

Interactive Gaming Qualified Gaming Entity Licensing Process

I. Background

Chapter 13B of Act 42 provides for interactive gaming, often referred to as internet 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 current 13 slot machine licensees have the ability to apply for, and obtain, interactive gaming certificates in each of the 3 categories. Specifically, it provides that the Commonwealth’s current casino licensees may apply 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 during the initial 90 days is \$10M for all three certificates. After the first 90 day period, which ended on July 16, 2018, nine casinos had applied for 27 certificates. During the 90 – 120 day period, which ended on August 14, 2018, the remaining four casinos could apply for 1 to 3 interactive gaming certificates at \$4M each or could opt to not apply for any certificates, leaving between 0 and 12 certificates available. During the Board’s public meeting of August 15, 2018, the Board announced that following the initial 120 day period, **2 slot certificates, 2 table game certificates and 3 peer-to-peer poker certificates remained.**

As interactive gaming certificates remain, a Qualified Gaming Entity or QGE may file a petition with the Board for an interactive gaming certificate in whatever categories of interactive games are still available. 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 provided authorization by statute to engage in any other forms of gambling.¹

II. Process

A. Establishment of criteria for QGEs –

The Act contemplates that the board define criteria for a “qualified gaming entity” 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 qualified gaming entity 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 “qualified gaming entity” 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 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.**

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.**

¹ This includes on-line sports wagering which can only be operated by a land-based slot machine licensee. A QGE which receives an interactive gaming certificate may not, by virtue of possessing that certificate offer on-line sports wagering.

B. Process for QGE application submission -

A “qualified gaming entity may, commencing **October 15, 2018 through October 31, 2018**, 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 shall provide the following information in detail, in the following order²:

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 holds a beneficial interest in or ownership of the securities of the entity; persons who has a controlling interest in the entity, or has 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; or 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 identified 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.
8. A letter of good standing from each jurisdiction identified in No. 4 for the entity and each Principal of the entity certifying that the entity and Principals possess the requisite licenses to operate casino slot and table games; and/or interactive casino-style slot, table or poker games, and that no enforcement actions are currently pending against the entity or principals which may result in the suspension or revocation of the license currently possessed.
9. A bond or letter of credit in the amount of \$4 million per certificate sought.

² The failure of a prospective QGE to provide all information and documentation listed will result in the disqualification of the entity from being considered for an interactive gaming certificate.

C. Process for selection of QGE's -

Upon receipt of all petitions and verification that all information and documentation required in Section B, above, has been provided, the Board will publish a list of all entities which have petitioned for consideration to be awarded an interactive gaming certificate on the Board's website.

Once the universe of all eligible QGEs has been identified, the Board will conduct a blind random drawing from all applications filed and the Board will reserve the type and number of certificate(s) sought in the selected QGE application until no certificates or applicants remain.

Example: With 2 slot certificates, 2 table game certificates and 3 poker certificates remaining, if 10 QGEs meeting the eligibility criteria have submitted applications. The Board would draw the first name and reserve the certificate(s) for it to submit to background investigation. If the first one sought a slot, table and poker certificate (and submitted a bond or letter of credit in the amount of \$12 million), all three certificates would be reserved, and then the Board would proceed to draw a second QGE and would continue in this fashion until all certificates were reserved. If the first QGE sought only a poker certificate, that would be reserved and the Board would proceed to draw further names until all available certificates have been reserved. Once all certificates are reserved, the drawing ends.

If a QGE is drawn and it seeks more certificates than are available at that time, the QGE would only have reserved the certificate(s) sought and which were still available.

Upon being selected, the applicant 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 by the Board. All applications with supporting documentation must be filed within 45 days of the Board selecting the QGE for consideration to be awarded an interactive gaming certificate. 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 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.