

Interactive Gaming Qualified Gaming Entity Licensing Process

I. Background

Chapter 13B of Act 42 provides for interactive gaming. Interactive gaming can only be conducted under the authorization of an “interactive gaming certificate” and can be conducted either directly by the certificate holder or by an “interactive gaming operator” who, by virtue of obtaining an “interactive gaming license”, may operate interactive gaming on behalf of an “interactive gaming certificate holder”. The Act permits the Board to issue a total of 39 interactive gaming certificates or 13 interactive gaming certificates in each of three categories of interactive gaming as follows:

- peer-to-peer (typically poker games in which patrons play directly against each other);
- non-peer-to-peer simulating slot machines; and
- non-peer-to-peer simulating banked table games (wherein the patron plays against the house - e.g. blackjack)

Act 42 contemplates that, initially, Pennsylvania’s 13 slot machine licensees (at the time) had the ability to petition for, and obtain, interactive gaming certificates in each of the 3 categories. Specifically, it provides that the Commonwealth’s casino licensees could petition for interactive gaming certificates in all three categories for up to 120 days from the Board’s opening of an application period. The cost for all three certificates, combined, during the initial 90 days was \$10M. During the 90 – 120 day period, which ended on August 14, 2018, casinos could petition for 1 to 3 interactive gaming certificates at \$4M each or could opt to not petition for any certificates.

During the Board’s public meeting of August 15, 2018, it was announced that following the initial 120-day period, certificates in all 3 categories remained. Specifically, six (6) peer-to-peer, three (3) non-peer-to-peer simulating slot machines, and three (3) non-peer-to-peer simulating banked table games.

As interactive gaming certificates remained, Act 42 authorized a Qualified Gaming Entity or QGE to file a petition with the Board for an interactive gaming certificate in any or all categories of interactive games. See 4 Pa.C.S. §13B12(a.1)(3) and (6). The Act provides that a QGE is “a gaming entity licensed in any jurisdiction which has satisfied the requirements of this chapter and any other criteria established by the board, including financial and character suitability requirements.” 4 Pa.C.S. §13B12(a.1)(6). The concept of the QGE is not introduced and discussed in any other chapter of the Gaming Act, nor is authorization provided by statute for a QGE to engage in any other forms of gambling, such as sports wagering.

Given that interactive gaming certificates remained, the Board issued an “Interactive Gaming Qualified Gaming Entity Application Process” and established an October 31, 2018 deadline by which any entity seeking QGE status could submit a Petition to the Board’s Office of Hearings and Appeals, limited to determining whether the entity met the requirements to be a QGE. Two entities applied to be QGEs by the deadline, with one of those entities subsequently withdrawing its petition. The second entity¹ was subsequently found to qualify as a QGE pursuant to the 2018 procedure. That entity’s application remains pending and must be approved for licensure, as must a second petition fulfilling the requirements of 4 Pa.C.S. §13B12(b).

As four years has now passed and interactive gaming certificates remain, the Board is reopening the QGE petition period as outlined below. This updated process consolidates the two (2) petition process contemplated in the 2018 policy, with all entities seeking QGE status filing just one (1) petition and an application

II. Process

A. Overview of establishment of criteria for QGEs –

The Act contemplates that the board define criteria for a QGE which is able to seek an interactive gaming certificate as “a gaming entity licensed in any jurisdiction which has satisfied the requirements of this chapter and **any other criteria established by the Board, ...** “

The Act provides that a slot machine licensee may be authorized by the Board to conduct interactive gaming in the Commonwealth, 4 Pa.C.S. §13B11(a), and provides that for purposes of Subchapter B, “Interactive Gaming Authorized”, a QGE shall be considered a slot machine licensee. §13B12(a.1)(4).

1. Because the Act contemplates that only “slot machine licensees” can obtain an interactive gaming certificate in order to provide interactive gaming in Pennsylvania, the Board determines that a QGE must have attributes of a licensed slot machine licensee and therefore meet criteria that it currently holds a license in good standing issued by a State of the United States or by the gaming oversight authority or jurisdiction of a nation other than the United States which permits the entity to conduct and operate gaming to include: 1) casino slot and table games including poker; and/or 2) interactive casino-style slot, table or poker games.
2. The license possessed by the entity and each Principal of the entity must be in good standing and there may not be any enforcement actions pending against the entity or principals which seek the suspension or revocation of the license currently possessed.

¹ Golden Nugget Online Gaming, LLC

3. Because a QGE is required to meet financial suitability requirements in order to be considered for the award of an interactive gaming certificate, an entity submitting for consideration shall be required to submit a bond or letter of credit from an established bank located in the United States in the amount of \$4M per certificate sought (the amount the entity will have to submit for the certificate) to demonstrate the ability to pay the certificate fee.

B. Process for QGE application submission –

The Two-Part Petition

A QGE may, between **Tuesday, January 3, 2023 and Friday, March 3, 2023**, submit a Petition to the Board’s Office of Hearings and Appeals. The Petition shall be captioned as “Petition for Consideration as a Qualified Gaming Entity for Issuance of Interactive Gaming Certificate(s).” The Petition must be divided into two parts:

Part One (1) should set forth how the entity meets the standard to be considered a QGE by providing the following information in detail, and in the following order:

1. The QGE entity’s name, primary business address and telephone number.
2. The QGE entity’s principals to include all officers, directors, persons who directly hold a beneficial interest in or ownership of the securities of the entity, persons who have a controlling interest in the entity, or have the ability to elect a majority of the board of directors of the entity or to otherwise control the entity; lenders or other licensed financial institutions of the entity, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; and underwriter of the entity.
3. Documentation relating to the entity’s ownership structure and business experience for the prior five-year period, including the location of all offices and places in which it conducts business.
4. A list of all jurisdictions in which the entity is licensed by a State of the United States or other nation which entitles the entity to conduct casino slot and table games (including poker); and/or 2) interactive casino-style slot, table or poker games.
5. A copy of all licenses possessed by the entity from the jurisdictions in No. 4.
6. A list of any jurisdictions in which the entity has, or had, any application for licensure to conduct casino slot and table games and/or interactive casino-style slot, table or poker games pending, denied, suspended,

withdrawn, revoked or expired, along with the date of the action and circumstances giving rise to the action.

7. A bond or letter of credit in the amount of \$4 million per certificate sought.

Part Two (2) of the Petition should set forth the information required by 4 Pa.C.S. §13B12(b), to the extent the information was not provided in Part One.

The Application

Any party seeking interactive gaming certificates pursuant to this process must also file an application for licensure with the Board's Bureau of Licensing. Specifically, the party will be required to submit completed Slot Machine Operator, Principal and Key Employee applications for licensure and undergo the requisite investigative process and be found suitable for licensure. The QGE must submit an application fee in the amount of \$5,000, plus \$2,500 per Principal and \$1,500 per Key Employee, which will defray Board costs in conducting the background investigation of the entity and its principals and key employees. If a background investigation necessitates travel, time or expenditures in excess of that typically experienced by the Board, the applicant will be responsible for any additional costs and fees in excess of the application fee.

The completed applications will be submitted by the Bureau of Licensing to the Bureau of Investigations and Enforcement for full background investigation and will proceed through the Board's typical licensing process to be considered for an award of an interactive gaming certificate as a QGE.

C. Process for selection of QGE's -

Petitions will be put before the Board when the pleadings and record are closed. Additionally, the application for licensure must be approved by the Board through the full licensure process before interactive gaming certificates are considered claimed by an entity.