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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

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A N A C T

ENABLING THE DIVISION OF LOTTERIES TO AMEND THE MASTER VIDEO  
LOTTERY TERMINAL CONTRACT WITH NEWPORT GRAND JAI ALAI, INC.

Introduced By: Representatives Rose, and San Bento

Date Introduced: June 06, 2007

Referred To: House Finance

It is enacted by the General Assembly as follows:

1        SECTION 1. Legislative Findings. Only July 15, 2005, the state of Rhode Island enacted  
2 Public Law 2005 Chapter 322 and Public Law 2005 Chapter 323, being identical versions of  
3 legislation ("2005 Act") enabling among other matters the division of lotteries to enter into a  
4 Master Video Lottery Terminal Contract with Newport Grand Jai Alai, LLC concerning the  
5 gaming and entertainment facility located at 150 Admiral Kalbfus Road, Newport, Rhode Island  
6 ("Newport Grand Facility"). Subsequently, Newport Grand Jai Alai, LLC formally changed its  
7 name to Newport Grand LLC ("Newport Grand LLC").

8        In November 2005, Newport Grand LLC (f/k/a Newport Grand Jai Alai, LLC) entered  
9 into a Master Video Lottery Contract with the division of lotteries ("Master Contract") wherein  
10 Newport Grand LLC was to make twenty million dollars (\$20,000,000.00) in capital  
11 improvements to the Newport Grand Facility. Thereafter, the city of Newport denied Newport  
12 Grand LLC the necessary permits to commence construction of the improvements as required  
13 under the Master Contract causing a loss of revenue to the state from the video lottery terminal  
14 operations at the Newport Grand Facility.

15        In accordance with the provisions Rhode Island general law governing the conduct and  
16 control of video lottery terminals, it was the express intent of the general assembly to have state  
17 law supersede any local ordinance, rule, or regulation which would impede the operation of video  
18 lottery terminals, facilities housing video lottery terminals or other operations ancillary to the

1 operations of a video lottery terminal facility.

2 SECTION 2. Purpose. The purpose of this act is to reaffirm the state’s interest in  
3 maximizing the revenue derived from the Newport Grand Facility and to induce potential  
4 investors in Newport Grand LLC to construct, develop and invest (or cause to constructed,  
5 developed and invested) an aggregate of thirty million dollars (\$30,000,000.00) of total project  
6 costs, including “hard” and allowable “soft” costs, in or related to improvements, renovations and  
7 additions to the Newport Grand Facility and appurtenant real and personal property, and to avoid  
8 further impediments to such development by clarifying the express and unqualified authority of  
9 the state through the division of lottery to approve and authorize the construction and operation of  
10 the Newport Grand Facility and all incidental and accessory uses.

11 The further purpose of this act is to acknowledge that the delays caused as a result of  
12 Newport Grand LLC being unable to obtain the necessary approvals from the city of Newport to  
13 commence construction and renovations to the Newport Grand Facility has caused decreased  
14 revenues to both the city of Newport and the state of Rhode Island and has resulted in the terms  
15 of the Master Contract to be no longer achievable.

16 It is the intent of the general assembly that this act, being necessary for the welfare of the  
17 state and its citizens, shall be liberally construed so as to effectuate its purposes, including  
18 without limitation, the state’s attempt to minimize certain commercial risks faced by Newport  
19 Grand LLC when it operates the facility and the business conducted thereon.

20 SECTION 3. Unless specifically addressed through an amendment or deletion herein, all  
21 terms, conditions, provisions and definitions as set forth in the 2005 Act, shall be incorporated  
22 herein by reference and remain in full force and effect.

23 SECTION 4. Authority to amend Master Contract

24 (a) The division of lotteries of the Rhode Island department of administration is hereby  
25 authorized and directed to amend the Master Contract by and between the division of lotteries of  
26 the Rhode Island department of administration and Newport Grand LLC dated November 23,  
27 2005 as follows:

28 (1)The investment requirement, as defined in Section 4.1 of said agreement, shall be  
29 modified to delete there from the requirement that Newport Grand construct a hotel of at least  
30 ninety (90) rooms; provided, however, the investment requirement for all other improvements,  
31 renovations and additions to Newport Grand and to appurtenant real and personal property of  
32 Newport Grand shall be not less than twenty million dollars (\$20,000,000.00).

33 (2) The Phase II Milestone Completion Date, as defined in Section 4.3B of said  
34 agreement shall be modified to delete therefrom all references to the requirement to construct a

1 hotel of at least ninety (90) rooms; provided, however, the Phase II Milestone Completion Date  
2 for all other Phase II improvements shall remain as of November 30, 2008.

3 (3) All other provisions of the Master Contract shall remain in full force and effect except  
4 as herein modified.

5 SECTION 5. Notwithstanding the provisions of Section 4 above, in the event the pending  
6 applications before the division of lotteries of the Rhode Island department of administration and  
7 the department of business regulation of P.R.I.X.X. Partners, LLC for approval to acquire the  
8 entire ownership interest of Newport Grand LLC is granted and, further, if the actual transfer of  
9 the ownership interest in Newport Grand LLC is in fact completed, then the division of lotteries is  
10 further authorized and directed to enter into an amendment to the Master Contract whereby the  
11 term of the said Master Contract is extended for an additional term of five years.

12 SECTION 6. Sections 42-61.2-1 and 42-61.2-11 of the General Laws in Chapter 42-61.2  
13 entitled "Video Lottery Terminal" are hereby amended to read as follows:

14 **42-61.2-1. Definitions.** -- For the purpose of this chapter, the following words shall  
15 mean:

16 (1) "Central communication system" means a system approved by the lottery division,  
17 linking all video lottery machines at a licensee location to provide auditing program information  
18 and any other information determined by the lottery. In addition, the central communications  
19 system must provide all computer hardware and related software necessary for the establishment  
20 and implementation of a comprehensive system as required by the division. The central  
21 communications licensee may provide a maximum of fifty percent (50%) of the video lottery  
22 terminals.

23 (2) "Licensed video lottery retailer" means a pari-mutuel licensee specifically licensed  
24 by the director subject to the approval of the division to become a licensed video lottery retailer.

25 (3) "Net terminal income" means currency placed into a video lottery terminal less  
26 credits redeemed for cash by players.

27 (4) "Pari-mutuel licensee" means an entity licensed and authorized to conduct:

- 28 (i) Dog racing, pursuant to chapter 3.1 of title 41; and/or
- 29 (ii) Jai-alai games, pursuant to chapter 7 of title 41.

30 (5) "Pari-mutuel licensee facility" means improvements located on or adjacent to real  
31 property which support video lottery gaming and entertainment operations and those accessory  
32 uses and amenities which support such operations, including food, beverage, player amenities,  
33 and player services, as necessary to maintain the video lottery gaming and entertainment  
34 operations as a first-class operation comparable to similarly situated venues operated elsewhere in

1 [the United States as required under the Master Contracts by and between the Licensed Video](#)  
2 [Lottery Retailers and the State of Rhode Island.](#)

3 ~~(5)~~ (6) "Technology provider" means any individual, partnership, corporation, or  
4 association that designs, manufactures, installs, operates, distributes or supplies video lottery  
5 machines or associated equipment for the sale or use in this state.

6 ~~(6)~~ (7) "Video lottery games" means lottery games played on video lottery terminals  
7 controlled by the lottery division.

8 ~~(7)~~ (8) "Video lottery terminal" means any electronic computerized video game machine  
9 that, upon the insertion of cash, is available to play a video game authorized by the lottery  
10 division, and which uses a video display and microprocessors in which, by chance, the player  
11 may receive free games or credits that can be redeemed for cash. The term does not include a  
12 machine that directly dispenses coins, cash, or tokens.

13 **42-61.2-11. Effect of other laws and local ordinances.** -- The provisions of sections 41-  
14 9-4 and 41-9-6 shall not apply to this chapter, and the provisions of this chapter shall take  
15 precedence over any local ordinances to the contrary.

16 [It is specifically acknowledged that the installation, operation, and use of video lottery](#)  
17 [terminals at pari-mutuel licensee facilities as authorized in this chapter shall for all purposes be](#)  
18 [deemed a permitted use as such is defined in section 45.-24.31. No city or town where video](#)  
19 [lottery terminals are authorized or where pari-mutuel licensee facilities are in operation, may seek](#)  
20 [to prevent the installation and use of said video lottery terminals or the operation of a pari-mutuel](#)  
21 [licensee facility by defining such as a prohibited use. No city or town where video lottery](#)  
22 [terminals are authorized and in use or where a pari-mutuel licensee facility is operating, shall](#)  
23 [enact any zoning restriction or any land use ordinance or other local ordinance that may restrict or](#)  
24 [impede the installation and use of a video lottery terminal or the operation of a pari-mutuel](#)  
25 [licensee facility. In the event a city or town seeks to restrict by local ordinance or through zoning](#)  
26 [restrictions or other municipal regulations, the installation and use of video lottery terminals for](#)  
27 [the operation of a pari-mutuel licensee facility in contradiction to this statute then, in that event,](#)  
28 [the superior court for the county in which the said pari-mutuel licensee facility is located is](#)  
29 [hereby authorized and empowered to issue such injunctive relief as may be necessary in order to](#)  
30 [enforce the provisions hereof.](#)

31 SECTION 7. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

ENABLING THE DIVISION OF LOTTERIES TO AMEND THE MASTER VIDEO  
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1           This act would reaffirm and modify the Master Video Lottery Contract with Newport  
2 Grand LLC and would prevent any city or town from enacting any zoning restriction or land use  
3 ordinance that restricts or impedes the installation and use of a video lottery terminal or the  
4 operation of a pari-mutuel licensee facility.

5           This would take effect upon passage.

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