, such determination shall not be held to render such provision inapplicable to other persons or circumstances, nor shall such determination render invalid any other provisions of this ~~chapter~~Aet.

SUBCHAPTER 2

GAMING ACTIVITY

Section

- 101. General Prohibition on Gaming Activities; Violations Punishable.**
- 102. Unauthorized Gaming Prohibited.**
- 103. Permitted Gaming.**
- 104. Tribal-State Compacts for Class III Gaming Authorized.**
- 105. Use of Band Lands for Gaming Purposes.**
- 106. Health, Safety, and Environmental Protections.**
- 107. Prohibited Activities.**

§ 101. General Prohibitions on Gaming Activities; Violations Punishable.

All gGaming aActivity on Band lLands shall be conducted in compliance with this chapterAet and any Gaming Activities not authorized by this chapterAet or by Detailed Gaming Rregulations promulgated pursuant to this chapterAet by the Authority is prohibited. Any violations of this chapterAet shall be punishable through means adopted by this chapterAet, the Authority, and as otherwise provided by Band law.

§ 102. Unauthorized Gaming Prohibited.

All gGaming aActivities on Band lLands, whether class I, II, or III, are prohibited and unlawful, except as expressly authorized by this chapterAet.

§ 103. Permitted Gaming.

- (a) **Class I gGaming.** Class I traditional games are permitted to the extent consistent with tribal custom and practice. The Authority may prohibit and prevent any conduct which is claimed to be class I gaming if it finds that such conduct is not in accordance with tribal customs or practices or violates the IGRA or other applicable law. The Authority shall consult with a committee of Band Elders to determine which games are consistent with Band custom and practice. These games shall be listed and defined in the ~~Initial~~-Detailed Gaming Regulations.
- (b) **Class II and ~~c~~Class III gGaming.** Class II and class III gaming on Band lLands is hereby authorized. The Band has the sole proprietary interest in and responsibility for the conduct of any gGaming eEnterprise.
 - (1) **Permitted ~~c~~Class II gGames.** The following class II games are permitted:
 - (i) aAny game of chance which the Authority and/or the NIGCational Indian Gaming Commission has determined to be class II in accordance with this chapter; and
 - (ii) any game of chance for which the Authority has promulgated rules and Detailed Gaming Rregulations so that such games are conducted in accordance with this chapterAet.
 - (2) **Permitted ~~c~~Class III gGames.** The following class III games are permitted:
 - (i) vVideo gGames of cChance licensed and conducted pursuant to theany tribal-state cCompact between Corporate Ventures~~the Commission~~ and the State of Minnesota;

- (ii) bBlackjack gGames licensed and conducted under the terms of any tribal-state compact between Corporate Ventures the Commission and the State of Minnesota; and
- (iii) aAny other game of chance which is licensed and conducted pursuant to any tribal-state compact and for which the Authority has promulgated rules and Detailed Gaming Rregulations in accordance with this chapter.

(3) **Game classification decisions.** A gaming enterprise may submit to the Authority a request for a determination of whether a particular game qualifies as a class II game or class III game under the IGRA. The Authority must issue a game classification decision with respect to the game promptly after the request.

(i) In arriving at any gaming classification decision, the Authority may employ the services of a hearing examiner to either make a recommendation for a game classification decision or issue a game classification decision on behalf of the Authority.

(ii) The gaming enterprise must reimburse the Authority for any costs incurred in producing the game classification decision, regardless of the outcome.

(iii) The gaming enterprise may appeal the Authority's game classification decision to the District Court, which may hire a special magistrate to provide assistance.

(c) **Community cCharitable gGaming.**

(1) **Policy.** It is the policy of the Band to foster and assist Indian cCharitable oOrganizations and the good works they perform for the community. To this end, the Band will allow Indian cCharitable oOrganizations to use certain forms of gaming to raise money for their charitable purposes and to provide a healthy social outlet for members of such groups and their friends. The Authority shall regulate charitable gaming carried out by an Indian cCharitable oOrganization in order to promote the general health and safety of the Band and to enassure that such gaming is operated honestly, with high integrity, and in accordance with the highest standards.

(2) **Allowable gGames.** Indian cCharitable oOrganizations may operate the games of pull-tabs and bingo for the purposes set forth in paragraph (1)section 6(b)(3)(A) above.

§ 104. Tribal-State Compacts for Class III Gaming Authorized.

- (a) **Corporate Ventures Commission authorized.** ~~Corporate Ventures~~The Commission is hereby authorized to negotiate and enter into tribal-state class III Gaming cCompacts with the State of Minnesota to govern the conduct of class III gGaming on Band lLands. Such tribal-state cCompacts and amendments thereto, other than technical amendments as provided in subsection (b) section 6(e)(2) below, shall not be valid until ratified by the Band Assembly pursuant to ~~3 MLBSA section 2(f)~~Titles 3 of Mille Lacs Band Statutes.
- (b) **Technical aAmendments.** ~~Corporate Ventures~~The Commission may enter into technical amendments pursuant to section 6.12 of the Video Game of Chance Compact or section 7 of the Blackjack Compact or similar section of any subsequent tribal-state cCompact and such technical amendment shall not require Band Assembly approval as provided in section subsection(a)6(e)(1) above. Sshareholders shall be delivered copies of any technical amendments at the shareholders' meetings ~~shall be delivered copies of any technical amendments~~.
- (c) ~~Regulations to be in compliance with tribal-state cCompacts.~~ The Authority shall adopt Detailed Gaming Rregulations to provide that such class III gGaming is conducted in compliance with the terms and conditions of such tribal-state cCompact or amendments thereto.

§ 105. Use of Band Lands for Gaming Purposes.

- (a) **Leases.** Leases for all Band lLands for gGaming aActivities, or related to gGaming aActivity purposes, shall be in full compliance with all applicable laws of the United States and the Band.
- (b) **AnishinaabegIndian celebrations.** The use of Band lLands for AnishinaabegIndian celebrations or other social events, which includes traditional gaming as part of the celebration or other social event, shall not be subject to federal, state, or local government approval.

§ 106. Health, Safety, and Environmental Protection.

The construction and maintenance of any facility wherein gGaming aActivities are conducted and the operation of gGaming aActivities authorized by this chapterAct, or any other Band law, shall be conducted in a manner which adequately protects the environment and the public health and safety, and shall comply with all applicable Band and federal law ~~concerning such~~.

§ 107. Prohibited Activities.

- (a) **Minors prohibited.** It shall be unlawful for any adult to allow a person under the age of eighteen (18) years to participate in ~~g~~Gaming ~~a~~Activities at a ~~g~~Gaming ~~e~~Enterprise, or for such minor to participate in ~~g~~Gaming ~~a~~Activities at a ~~g~~Gaming ~~e~~Enterprise.
- (b) **Cheating prohibited.** It shall be unlawful to conduct or participate in any gaming in a manner which results in cheating, misrepresentation, or other disreputable tactics which distract from a fair and equal chance for all participants, or otherwise affects the outcome of the game.
- (c) **Sale and consumption of alcoholic beverages.** The sale of alcoholic beverages shall ~~not be permitted~~allowed at any Gaming Enterprise, ~~if unless specifically authorized by Band Statute and properly licensed pursuant to 18 MLBS § 208~~~~applicable Band, and applicable federal, and state law.~~ The sale of alcoholic beverages under this section is subject to special surcharge taxes established by 22 MLBS § 509.
- (d) **Extension of credit prohibited.** Extension of credit in any form shall not be allowed at any ~~g~~Gaming ~~e~~Enterprise, unless specifically authorized by Mille Lacs Band Statutes and properly licensed pursuant to applicable Band, federal, and state law.

SUBCHAPTER 3

OWNERSHIP AND REVENUES

Section

201. Ownership of Gaming.

202. Ownership and Use of Class II and Class III Gaming Revenues.

§ 201. Ownership of Gaming.

The Band shall have the sole proprietary interest in and responsibility for conducting any class II and class III ~~g~~Gaming ~~a~~Activities authorized by this ~~chapter~~Aet, except to the extent the Band may contract with and license a person or entity to own, operate, or manage a ~~g~~Gaming ~~e~~Enterprise pursuant to ~~the~~provisions of the IGRA, any tribal-state cCompacts, or as otherwise permitted by applicable law.

§ 202. Ownership and Use of Class II and Class III Gaming Revenues.

(a) Band pProperty.

- (1) All revenues generated from any class II or class III gGaming aActivities conducted by any gGaming eEnterprise are the sole property of the Band, except as provided for under the terms of any agreement made pursuant to the provisions of the IGRA, or as otherwise permitted by Band law.
- (2) Any profits or net revenues from any class II or class III gGaming aActivities conducted by any gGaming eEnterprise shall be deposited into the Band's general treasury. Upon becoming part of the general treasury, such funds shall lose any identity as gaming revenues, except to the extent necessary to identify them as such in order to comply with applicable law.
- (3) No individual ~~Band~~tribal member shall be deemed to have any interest in such profits or net revenues from any class II or class III gGaming aActivities conducted by any gGaming eEnterprise, provided that the Band may adopt rules for distributing gaming proceeds to Band members on a per capita basis; provided further that such plan must meet the requirements of 25 U.S.C. ~~§section~~ 2710 (b)(3). Payments from the general treasury funds to Band members under other Band programs, including those related to health, welfare, education, elderly care, and housing, shall not be deemed "per capita" payments.

(b) Use of nNet gamingBand rRevenues. Net revenues derived from any class II or class III gGaming aActivities conducted by any gGaming eEnterprise shall be used only for the following purposes:

- (1) ~~t~~To fund Band government operations or programs;
- (2) ~~t~~To provide for the general welfare of the ~~Mille Laes~~Band and its members;
- (3) ~~t~~To promote Band economic development; ~~and~~
- (4) ~~t~~To donate to charitable organizations recognized by the Band; or
- (4)(5) to help fund operations of local government agencies.

(c) Distribution plan. There shall be no per capita payments made from any net revenues derived from any class II or class III gGaming aActivities conducted by any gGaming eEnterprise, unless the distribution plan is approved by the U.S. Secretary of the Interior pursuant to 25 U.S.C. ~~§section~~ 2701 et seq. and the payments are made in accordance with such approved plan.

SUBCHAPTER 4

GAMING REGULATORY AUTHORITY

Section

301. Establishment.

302. Board of Directors.

303. Organization.

304. General Powers and Duties of the Authority.

304.305. Staff and Administrative Support; Office Space; Equipment; Information Technology.

305.306. Detailed Gaming Regulations.

306.307. Monitoring and Investigation.

307.308. Licensing.

308.309. Compliance Determinations.

309.310. Independent Audits.

310.311. Enforcement.

311.312. Limitations on Actions.

312.313. Excluded Persons.

314. Regulatory Role.

313.315. Patron Dispute Resolution.

316. Budget.

314.317. Legal Counsel.

§ 301. Establishment.

There is hereby established as an agency of the Mille Lacs Band of Ojibwe the “Gaming Regulatory Authority,” ~~hereinafter the “Authority”~~, which has the power and duty to regulate gaming matters for the Band as authorized by Band law.

§ 302. Board of Directors.

- (a) The Authority shall be managed by a Board of Directors to be known as the Authority’s “Board.” At all times there shall be at least one (1) Board Member, to be known as “Member(s),” on the Board from each Band dDistrict. The Board shall consist of five (5) Members appointed in the manner and have the terms provided in subsection (b)section 11(b)(1).
- (b) **Appointments process, terms, and oath of office.** Each Member shall be appointed using the following process.
- (1) The Chief Executive shall nominate two (2) individuals and submit their names to the Secretary-Treasurer. Within ten (10) calendar days after receipt of the nominations by the Secretary-Treasurer, the Secretary-Treasurer shall

ratify one (1) of the two (2) nominees to be a Member of the Board. Should the Secretary-Treasurer fail to ratify a nominee within ten (10) calendar days, the Chief Executive may directly appoint an individual to the Board. Such Member shall serve until ~~August~~ September 1, 2004~~2024~~. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(2) Each District Representative shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Member of the Board. Should the Chief Executive fail to ratify a nominee within ten (10) calendar days, the nominating District Representative may directly appoint an individual to the Board. Such Members shall serve until ~~August~~ September 1, 2006~~2026~~. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(3) — The Secretary-Treasurer shall nominate two (2) individuals and submit their names to the Chief Executive. Within ten (10) calendar days after receipt of the nominations by the Chief Executive, the Chief Executive shall ratify one (1) of the two (2) nominees to be a Member of the Board. Should the Chief Executive fail to ratify a nominee within ten (10) calendar days, the Secretary-Treasurer may directly appoint an individual to the Board. Such Member shall serve until ~~August~~ September 1, 2004~~2024~~. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four (4) years.

(4) — ~~If the Chief Executive or the Secretary-Treasurer do not ratify one from any of the nominations sent to them within the time prescribed, then the Band Assembly shall select such Member by majority vote.~~

(5)(3) ~~If any elected official person does not submit a nomination within thirty (30) days after a vacancy has occurred, then the Band Assembly shall nominate two (2) individuals by majority vote and submit their names to the Chief Executive for ratification to the Board. The timing and process for such ratification are as stated in sections 11(b)(1)(A) and (D).~~ Should the Chief Executive fail to ratify a nominee within ten (10) calendar days, the Band Assembly may directly appoint an individual to the Board.

(6)(4) ~~No member shall take office until swearing to the oath of office pursuant to 2 MLBSA §section 8.~~

(c) **Qualifications.**

- (1) Members shall be ~~adults~~individuals who are of high moral character and integrity;~~;~~ who have a reputation for being honest, fair, and objective; and who are recognized as possessing sound judgment.
- (2) Members may not have been convicted of a felony or any gambling-related offense. All requisite background investigations shall be performed under the direction of the Authority's licensing office.
- (3) No fewer than three ~~(3)~~ Members shall be enrolled members of the Band. There shall be at least one (1) Board Member from each of the Band's three ~~(3)~~ Districts.
- (4) Members may not be employed by any ~~g~~Gaming ~~e~~Enterprise, nor may they gamble at any ~~g~~Gaming ~~e~~Enterprise.
- (5) Members shall be subject to the ~~b~~Background ~~i~~nvestigations and standards for ~~p~~Primary ~~m~~Management ~~o~~fficials.

(d) **~~Board Officers, Selection, Duties, Vacancies, Disqualification, Removal.~~**

- (1) **Officers.** The Board shall have a Chairperson, Vice-Chairperson, and a Secretary.
- (2) **Selection.**
 - (i) **Chairperson.** ~~The Chair of the Authority shall be determined by a majority vote of the Joint Session of the Band Assembly from one of the current Members, or, if there is a vacancy, the individual who is appointed to fill such vacancy.~~The Members shall select from among themselves, by majority vote, a Chairperson. The Chairperson shall serve for a period of no longer than two (2) years, unless re-appointed by the Board.
 - (ii) **Vice-Chairperson.** The Members shall select from among ~~their~~ membersthemselves, by majority vote, a Vice-Chairperson. The Vice-Chairperson shall serve for a period of no longer than two (2) years, unless re-appointed by the Board.
 - (iii) **Secretary.** The Board may select a Member or an employee of the Authority to act as Secretary of the Board. The Secretary shall serve for a period of no longer than two (2) years, unless re-appointed by the Board. An employee acting as Secretary at the request of the Board is not a Board Member and has no powers of a Member.

(3) **Board ~~d~~Duties.**

- (i) The Chairperson shall preside over meetings of the Board and the Vice-Chairperson shall preside over meetings of the Board in the absence of the Chairperson. The Secretary shall record in writing the minutes of all Board meetings and all official actions taken by the Authority, and shall notify all persons who, ~~by~~under this ~~Act~~chapter, require notification of such official actions.
- (ii) In carrying out any function under the provisions of this chapter, all Members shall be governed by the laws of the Band, general policies of the Authority, and such regulatory decisions, findings, and determinations as the Authority may by law be authorized to make.
- (iii) Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Authority may be submitted to the Band Assembly by the Chairperson with the prior approval of the Board.
- (iv) The Chairperson shall delegate authority and assign duties to the Director of the Office of Gaming~~Business~~ Regulation and Compliance sufficient to aid the Authority in fulfilling its regulatory responsibilities. Such assignment and delegation shall comply with this ~~Act~~chapter.
- (v) Members shall serve part-time; however, the Board shall meet a minimum of once per month or more if necessary to fulfill ~~their~~its duties.
- (vi) Members shall attend one (1) or more training seminars or courses related to gaming regulation per year during their terms of membership. Such seminars shall be paid by the Authority. Per diem and other travel expenses shall be paid at the rate of a Senior Executive Staff Band employee pursuant to 6 MLBS § 1001 et seq.

(4) **Vacancies in mMemberships.**

- (i) The Chairperson shall notify the Band Assembly and the Chief Executive of any vacancy on the Board of Directors at least thirty (30) days prior to the end of a term, or, in circumstances other than the end of a term, immediately upon the knowledge that a vacancy will occur.
- (ii) If there is a vacancy on the Board, then the vacancy shall be filled in accordance with subsection (b)~~the same manner as the vacating Member was originally appointed.~~

(iii) Any Member, including the Chairperson, appointed to fill a vacancy shall serve for the remainder of the term left vacant; however, any Member may be re-appointed during this time period pursuant to ~~subsection (b)~~ section 11(b)(1) of this Act.

(5) **Disqualifications from Board ~~m~~Membership.** The following persons shall ~~not~~ are not eligible to serve as Board Members:

(i) ~~persons in the employ of, or holding any office in or having any business relation with, any business engaged in selling or manufacturing any gaming products or services~~ Band elected officials and commissioners, while serving as such;

(ii) ~~persons who own stocks or bonds in any business engaged in selling or manufacturing any gaming products or services~~ current employees of any Band gaming enterprise;

(iii) ~~persons having any pecuniary interest whatsoever in any business engaged in selling or manufacturing any gaming products or services~~ any employee of Corporate Ventures working closely with a Band gaming enterprise in a manner that gives rise to a conflict of interest, as determined by the Board;

(iv) ~~persons having any interest in any business engaged in commerce with or employed by the Corporate Commission. A Member may be engaged in other businesses, vocations, or employment, which do not create a conflict of interest with their duties~~ gaming contractors, including any principal of a management or other contracting company;

(v) ~~persons related to any Gaming Contractor licensed by the Authority, including any principal thereof or Closely Associated Independent Contractor~~ persons ineligible to be key employees or primary management officials, as determined by the Authority via regulation;
and

(vi) ~~the Chief Executive or members of the Band Assembly~~ persons who are immediate family members of, or who share a residence with, any of the above ineligible persons.

(6) **Embezzlement, theft, and money-related or honesty-related offenses.**

Persons who have been previously convicted of any felony or misdemeanor offense of embezzlement, theft, or any other money-related or honesty-related misdemeanor offense, such as fraud, cannot serve as a Board member.

~~(6)~~(7) **Removal from Board mMembership.** Members may be removed by a supermajority vote of four (4) out of five (5) members of the Joint Session of the Band Assembly. The determination of the Joint Session is final and unappealable to the ~~Court of Central Jurisdiction~~District Court.

§ 303. Organization.

(a) **Meetings.**

- (1) **Regular mMeetings.** Regular meetings of the Board shall be held at least monthly and upon written notice. The dates and forms of regular meetings shall be set by official action of the Board.
- (2) **Special mMeetings.** Special meetings of the Board may be called by the Chairperson with a minimum of forty-eight (48) hours written notice to the Board Members, by the Director with a minimum of forty-eight (48) hours written notice to the Chairperson, or by a majority vote of the Board with forty-eight (48) hours written notice to the Chairperson.
- (3) **Other.** Either rRegular or sSpecial meetings may be called by petition of a majority of a quorum of the Board Members other than the Chairperson upon forty-eight (48) hours written notice to the Chairperson.
- ~~(4)~~ **Alternative meeting arrangements.** Regular or special meetings may be conducted by telephone, video or web conference, or similar means. The Chairperson must provide the Board Members with forty-eight (48) hours written notice prior to convening any meeting under this subsection.
- ~~(4)~~(5) **Consent presumed.** A Member's participation in a meeting described herein without explicit objection will constitute consent to the manner in which such a meeting is conducted.

(b) **Quorum.** Three (3) ~~Board Mmembers of the Board~~ shall constitute a quorum.

(c) **Voting.**

- (1) All actions of the Board shall be taken by majority vote.
- (2) The Chairperson shall vote only in the following circumstances:
 - (i) to break a tie; ~~and or~~
 - (ii) if necessary, to constitute a quorum in the absence of other Members.

(d) **Compensation.**

- (1) **Board ~~m~~Meetings.** Members, including the Chairperson, shall be compensated with ~~two hundred and fifty dollars (\$250)~~ four hundred dollars (\$400.00) per meeting, not to exceed ~~five hundred dollars (\$500)~~ eight hundred (\$800.00) in one month, except that in the case of a demonstrated emergency, the Chairperson may petition the Secretary-Treasurer for compensation for additional meetings. Mileage and other travel expenses will be compensated on the same terms and conditions as apply to Senior Executive Staff appointees as provided by Band law.
- (2) ~~—~~ **Training.** If Members are not Band government employees and are required to be absent from their employment to attend mandatory training pursuant to ~~subsection (d)(3)(vi)+1(b)(C)(3)(vi)~~ subsection (d)(3)(vi), then Members shall be compensated at their previously documented hourly rates of pay for each hour that they are in attendance at such training plus mileage and other travel expenses as stated in ~~(A) paragraph (1) above.~~ paragraph (1) above. If Members are Band government employees, then absence from employment will not be deducted from their accrued annual leave and they will be paid as if they were at work plus expenses as stated in ~~(A) paragraph (1) above.~~ paragraph (1) above.

§ 304. Powers and Duties of the Authority.

The Authority shall be responsible for ensuring that all ~~g~~ Gaming aActivities on Band ~~I~~ Lands are carried out in compliance with the ~~I~~ GR ~~A~~ Andian ~~G~~ Aming ~~R~~ Regulatory ~~A~~ Act, Band ~~g~~ Gaming ~~I~~ Laws, ~~any tribal-state~~ the cCompacts, and other applicable law. To this end, the Authority shall exercise regulatory, not operational, authority over any ~~g~~ Gaming ~~e~~ Enterprise and ~~c~~ Charitable ~~g~~ Gaming. All management and operational authority over any ~~g~~ Gaming ~~e~~ Enterprise shall remain with the Corporate ~~Ventures~~ Commission separate and distinct from the Authority. ~~The Office of Gaming Regulation and Compliance shall provide staff and administrative support, and office space and equipment, which shall be separate and not under the authority of the Corporate Commission.~~ The Authority may retain such consultants and enter into such contracts as it may deem necessary to carry ~~out~~ its duties as specified in this ~~A~~ chapter; however, it shall not hire employees of the Office of ~~Gaming~~ Business Regulation and Compliance. In addition, as an agency of Band government, the Authority shall comply with all Band laws, including ~~the~~ the ~~Procurement Act~~ Title 7, for all contracts, including professional services contracts. The Authority may bring such actions as may be necessary to carry ~~out~~ its duties, including but not limited to, the enforcement of this ~~chapter~~ Act and other Band ~~g~~ Gaming ~~I~~ Laws.

§ 305. Staff and Administrative Support; Office Space; Equipment; Information Technology.

The OGR&C shall provide staff and administrative support, office space, equipment, and information technology support to the Authority. Any office space, equipment, or information technology support provided by the OGR&C shall be separate and not under the authority of Corporate Ventures, except that OGR&C may enter into contractual arrangements with Corporate Ventures for the provision of any such office space, equipment, or information technology. Any contracts entered into under this section shall be of nominal value and shall not frustrate the Authority's ability to carry out its regulatory functions under this chapter.

§ 3065. Detailed Gaming Regulations.

- (a) **Power and duty.** The Authority shall have the power and duty to develop, adopt, and promulgate Detailed Gaming Regulations regarding:
- (1) licensing of gGaming eEnterprises;
 - (2) licensing and bBackground investigations of kKey employees and pPrimary management officials;
 - (3) licensing and bBackground investigations of gGaming suppliers;
 - (4) conducting annual independent audits of all gaming operations of the Band;
 - (5) permitted games and the conduct thereof;
 - (6) standards and criteria for gaming machines and for testing machines;
 - (7) audio and video surveillance standards;
 - (8) minimum internal cash, playing card, chip, and token control standards, and procedures for gaming operations;
 - (9) procedures for compliance with the Bank Secrecy Act and applicable provisions of the Internal Revenue Code;
 - (10) resolving gaming-related disputes involving patrons and vendors of any gGaming enterprise, after exhausting all remedies available at the gGaming enterprise;
 - (11) charitable gGaming as provided in § 103(c)~~section 6(b)(3)~~ of this Actchapter;

- (12) the prevention and cure of compulsive gambling as provided in ~~section 16~~subchapter 8 of this ~~Act~~chapter;
 - (13) the development and maintenance of a list of excluded ~~p~~Persons as provided in ~~section 11(d)(9)~~§ 313 of this ~~Act~~chapter;
 - (14) related reporting, record-keeping, auditing, investigation, and enforcement procedures;
 - (15) dispute resolution procedures, including OGR&C employee appeals;
 - (16) reasonable fines and other penalties for violations of this ~~Act~~chapter, Band gaming laws, the IGRA, ~~any tribal-state~~the cCompacts, and other applicable law; and
 - (17) other activities as required by law.
- (b) **Rulemaking p**~~Process~~. The Authority shall promulgate ~~the~~Detailed Gaming Rregulations authorized by ~~section 11(d)(2)~~this chapter with or without hearing according to the notice and comment process specified herein.
- (1) **Notice of intent to adopt**. The Authority shall give notice of its intent to adopt a Detailed Gaming Rregulation by posting a copy of the notice ~~on the Authority's website; by posting a copy of the notice in the Band Government Center and the Community Centers in Districts I, II, and III;~~ and by delivering a copy of the notice by U.S. mail or other appropriate means to the Chief Executive, the Speaker of the Band Assembly, the Solicitor General, ~~the Commissioner for Administration;~~ the Corporate Commissioner,; and the manager of any Gaming Enterprise. The notice shall include a copy of the proposed regulation and a description of the nature and effect of the proposed regulation. In addition, the notice shall include the following statements:
 - (i) comments may be submitted on the proposed regulation no later than thirty (30) days from the date of the notice; and
 - (ii) the proposed regulation may be modified if supported by the data and views submitted.
 - (2) **Review,; adoption,; notice of adoption**. The Authority shall review all comments received during the comment period, shall make such changes to the proposed Detailed Gaming Rregulation as it deems reasonable and appropriate, and shall approve the regulation by resolution. The regulation shall not become effective until after the 30-day comment period has concluded. The Authority shall, by official action, set the effective date of the regulation and publish and post copies of a notice of adoption of the regulation in the same manner as for the notice of intent to adopt the

regulation. The notice of adoption shall summarize the final regulation and the changes to the proposed regulation, state the effective date, and announce that free copies of the regulation are available from the Authority. In addition, copies of the notice and the final regulation shall be delivered by U.S. mail or other appropriate means to all persons who were sent a copy of the notice of intent.

- (3) **Adoption is a compliance determination.** Approval of any Detailed Gaming Regulation by the Authority shall be considered a Compliance Determination for purposes of effecting an appeal pursuant to ~~section 13~~ subchapter 6 of this ~~Act~~chapter.
- (4) **~~Initial Detailed Gaming Regulations.~~** The Authority shall adopt a set of ~~Initial Detailed Gaming Regulations, within 180 days days after the first meeting of all of the members of the first Authority Board. Upon approval by the Band Assembly, such regulations shall supersede those currently codified at 15 App. section 1.001-18.004 of the MLBSA. The Initial Detailed Gaming Regulations shall be adopted pursuant to section 11(d)(2)(B), except that the Joint Session of the Band Assembly may act to annul such regulations in whole or in part within sixty (60) days of receipt by the Joint Session. Thereafter, Any such gaming regulation may be annulled by statute. The regulations currently codified will remain in effect until the sixty (60) day annulment period has lapsed, or for regulations annulled by the Joint Session of the Band Assembly, until the Joint Session of the Band Assembly has granted final approval.~~

§ 3076. Monitoring and Investigation.

- (a) **General.** The Authority shall have the power and duty ~~to monitor and investigate:~~
 - (1) ~~to monitor and investigate all gGaming eEnterprises for compliance with the IGRA, Band gGaming lLaws, any tribal-state the cCompacts, and other applicable law and to undertake such related investigations and enforcement actions as it deems necessary, including, but not limited to, investigating and evaluating the effectiveness of the Mille Laes-Band's gaming regulatory system;~~
 - (2) ~~to help resolve all gaming-related patron and vendor complaints that have not been resolved by agreement of a complainant and the gGaming eEnterprise;~~
 - (3) ~~prior to levying fines, to granting, denying, or suspending licenses, prior to levying fines;~~
 - (4) ~~to assure compliance with the rules concerning cCharitable gGaming;~~

- (5) to assure compliance with compulsive gambling cure and prevention requirements;
 - (6) to develop, maintain, and enforce a list of pPersons to be excluded from gGaming eEnterprises; and
 - (7) and to take any and all other similar action it deems to be necessary or desirable to carry out the powers and duties granted by this section.
- (b) **Scope of investigations and related activities.** Any investigations and related activities, including, but not limited to electronic and non-electronic searches of credit histories, arrests, and judgements, and electronic surveillance shall be strictly limited to official Authority duties under law. All such investigations and related activities may be undertaken only after review by legal counsel that the scope and subject of any such activities complies with this ~~chapter~~Aet and other applicable law. Individuals who perform investigations and related activities outside the scope of this ~~chapter~~Aet and other applicable law are subject to immediate dismissal and reasonable fines.
- (c) **Access.** The Authority shall have access to all books, files, records, reports, and other data regarding the operation of all gGaming eEnterprises, whether in written or electronic form, as it deems necessary or desirable to carry out its legitimate regulatory duties as determined by the Authority.
- (d) **Surveillance.** The ~~sSurveillance dDepartment~~ shall be under the control and supervision of the Authority; however, a gGaming eEnterprise shall have access to electronic surveillance output as further defined in the Detailed Gaming Regulations.
- (e) **Cooperation of the gGaming eEnterprises with the Authority.** The Authority may:
- (1) require associates of any gGaming eEnterprise to compile and provide such data and to testify as to matters within their knowledge concerning the operation of the gGaming eEnterprise; and
 - (2) require the associates of any company that is managing a gGaming eEnterprise on behalf of ~~the Corporate Commission Ventures~~, or any other pPerson within the jurisdiction of the Band, to comply and provide such data and to testify as to matters within their knowledge concerning the operation of the gGaming eEnterprise. The Authority may utilize licensing actions, reasonable fines, and any other enforcement powers vested to the Authority within this section to ensure cooperation.
- (f) **Due process protections.** Nothing in this chapter waives or diminishes any gaming enterprise's or individual's right to due process and equal protection of the laws.

§ 3087. Licensing.

(a) **General.** The Authority shall promulgate Detailed Gaming Regulations for granting, suspending, and revoking licenses, which are consistent with Band law, the IGRA, and any tribal-statethe compacts regarding matters of licensure.

(b) **Minimum Licensing rRequirements.** It is the policy of the Band that all gGaming activities and enterprises be licensed and controlled so as to protect the morals, good order, and welfare of Band members and other persons on Band lands and to preserve the honesty, fairness, and integrity of such gaming activities. Accordingly, no person shall engage in any class II or class III gGaming activities on Band Lands without an appropriate and valid independent class II or class III license issued by the Authority. In addition, the Authority shall issue a separate license to each place, facility, or location on Band Lands where the Band elects to allow class II or class III gaming. The Authority shall perform background investigations and issue licenses for key employees and management officials according to requirements that are at least as stringent as those in 25 C.F.R. parts §§ 556 and 558 which are hereby incorporated into this Achapter, unless otherwise superseded pursuant to an agreement with the NIGC. No license shall be issued that would place the Band in violation of applicable law or any tribal-statethe compacts.

(c) Mandatory licensing application provisions and procedures.

(1) Notices to applicants.

(i) **Privacy notice.** The Authority shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Mille Lacs Band Gaming Regulatory Authority and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Mille Lacs Band or NIGC to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal, or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in the Mille Lacs

Band being unable to license you for a primary management official or key employee position.

The disclosure of your Social Security Number is voluntary. However, failure to provide a Social Security Number may result in errors in processing your application.

- (ii) The Authority shall place the following notice on the application form for a key employee or a primary management official before that form is completed by any applicant.

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (18 U.S.C. § 1001).

- (iii) Upon enactment of this chapter, the Authority shall notify in writing existing key employees and primary management officials that they shall either:

(A) complete a new application form that contains the notice stated in § 308(c)(ii) above; or

(B) sign a statement that contains the notice stated in § 308(c)(ii) above and consent to the routine uses described in that notice.

- (iv) If there exist any key employees or primary management officials who have completed forms which did not contain the notice stated in clause (ii) above, then the Authority shall notify in writing such employees and officials that they shall either:

(A) complete a new application form that contains a notice regarding false statements; or

(B) sign a statement that contains the notice regarding false statements.

- (2) **Information required from an applicant.** Each application for key employees and primary management officials shall request from each applicant the following information set forth at 25 C.F.R. § 556.4(a)(1) – (14):

- (i) full name, other names used (oral or written), Social Security Number(s), birth date, place of birth, citizenship, gender, and all languages (spoken or written);

- (ii) current and the previous five (5) years of business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (iii) the names and current addresses of at least three (3) personal references, including one (1) personal reference who was acquainted with the applicant during each period of residence listed under clause (ii) above;
- (iv) current business, residence, and all mobile phone numbers;
- (v) a description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
- (vi) a description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;
- (vii) the name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (viii) for each felony for which there is an ongoing prosecution or a conviction, the charge, the name, and address of the court involved, and the date and disposition, if any;
- (ix) for each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application, the name and address of the court involved, and the date of disposition, if any;
- (x) for each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to clauses (viii) or (ix) above, the criminal charge, the name address of the court involved, and the date of disposition, if any;
- (xi) the name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (xii) a current photograph;
- (xiii) any other information the Authority deems relevant; and

~~(i)~~(xiv) fingerprints consistent with procedures adopted by the Band according to 25 C.F.R. § 522.2(g).

~~(2)~~(3) **Background investigations.** The Authority shall perform a background investigation for each primary management official and key employee in the gaming operation. The investigation must be sufficient to allow the Authority to make an eligibility determination under this section. The Authority is responsible for conducting the background investigations of primary management officials and key employees. The background information shall include a review of criminal history records information maintained by the Federal Bureau of Investigations.

~~(3)~~(4) **Mandatory licensing procedures.**

~~(i)~~ **Fingerprints.** Fingerprints of each applicant for the position of key employee or primary management official will be taken by the OGR&C and sent to either Minnesota Alcohol and Gambling Enforcement or the NIGC for a check of criminal history records maintained by the Federal Bureau of Investigations.

~~(ii)~~ **File retention.** When the Authority licenses a primary management official or key employee, the Authority shall maintain the information listed in § 308(c)(2) of this chapter.

~~(iii)~~ **Confidentiality of interviewees.** The Authority and its investigators shall keep confidential the identity of each person interviewed in the course of conducting a background investigation.

~~(iv)~~ **Investigative reports.**

(A) The Authority shall create and maintain an investigative report for each background investigation of a primary management official or key employee.

(B) Investigative reports shall include all of the following information:

(I) Steps taken in conducting the background investigation;

(II) results obtained;

(III) conclusions reached; and

~~(i)~~(IV) the bases for those conclusions.

(v) Eligibility determinations.

- (A) Before a license is issued to a primary management official or key employee, the Authority shall make a finding concerning the eligibility of that person for receiving a gaming license by reviewing the applicant's prior activities; criminal record, if any; and reputation, habits, and associations.
- (B) If the Authority, in applying the standards adopted herein, determines that licensure of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming, he or she shall not license that person in a key employee or primary management official position.
- (C) Copies of the eligibility determination shall be included with the notice of results that must be submitted to the NIGC before the licensing of a primary management official or key employee.

(vi) Notice of results of background investigations.

- (A) Before issuing a license to a primary management official or key employee, the Authority shall prepare a notice of results of the applicant's background investigation to submit to the NIGC.
- (B) The notice of results must be submitted to the NIGC no later than 60 days after the applicant begins working for any gaming enterprise.
- (C) The notice of results shall include the following information:
 - (I) the applicant's name, date of birth, and Social Security Number;
 - (II) the date on which the applicant began, or will begin, working as a primary management official or key employee;
 - (III) a summary of the information presented in the investigative report, including licenses that have previously been denied, gaming licenses that have been revoked, even if subsequently reinstated, every known criminal charge brought against the applicant within the

preceding ten (10) years of the date of the application, and every felony offense of which the applicant has been convicted or any ongoing prosecution; and

(IV) a copy of the eligibility determination made in accordance with § 308(c)(4)(v) of this chapter.

(ii)(vii) Granting a gaming license.

- (A) All primary management officials and key employees of the gaming operation must have a gaming license issued by the Band.
- (B) The Authority is responsible for granting and issuing gaming licenses to primary management officials and key employees.
- (C) The Authority may license a primary management official or key employee applicant after submitting a notice of results of the applicant's background investigation to the NIGC, as required by § 308(c)(4)(vi) of this chapter.
- (D) The Authority shall notify the NIGC of the issuance of a license to a primary management official or key employee within thirty (30) days of issuance.
- (E) The Band shall not employ an individual in a primary management official or key employee position who does not have a license after 90 days of beginning work at the gaming operation.
- (F) The Authority must reconsider a license application for a primary management official or key employee if it receives a statement of itemized objections to issuance of such a license from the NIGC and those objections are received within thirty (30) calendar days of the NIGC receiving a notice of results of the applicant's background investigation.
- (G) The Authority shall take the NIGC's objections into account when reconsidering a license application.
- (H) The Authority will make the final decision whether to issue a license to an applicant for a primary management official or key employee position.
- ~~(B)~~(I) If the Authority has issued a license to a primary management official or key employee before receiving the NIGC's

statement of objections, notice and a hearing shall be provided to the licensee, as required by § 308(c)(4)(ix) of this chapter.

(viii) Denial of gaming licenses.

(A) The Authority shall not license a primary management official or key employee if the Authority determines, in applying the standards in this section for making a license eligibility determination, that licensing the person:

(I) poses a threat to the public interest;

(II) poses a threat to the effective regulation of gaming; or

(III) creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of gaming.

(B) When the Authority does not issue a license to an applicant for a primary management official or key employee position, or revokes a previously issued license after reconsideration, it shall:

(I) notify the NIGC; and

(II) forward copies of its eligibility determination and notice of results of the applicant's background investigation to the NIGC for inclusion in the Indian Gaming Individuals Record System.

(iii)(ix) Gaming license suspensions and revocations.

(A) If, after a license is issued to a primary management official or a key employee, the Authority receives notice from the NIGC that the primary management official or key employee is not eligible for employment, the Authority shall do the following:

(I) immediately suspend the license;

(II) provide the licensee with written notice of the suspension and proposed revocation; and

(III) provide the licensee with notice of a time and place for a hearing on the proposed revocation of the license.

~~(B) Following a revocation hearing, the Authority shall decide whether to revoke or reinstate the license at issue.~~

~~(C) The Authority shall notify the NIGC of its decision to revoke or reinstate a license within 45 days of receiving notification from the NIGC that a primary management official or key employee is not eligible for employment.~~

~~(A) If, after the issuance of a gaming license, the Commission receives reliable information indicating that a key employee or a primary management official is not eligible for employment under 25 C.F.R. § 558.2, the Commission shall notify the Authority that issued a gaming license.~~

~~(B) Upon receipt of such notification under item (A) above, the Authority shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation.~~

~~(C) The Authority shall notify the licensee of a time and a place for a hearing on the proposed revocation of a licensee.~~

~~(D) After a revocation hearing, the Authority shall decide to revoke or to reinstate a gaming license. The Authority shall notify the Commission of its decision.~~

~~(iv)(x) **Standard for license denial.** If the Authority, in applying the standards of this chapter, determines that employment of a person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Authority shall not employ that person as a key employee or primary management official.~~

~~(b)(d) **Licensing a privilege.** Any gaming license, or finding of suitability or approval, which is issued by the Authority, shall be deemed a privilege subject to suspension or revocation.~~

~~(e)(e) **Burden on a Applicant.** The burden of proving an applicant's qualification to receive any license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment, or other action which may result from the application process and expressly waive any claim for damages as a result thereof.~~

~~(d)(f) **Applicant cClaim of pPrivilege.** An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension, or revocation.~~

- (e)(g) **Release of Information.** All persons applying for a license shall agree to release all information necessary in order for the Authority to achieve its goals under this ~~Act~~chapter, and to furnish such information to the Bureau of Indian Affairs, the ~~NIGC~~National Indian Gaming Commission, or such other governmental agency as may be required by law or ~~any tribal-state~~the cCompacts.
- (f)(h) **License Investigations.** The Authority may employ all reasonable means, including engaging outside services and investigators; and convening hearings, to acquire the information necessary to determine whether or not a license should be issued, suspended, or revoked. Applicants and licensees shall also agree to release all information necessary in order for the Authority to achieve its goals under this section and to furnish such information to the Authority, the ~~National Indian Gaming Commission~~NIGC, or other agency as may be required by law or ~~the any tribal-state~~ cCompacts. In conducting a background investigation, the Authority and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.
- (g)(i) **License Fees.** All ~~g~~Gaming ~~e~~Enterprises or persons applying for a license, or the gaming enterprise associated with the license applicant, shall be required to pay all applicable license fees and costs when due, including a reasonable deposit for costs incurred in obtaining information in connection with the license application, unless specifically waived in advance by the Authority. Estimates of licensing costs shall be provided to applicants within a reasonable period of time after a request is made. The Authority, prior to ~~issuing~~issuance of the license, must receive all fees and costs, unless otherwise provided for in advance. Such fees shall be included in the ~~Initial~~ Detailed Gaming Regulations.
- (j) **Appeals.** All customers, vendors, licensees, and persons who have been denied a license, or had their license suspended or revoked, may appeal pursuant to the procedures detailed in this ~~chapter~~Act and the Detailed Gaming Regulations.
- (k) **Records retention of terminations.** The Authority shall retain, for no less than three (3) years from the termination date of any employee requiring a gaming license, the following documentation:
- (1) application for licensing;
 - (2) investigative reports;
 - (3) eligibility determinations; and
 - (+)(4) any appeal records.

§ 3098. Compliance Determinations.

The Authority shall convene to consider a ~~c~~Compliance ~~r~~Recommendation within ten (10) days of its receipt from the Director as required by ~~section 12(b)(2)~~ § 402(b) of this chapter, unless, only for issues of licensing, the Authority has received notice of intent to appeal directly to the ~~Court of Central Jurisdiction~~ District Court from the person who has received notice of an adverse licensing recommendation. In addition to the ~~c~~Compliance ~~r~~Recommendation, the Authority may consider any oral or written comments offered by the parties that the Authority deems to be relevant. The Authority may consider any additional information it determines to be necessary and appropriate to reaching a determination. All information considered by the Authority shall become part of the official record of the proceedings. Based on substantial evidence contained in the official record, the Authority shall make a ~~c~~Compliance ~~d~~Determination by accepting, rejecting, or modifying the ~~c~~Compliance ~~r~~Recommendation. The Authority shall clearly state on the record its decision and the reasons therefor. Compliance ~~d~~Determinations shall be effective on the date made, unless the Authority establishes a different effective date. In arriving at any ~~c~~Compliance ~~d~~Determination, the Authority may employ the services of a ~~h~~Hearing ~~e~~Examiner to either make a recommendation for a ~~c~~Compliance ~~d~~Determination or to issue a ~~c~~Compliance ~~d~~Determination on behalf of the Authority.

-§ 31009. Independent Audits.

- (a) **General.** The Authority may cause to be conducted independent auditing by a recognized independent accounting firm of each gaming enterprise for compliance with Band gaming laws, the IGRA, and any tribal-state compacts. The results of the audit shall be reported to the Band Assembly, the Chief Executive, and, to the extent required by law, the NIGC or other governmental entity possessing lawful oversight.
- (b) **Annual Audits.** The Authority shall cause to be conducted independent audits of gaming operations annually in a manner that conforms to generally accepted auditing standards. Copies of the annual audit of each licensed gaming operation, and each audit for supplies, services, or concessions of each gaming operation, shall be furnished to the NIGC, the Band Assembly, and the Chief Executive within 120 days after the end of each fiscal year of the gaming operation.
- (a)(c) **Contracts.** Contracts related to class II or class III gaming that result in the purchase of supplies, services, or concessions for more than \$25,000.00 in any year, except contracts for professional legal and accounting services, shall be specifically included within the scope of any audit conducted under this section. The Authority may include any other contract of a lesser amount within the audit if the contract is related to class II or class III gaming. ~~Annual outside auditing by a recognized independent accounting firm shall be conducted of each Gaming Activity for compliance with Band gaming laws, the IGRA, and the Compacts, and the results thereof reported to the Chief Executive, the Band Assembly, and to the extent required by law, the Bureau of Indian Affairs and the National Indian Gaming Commission or another entity. In addition, such audits shall include all contracts related to class II or III~~

~~gaming, which are in excess of \$25,000, and any other contract of a lesser amount at the discretion of the Authority.~~

§ 3110. Enforcement.

Any enforcement action taken shall be fair and reasonable under the circumstances, shall be proportionate to the violation, and shall be designed to promote the goals of correction and improvement, unless the violation is such that correction and improvement is not possible. Any enforcement action taken by the Authority must be related to its gaming regulatory function. Any such enforcement action shall be considered to be a ~~c~~Compliance ~~d~~Determination and, as such, is appealable pursuant to ~~section 13~~subchapter 6 of this ~~A~~chapter. In a manner provided by a Detailed Gaming Regulation, the Authority may hold such hearings, make such findings, and issue such orders as may be necessary to enforce Band ~~g~~Gaming ~~l~~aws, the IGRA, any tribal-state~~the c~~Compacts, and other applicable law, including but not limited to:

- (a) ~~revoking or suspending any license issued to an individual, g~~Gaming ~~s~~upplier, or ~~g~~Gaming ~~e~~Enterprise as allowed by this ~~A~~chapter;
- (b) ~~imposing civil fines reasonably proportionate to the activity being punished. Such monies shall be deposited in the Band's general fund. A fine schedule, including minimum and maximum fine amounts, shall be included in the Initial~~Detailed Gaming Regulations; and
- (~~b~~)(c) ~~adding a p~~Person to a list of ~~p~~Persons excluded from ~~g~~Gaming ~~e~~Enterprises.

§ 3121. Limitations on Actions.

Any enforcement action of ~~the~~ Authority or order of the ~~Court of Central Jurisdiction~~District Court pursuant to any appeal shall be limited as follows:

- (a) The Authority is not authorized to order the cessation of operations of a ~~g~~Gaming ~~e~~Enterprise. Such an order for cessation of operations of a ~~g~~Gaming ~~e~~Enterprise may only occur upon:
 - (1) recommendation by majority vote of the Authority to the Joint Session of the Band Assembly that a ~~g~~Gaming ~~e~~Enterprise be closed, citing the specific cause for which closure is being recommended and the conditions under which the cause of closure shall be determined remedied, thereby allowing the reopening of the ~~g~~Gaming ~~e~~Enterprise; and
 - (2) a ~~s~~Super-majority vote of four (4) out of five (5) members of the Joint Session of the Band Assembly ordering closure of a ~~g~~Gaming ~~e~~Enterprise citing the specific cause for which closure is being recommended and the conditions under which the cause of closure shall be determined remedied, thereby allowing the reopening of the ~~g~~Gaming ~~e~~Enterprise.

- (b) All claims by patrons against a gGaming eEnterprise shall be limited to a maximum recovery of \$10,000.00 per claim and a cumulative limit of \$20,000.00 per patron per year, regardless of the number of claims.
- (c) All claims by yVendors or gGaming sSuppliers against a gGaming eEnterprise shall be limited to the amount of the contract between the yVendor or gGaming sSupplier and the gGaming eEnterprise that is the subject matter of the claim. However, this provision is subject to the existence of an effective waiver of sovereign immunity pursuant to Mille Lacs Band Sstatutes. Under no circumstances shall punitive or other damages, costs, and fees be ordered.
- (e)(d) All claims involving denial, suspension, or revocation of a gaming license shall be limited to an award of specific performance of granting or reinstating such license. No monetary award shall be awarded on a license claim.

§ 3132. Excluded Persons.

- (a) **Exclusion lList; cCreation; eEffect.** Subject to the criteria and procedures of this section, the Authority shall establish and maintain an eExclusion lList. Individuals whose names appear on the eExclusion lList shall not be allowed to enter any gGaming eEnterprise or participate in any class II or class III gGaming operated by any gGaming eEnterprise, whether on behalf of the Band or an Indian cCharitable oOrganization.
- (b) **Duty to eExclude.** It shall be the duty of the Corporate Commissioner and the manager of each gGaming eEnterprise to exclude or eject from a gGaming eEnterprise any pPerson whose name appears on the eExclusion lList. Any associate of a gGaming eEnterprise who knows or has reason to know that an excluded pPerson has entered or is attempting to enter a gGaming eEnterprise shall be responsible for notifying appropriate staff and taking such other action as is within the scope of the associate's authority and responsibility to exclude or eject such pPerson.
- (c) **Distribution and aAvailability of eExclusion lLists.** The Authority shall maintain a list of pPersons to be ejected or excluded from gGaming eEnterprises. It shall be the duty of the manager of each gGaming eEnterprise to inform the Corporate Commissioner in writing of the name of each pPerson who the manager reasonably believes meets the criteria for placement on the eExclusion lList as established by subsection(d)(D) below. The Corporate Commissioner, in turn, will provide such names to the Director. The list shall be distributed to each gGaming eEnterprise. The list shall be made available to law enforcement agencies if properly subpoenaed or upon request based upon a documented law enforcement need for the list. The following information, to the extent known, shall be provided for each excluded pPerson:
 - (1) the full name, date of birth, and all aliases;

- (2) a physical description;
- (3) the effective date the pPerson's name was placed on the list;
- (4) a photograph, if available;
- (5) the pPerson's occupation and current home and business address;
- (6) the specific reason for exclusion;
- (7) the date, if any, exclusion will expire; and
- (8) such other information as may be deemed necessary by the Director or the Authority.

(d) **Criteria for eExclusion or eEjection and pPlacement on an eExclusion lList.** The Authority may, based upon the recommendation of the Director, or the Director by eEmergency eEnforcement oOrder subject to the provisions of ~~section 12(b)(3)~~ § 402(c) of this chapter, place a pPerson on the eExclusion lList pending a hearing by the Authority if:

- (1) such pPerson has been convicted, ~~of a felony~~ in any jurisdiction, of any felony crime that brings into question the person's honesty and integrity, including, but not limited to, shoplifting, theft, robbery, burglary, embezzlement, conspiracy to commit a crime, or of a gambling-related crime;
- (2) such pPerson has violated or conspired to violate any provisions of the ~~Indian Gaming Regulatory Act~~ IGRA, ~~Band gGaming lLaws, any tribal-state~~ cCompacts, and other applicable law;
- (3) such pPerson has a notorious or unsavory reputation which would adversely affect public confidence and trust in gaming. The list of which acts constitute such reputation shall be included in the ~~Initial~~-Detailed Gaming Regulations;
- (4) ~~his or her~~ her or his name appears on any valid and current eExclusion lList from another jurisdiction and the reason for exclusion from such other jurisdiction would also be likely to cause exclusion from Band gGaming eEnterprises;
- (5) pursuant to ~~section 15(f)~~ § 706 of this chapter, the pPerson requests to be excluded, by means which allows the Authority to positively identify the person, due to a demonstrable gambling problem.

(e) **Procedure for eEntry of nNames.**

- (1) The Director of the Office of ~~Business-Gaming~~ Regulation and Compliance shall investigate all matters concerning whether or not a pPerson should be

placed on the eExclusion List. Upon a determination that a pPerson satisfies any of the criteria listed in Section 11(d)(9)(D) § 313(d) of this chapter, the pPerson shall be deemed a candidate for exclusion, and the Director shall prepare and submit a cCompliance rRecommendation as to whether the pPerson's name should be added to the eExclusion List and forwarded to the Authority for action. Such recommendation shall include the identity of the candidate and the nature and scope of the circumstances or reasons that such pPerson should be placed on the eExclusion List. Pursuant to section 12(b)(2)(B) § 402(b)(2) of this chapter, notice of the recommendation must be given to the pPerson who is the subject of the recommendation and that pPerson must be informed of the opportunity to offer oral or written testimony to the Authority concerning the recommendation. All testimony to the Authority shall be provided under oath or sworn affidavit and shall be subject to Band criminal prohibitions against perjury under 24 MLBS § 1204.

- (2) If the Authority or subsequent review by Court of Central Jurisdiction District Court finds in favor of the candidate or excluded pPerson, then his or her or his name shall be removed from the excluded list and his or her or his exclusion shall be terminated as of the date of the action by the Authority or the Court of Central Jurisdiction District Court. If the finding is against the candidate or excluded pPerson, then his or her or his name shall be placed on the eExclusion List. If no hearing is requested, then the pPerson's name may shall be placed on the eExclusion List. The Authority may place a pPerson on the eExclusion List either permanently or temporarily. If a pPerson is placed on the eExclusion List temporarily, then the Authority shall clearly state the period of time that the pPerson will be on the eExclusion List.
- (f) **Removal from the eExclusion List.** Any pPerson who has been placed on the eExclusion List may petition the Authority in writing, not more frequently than annually once every six (6) months, that his or her or his name be removed from the list.
- (g) **Confidential dData.** The eExclusion List shall be classified as cConfidential Limited aAvailability dData.
- (h) — **Immediate rRemoval of dDisorderly pPersons.** A gGaming eEnterprise may immediately remove and bar re-entry of any pPerson who engages in, or is reasonably believed likely to engage in, disruptive, or unruly behavior, or any other behavior which presents ed a danger to the health, welfare, morals, or the public peace. The manager of the gGaming eEnterprise may seek to have such a removed and barred individual placed on the eExclusion List.

§ 3143. Regulatory Role.

The Authority is to serve in a regulatory role, not in an operations role, in connection with gGaming aActivities conducted by any gGaming eEnterprise. The scope of the Authority's authority is limited strictly to the powers and duties specifically enumerated in ~~section 11(d)~~ §§ 304 through 313 of this Achapter.

§ 315. Patron Dispute Resolution.

The Authority is authorized to promulgate Detailed Gaming Regulations governing patron dispute resolutions.

§ 3164. Budget.

The Authority ~~and the Office of Gaming Regulation and Compliance (OGR&C), as established in section 12 below,~~ shall have budget and expenditure authority independent of gaming operations. Funding for the Authority ~~and OGR&C~~ shall be adequate to allow the Authority ~~and OGR&C~~ to perform the task of gaming regulation. Such funding for the Authority ~~and OGR&C~~ shall conform to Band appropriation laws and shall not be reliant on the discretion of any management official of a gGaming eEnterprise who is subject to regulation of the Authority.

§ 317. Legal Counsel.

The Authority is permitted to hire its own legal counsel independent of the Solicitor General. Any legal counsel hired under this provision may advise both the Board and OGR&C.

SUBCHAPTER 5

**OFFICE OF GAMING REGULATION AND COMPLIANCE; DIRECTOR
OF GAMING REGULATION AND COMPLIANCE**

Section

401. Establishment; Appointment; Qualifications; Removal and Suspension.

402. Powers and Duties.

403. Regulatory Role.

§ 401. Establishment; Appointment; Qualifications; Removal and Suspension.

- (a) **Establishment.** There is hereby established the ~~Office of Gaming Regulation and Compliance~~ (“OGR&C”), which shall be under the management and supervision of the Director, but subject to the ultimate control of the ~~Authority Board~~.
- (b) **Appointment of the Director.** The Director shall be appointed by the Board by majority vote and shall report to the Board as the Board requires.
- (c) **Qualifications.** The Director shall possess the following qualifications:
 - (1) experience and training in management and regulatory enforcement of sufficient scope, depth, and relevancy to enable ~~him/her~~ her or him to direct the work of the OGR&C;
 - (2) high moral character with no conviction for a felony or any gambling-related offense;
 - (3) freedom from any conflict of interest created by outside business interest or occupation; and
 - (4) licensure as a ~~p~~Primary ~~m~~Management ~~o~~Official.
- (d) **Removal; ssuspension.** The Director may be removed for cause as manifest by a ~~s~~Super-majority vote of four (4) out of five (5) of the Board Members, including the Chairperson. In addition, if the Director is charged in any competent jurisdiction with a felony or any gambling-related crime, the Chairperson shall immediately suspend the Director with or without pay until the charges have been resolved.
- (e) ~~—~~**Vacancy.** If there is a vacancy for any reason, then the Chairperson shall immediately appoint an Interim Director, until the Board convenes to appoint a Director.

§ 402. Powers and Duties.

- (a) **Director.**
 - (1) **Staff.** The OGR&C shall provide staff, administrative, and office support to the Authority. The Director shall appoint one or more ~~g~~Gaming ~~c~~Compliance ~~o~~Officers, to whom he or she may delegate certain duties of the Director, and hire such other employees or consultants as may be necessary to perform the duties as set forth herein. All employee suspensions and terminations are appealable to the ~~Authority Board~~.

- (2) **Day-to-day operations.** The Director shall be responsible for the day-to-day operations of the OGR&C, subject to the authority of the Board, including:
- (i) enforcement of all applicable gaming laws and regulations at all gGaming eEnterprises;
 - (ii) investigations of any matter within the scope of authority of the Authority as described in ~~section 11~~ subchapter 4 of this ~~Ae~~ chapter, including but not limited to, performing or causing to be performed background investigations necessary to determine if any applicant for a pPrimary mManagement oOfficial, kKey eEmployee or gGaming sSupplier license required by this ~~Ae~~ chapter, or the Detailed Ggaming Rregulations adopted by the Authority, meets the applicable licensure criteria;
 - (iii) assisting the Authority in defending all decisions where an adversely impacted license applicant files an appeal to such adverse decision;
 - (iv) investigating and evaluating the effectiveness and efficiency of the ~~Mille Laes-Band's~~ gaming regulatory system and recommending changes;
 - (v) investigating and monitoring all gGaming eEnterprises for compliance with the IGRA, Band gGaming lLaws, any tribal-state ~~the c~~ Compacts, and other applicable law upon receiving any credible report of a violation of gaming statutes or regulations, or at random or periodic intervals, with or without prior notification to the management or associates of the subject gGaming eEnterprise;
 - (vi) investigating all gaming-related patron and vendor complaints concerning a gGaming eEnterprise that have not been resolved between the complainant and the gGaming eEnterprise after full exhaustion of attempts to amicably settle the matter and make a cCompliance rRecommendation to the Authority concerning the matter;
 - (vii) investigating and monitoring all gGaming eEnterprises for compliance with compulsive gambling cure and prevention requirements;
 - (viii) investigating and monitoring for compliance with all rules concerning cCharitable gGaming;
 - (ix) investigating, monitoring, and assisting in all matters concerning the maintenance and enforcement of a list of pPersons to be excluded from gGaming eEnterprises;

- (x) at the request of the Authority, assisting the Authority in:
 - (A) the execution of any authorized enforcement actions;
 - (B) the preparation and defense of any appeal taken from any cCompliance dDetermination; and
 - (C) the preparation of the annual budget which is to be submitted to the Band Assembly for direct appropriation for Authority activities; and
- (xi) hiring and supervising the gGaming cCompliance oOfficers and other personnel of the OGR&C;

- (3) **Access to data and files of any gGaming eEnterprise.** The Director shall have access to all areas, records, files, and data of any gGaming eEnterprise, and may interview any associate of any gGaming eEnterprise with respect to matters relating to the operation of any gGaming eEnterprise without first notifying the associate's supervisor or any other employee of any gGaming eEnterprise, and shall have access to the results of bBackground iInvestigations carried out pursuant to section 11 subchapter 4 of this Aet chapter or the Detailed Ggaming Rregulations adopted by the Authority.
- (4) **Gaming cCompliance oOfficers.** Gaming cCompliance oOfficers shall be considered kKey eEmployees for purposes of bBackground iInvestigations and licensing. Gaming cCompliance oOfficers shall be responsible for performing investigations and otherwise assisting the Director in carrying out the duties specified herein. The Director may delegate to gGaming cCompliance oOfficers any of the Director's powers and duties, except the power to appoint gGaming cCompliance oOfficers.
- (5) **Security of records and access to offices.** The OGR&C shall take all measures necessary to safeguard and track records. In addition, access to the offices of the OGR&C shall be strictly controlled to assure security and maintain adequate separation of gaming regulation and gaming operations.
- (6) **Agent for service of process.** The Director shall be the designated agent for service of any official determination, order, or notice of violation.

(b) **Compliance rRecommendations; notice; time; and content.**

- (1) **Compliance rRecommendation.** The Director shall submit a cCompliance rRecommendation to the Board Members and the persons stated in paragraph (2)(B) below, which shall summarize the facts and state whether or not the license should be granted, suspended, or revoked; whether or not the documented practices and procedures satisfy the relevant statutes and

regulations; and recommend appropriate corrective, enforcement, or other responsive action.

- (2) **Notice, time, content.** The Director shall submit the written cCompliance rRecommendation within five (5) days to each Board Member, the Corporate Commissioner, the licensee or license applicant if the cCompliance rRecommendation involves a license denial, suspension, or revocation, and any vendor or patron who is the subject of a cCompliance rRecommendation for each investigation carried out pursuant to ~~section 11(d)(4)(G)~~ § 308(h) of this ~~Aet~~chapter. The notice shall state that the cCompliance rRecommendation will be heard by the ~~Authority~~ Board prior to issuance of a cCompliance dDetermination pursuant to ~~section 11(d)(5)~~ § 309 of this ~~chapter~~ and contain a copy of the Authority's procedures for issuing of a cCompliance dDetermination. In addition, the notice shall state that all parties have the right to legal counsel at the party's own expense, the right to appear before the Authority, the right to review the record upon which the initial cCompliance rRecommendation was made, and may supplement the record with additional information if deemed relevant by the Board.

- (c) **Emergency eEnforcement oOrders.** If the Director finds that there is an immediate threat to Band assets, or that probable cause exists to believe that a crime has been, or is about to be committed, the Director may, by emergency order, immediately impose any legitimate regulatory enforcement and/or corrective action within the scope of the Authority's authority which is proportional to the harm such emergency order seeks to remedy. Emergency orders shall be in writing, and the Director shall immediately forward any such order, along with a supporting cCompliance rRecommendation, to the Authority and the Corporate Commissioner in the manner provided by ~~section § 313(d)11(d)(9)(D)~~ § 313(d) of this ~~Aet~~chapter. The Authority shall act on any such order and cCompliance rRecommendation in the same manner provided by ~~§ 313(e)section 11(d)(9)(D)~~ § 313(e) of this ~~Aet~~chapter, except that it shall convene to consider the order and cCompliance rRecommendation within three (3) days of having received the emergency order and supporting cCompliance rRecommendation. In any such proceeding, the cCompliance dDetermination of the Authority shall supersede the Director's emergency order.

- (~~e~~)(d) **Due process protections.** Nothing in this chapter waives or diminishes any gaming enterprise's or individual's rights to due process and equal protection of the laws.

§ 403. Regulatory Role.

The OGR&C is to serve in a regulatory role, not in an operations role. As such, the scope of the Director's authority is limited strictly to the powers and duties specifically enumerated in ~~section 12-subchapter 5~~ of this ~~chapter~~Aet and to those powers and duties specifically granted to the Authority in ~~section 11-subchapter 4~~ of this ~~chapter~~Aet, which have been specifically

delegated to the Director by the Authority, including those limitations of actions described in ~~§ 312~~section 11(d)(8) of this ~~chapter~~Act.

SUBCHAPTER 6

APPEALS

Section

501. Who May Appeal.

502. Effecting an Appeal.

503. Procedure on Appeal; Standard of Review.

§ 501. Who May Appeal.

- (a) A Person who has been denied reversal of an adverse cCompliance rRecommendation or denied any other relief requested from the Authority may appeal such cCompliance dDetermination or final enforcement order to the ~~Court of Central Jurisdiction~~District Court.
- (b) — A pPerson who has received a cCompliance rRecommendation that recommends a license denial, suspension, or revocation may directly appeal to the ~~Court of Central Jurisdiction~~District Court. If a person takes such action, then he or she waives any right to receive a cCompliance dDetermination from the Authority.

§ 502. Effecting an Appeal.

Any appeal shall be filed with the ~~Court of Central Jurisdiction~~District Court and must be filed within twenty (20) days after the date of the issuance of a cCompliance dDetermination, final order, or a cCompliance rRecommendation that denies, suspends, or revokes a license.

§ 503. Procedure on Appeal; Standard of Review.

- (a) The ~~Court of Central Jurisdiction~~District Court shall sit without a jury, confine its review to the Authority record, and apply an abuse of discretion standard. The filing of briefs and oral argument must be made in accordance with the Band rules governing civil cases.
- (b) The ~~Court of Central Jurisdiction~~District Court may affirm the cCompliance dDetermination or order of the Authority, ~~or it may~~ remand the case for further proceedings, or reverse the cCompliance dDetermination or order if the substantial rights of the petitioner have been prejudiced because the decision is:

- (1) in excess of the statutory authority or jurisdiction of the Authority;
- (2) made upon unlawful procedure;
- (3) unsupported by any evidence; or
- (4) plainly in error.

SUBCHAPTER 7

DATA PRIVACY

Section

601. General Rule.

602. Confidential Data.

603. Temporary Classification.

604. Information Sharing.

§ 601. General Rule.

All Authority ~~d~~Data shall be public unless classified by a Band statute, regulation, or order, or by federal law, as ~~c~~Confidential ~~d~~Data. The Authority shall adopt and promulgate detailed and thorough rules pursuant to data privacy in its ~~Initial~~Detailed Gaming Regulations.

§ 602. Confidential Data.

(a) ~~Confidential limited aAvailability dData.~~ Confidential limited availability data shall consist of background investigations information, confidential financial information, compliance recommendations information, personnel data, and whether or not a person is on the exclusion list.

- (1) Background investigation information shall be available only in a case where information revealed through a background investigation is, in whole or in part, the basis for an adverse decision regarding a license applicant or license renewal. The information contained in such background investigation shall be made available to the license applicant or the person seeking license renewal if so requested. The following Authority Data shall be Confidential Limited Availability Data under these restrictions:
- (2) Compliance recommendations information shall be available only to the extent that the Authority adopts a compliance recommendation or accepts the

record developed by the Director supporting a compliance recommendation. All information accepted or relied upon in such a manner shall be public.

- (2) ~~—The availability of information regarding whether a person is on the exclusion list is limited to the receipt of such information by the person who is on the exclusion list or her or his agent pursuant to 25 C.F.R. § 515.8. Background Investigations Information; available only in a case where information revealed through a Background Investigation is, in whole or in part, the basis for an adverse decision regarding a license applicant or license renewal. The information contained in such Background Investigation shall be made available to the license applicant or the Person seeking license renewal if so requested;~~
- (3) ~~—~~
- (4) ~~— Confidential Financial Information;~~

~~Compliance Recommendations Information; available only to the extent that the Authority adopts a Compliance Recommendation or accepts the record developed by the Director supporting a Compliance Recommendation, all information so accepted or relied upon shall be public;~~

~~Personnel Data; and~~

~~whether or not a Person is on the Exclusion List; however, limited only to the receipt of such information by the Person who is on the Exclusion List or his/her agent pursuant to 25 C.F.R. section 515.8.~~

- (b) ~~— **Confidential rRestricted aAvailability dData.** Confidential restricted availability data shall consist of financial information on a gaming enterprise, information on a pending compliance recommendation, information on a pending license application, security information, and trade secret information. The following Authority Data shall be Confidential Restricted Availability Data under these regulations:~~

- (c) ~~—~~
- (d) ~~— Financial Information on a Gaming Enterprise;~~
- (e) ~~—~~
- (f) ~~— Information on a Pending Compliance Recommendation;~~
- (g) ~~—~~
- (h) ~~— Information on a Pending License Application;~~
- (i) ~~—~~
- (j) ~~— Security Information; and~~
- (k) ~~—~~
- (l) ~~— Trade Secret Information.~~

§ 603. Temporary Classification.

- (a) **Authority.** The Authority may, on its own motion or at the request of the Director, temporarily classify Authority ~~d~~Data as ~~c~~Confidential ~~d~~Data if it determines that:
- (1) the data for which the temporary classification is sought has been treated as private or confidential by ~~the Corporate Ventures Commission~~ or other agencies of ~~Mille Laette Band Government~~ or by the federal government; or
 - (2) a compelling need exists for immediate temporary classification, which, if not granted, could adversely affect the public interest or the health, safety, or well-being of the subject of the data.
- (b) ~~—~~**Ratification.** No later than July 1 of each year, the Authority shall submit all temporary classifications then in effect to the Corporate Commissioner for review. The Corporate Commissioner may comment on the classification and the Authority shall consider the comments of the Corporate Commissioner in reaching its decision. If the Corporate Commissioner fails to act by July 1 of the year following the submission of a temporary classification hereunder, then the classification shall thereupon expire.

§ 604. Information Sharing.

The Authority may, on its own motion or at the request of the Director, share information with any regulatory agency of another gaming jurisdiction or any law enforcement agency where it is determined that sharing such information is in the best interest of the Band, where the agency with whom the information is to be shared assures that the shared information will remain confidential, if the other gaming jurisdiction agrees to share such information with the Band, and if sharing the information is not contrary to any applicable law.

SUBCHAPTER 8

COMPULSIVE GAMBLING

Section

- 701. Policy.**
- 702. Program Content and Responsibility.**
- 703. Counseling Resources; Referrals.**
- 704. Associate Training.**
- 705. Patron Information and Education.**
- 706. Exclusion.**

§ 701. Policy.

~~Although~~ While gambling is an enjoyable form of entertainment for most people, the Mille Lacs Band recognizes that some people may have difficulty with keeping their gambling within reasonable limits. The Band is committed to helping these people to deal constructively with their actual or potential gambling problems, and in furtherance of this goal it has established the Mille Lacs Problem Gambling Prevention Program described in this section.

§ 702. Program Content and Responsibility.

- (a) The Problem Gambling Prevention Program shall consist of the following elements:
 - (1) a referral system;
 - (2) associate training;
 - (3) patron information and education; and
 - (4) exclusion.
- ~~(b)~~—The Director, in consultation with the Corporate Commissioner of ~~Corporate Affairs~~ subject to the review and approval of the Authority, shall develop and update as necessary a Problem Gambling Prevention Program. The Corporate Commissioner, subject to the oversight of the Director, shall implement the program in all ~~g~~Gaming ~~e~~Enterprises.

§ 703. Counseling Resources; Referrals.

The referral system of the Problem Gambling Prevention Program shall be based on a current, computerized directory of organizations and individuals that have a reputation for providing effective assistance for individuals with gambling problems. The system shall include a process for referring patrons who seek help with such problems to resources listed in the directory and for encouraging them to take advantage of such resources.

§ 704. Associate Training.

Problem Gambling Prevention Training shall be provided to all casino associates who have regular contact with patrons. This training program, which shall be provided as part of the associate orientation program and require subsequent periodic in-service refreshers, shall include but not be limited to the following:

- (a) a description of the Problem Gambling Prevention Program;
- (b) the nature, extent, and effects of compulsive gambling;

- (c) how to recognize the warning signs of potential and actual gambling problems; and
- (d) — techniques for intervening constructively with problem gamblers.

§ 705. Patron Information and Education.

- (a) **Generally.** Patrons shall be provided information on the Problem Gambling Prevention Program by signs and in promotional materials as provided in this section.
- (b) **Signs.** Signs that clearly and in plain language inform patrons about how to obtain assistance in dealing with gambling problems shall be prominently posted at the following locations in each gGaming eEnterprise:
 - (1) at each entrance and exit;
 - (2) at any check cashing facility within the gGaming eEnterprise;
 - (3) near any ATM cash machines at the gGaming eEnterprise; and
 - (4) any other locations as determined by the Corporate Commissioner of ~~Corporate Affairs~~.
- (e) — **Promotional material.** The Problem Gambling Prevention Program shall contain guidelines and suggestions for including messages about responsible gambling, the need to ~~get help~~ for assistance to address problem gambling behavior, and the sources of such ~~help~~ assistance. The Director shall monitor the promotional materials and campaigns of each gGaming eEnterprise to ensure that such messages are being included to the extent appropriate and, in cooperation with the Corporate Commissioner, take such action as may be necessary to correct any deficiencies in this regard.

§ 706. Exclusion.

At the request of a patron who states that he or she may have a gambling problem, or at the request of an immediate family member of a patron who alleges that the patron has a gambling problem, the patron's name may be added to the eExclusion lList established pursuant to ~~section~~ § 313(e)11(d)(9)(D).

Section 2. Approval by National Indian Gaming Commission Chairperson.

This bill shall not be effective unless approved by the National Indian Gaming Commission Chairperson in accordance with 25 U.S.C. § 2710.

Act 32-23
(Band Assembly Bill 20-03-32-23)

Introduced to the Band Assembly on this
Seventh day of June in the year
Two thousand twenty-three.


Passed by the Band Assembly on this
Seventh day of June in the year
Two thousand twenty-three.

VETO


Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: June 14, 2023


Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

June 14, 2023

Honorable Members of the Band Assembly
Non-Removable Mille Lacs Band of Ojibwe
43408 Oodena Drive
Onamia, MN 56359

Re: Veto of Bill 20-03-32-23

Dear Honorable Members of the Band Assembly:

Pursuant to the powers vested in me by Title 4 of the Mille Lacs Band Statutes, I veto Bill 20-03-32-23 (Act 32-23) for the reasons explained below.

The proposed amendments to § 302(b) violate division of powers. Neither Titles 3 or 4 permit the Band Assembly and the Chief Executive to circumvent the appointment process by direct appointment, even if either the Band Assembly or the Chief Executive fail to or refuse to exercise their respective powers.

I support the bill's remaining amendments and I commend the hard work the drafters and the Gaming Regulatory Authority have done on this bill. I am willing to sign this bill into law if the Band Assembly agrees to leave the amendments to § 302(b) out of the bill.

I look forward to discussing this at the compromise hearing.

Sincerely,

A handwritten signature in blue ink that reads "Melanie Benjamin".

Melanie Benjamin,
Chief Executive

Enc: Vetoed Bill 20-03-32-23

cc: Darcie Big Bear, Parliamentarian
Caleb Dogeagle, Solicitor General

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