

A bill to be entitled

An Act relating to Indian gaming; ratifying compact executed by the governor and the Seminole Tribe of Florida subject to certain additions and modifications; requiring the governor and the Seminole Tribe of Florida to execute an addendum to the compact within 60 days as a condition of taking effect; providing an effective date.

Section 1. The compact titled Compact Between the Seminole Tribe of Florida and the State of Florida executed by the Governor and the Seminole Tribe of Florida on November 14, 2007 is ratified subject to the condition that the Governor and the Seminole Tribe of Florida within 60 days after this act becomes law execute an addendum to such compact containing the following additions and modifications:

(a) Exhibit A to the November 14, 2007 compact shall be deleted in its entirety and replaced with a new Exhibit A, which shall read as follows:

Exhibit A
Payment Schedule

Subject to the provisions in Part XI of the Compact, and subject to the limitations agreed upon in Part XII of the Compact, the amounts paid by the Tribe to the State shall be made in accordance with the following terms and conditions:

I. As used in this Exhibit A, capitalized terms not otherwise defined shall have the meanings given such terms below. Capitalized terms used but not otherwise defined in this Exhibit A shall have the meaning given such terms in the Compact.

(a) “Sunshine State Compact Payment Trust” or “Trust” shall mean a trust or other bankruptcy remote entity or special purpose vehicle to which the State assigns all or a portion of the Revenue Share Payments, as specified in the Compact. The Tribe will facilitate the formation of the Trust.

(b) “Excess Amount” shall have the meaning given such term in Section II.(d)(iv) of this Exhibit A.

(c) “Financial Products Agreement” means an interest rate swap, cap, collar, option, floor, forward or other hedging agreement, arrangement or security, however denominated, entered into by the Trust not for investment purposes but with respect to any Indebtedness that accrues interest at a variable rate for the purpose of (i) reducing or otherwise managing the Trust’s risk of interest rate changes or (ii) effectively converting the Trust’s interest rate exposure, in whole or in part, from a fixed rate exposure to a variable rate exposure, or from a variable rate exposure to a fixed rate exposure.

(d) “Financial Products Payments” means payments periodically required to be paid to a counterparty by the Trust pursuant to a Financial Products Agreement, other than the Termination Obligations.

(e) “Fixed Revenue Share Amount” shall mean one hundred sixty five million dollars (\$165,000,000).

(f) “Force Majeure Event” shall mean (A) any outbreak or escalation of hostilities involving the United States or the United Nations, or the declaration by the United States of a national emergency or war, or (B) any other calamity or crisis or any change in the financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (A) or (B), in the reasonable judgment of the Tribe or the State, makes it impossible to proceed with the issuance by the Trust of Indebtedness.

(g) “Guaranteed Minimum Amount” shall mean one hundred million dollars (\$100,000,000).

(h) “Indebtedness” shall mean all indebtedness (bonds, notes, loans or otherwise) issued or incurred by the Trust and backed by Revenue Share Payments made or to be made to the State and assigned to the Trust. The term of the Indebtedness shall not extend beyond the Initial Period.

(i) “Initial Period” shall mean the period commencing on the issuance or incurrence date of the Indebtedness and continuing for a period of thirty-six (36) months thereafter, subject to extension by the mutual agreement of the Tribe and the State.

(j) “Percentage Revenue Share Amount” shall have the meaning given such term in Section II.(b)(2) of this Exhibit A.

(k) “Prior Payments” shall have the meaning given such term in Section II.(a) of this Exhibit A.

(l) “Ratification Date” shall mean the date on which the ratification of the Compact by the Tribe and the State becomes effective.

(m) "Revenue Share Adjustments" shall mean the sum of (i) fifty percent (50%) of interest on any Indebtedness and fifty percent (50%) of all Financial Products Payments, without duplication, (ii) fifty percent (50%) of all maintenance and administrative fees and expenses of the Trust, and (iii) fifty percent (50%) of all "costs of issuance" related to entry into a Financial Products Agreement and the issuance or incurrence of all Indebtedness, including, without limitation, rating agency fees, underwriting, placement, financial advisory, legal and accounting fees and expenses, costs related to letters of credit, guarantees, contracts, insurance policies, and surety bonds.

(n) "Revenue Share Payments" shall have the meaning given such term in Section II.(b) of this Exhibit A.

(o) "Termination Obligations" shall mean any payment required to be made by the Trust under a Financial Products Agreement upon early termination or partial early termination of a Financial Products Agreement, in an amount intended to compensate the counterparty under the Financial Products Agreement for the future value of such Financial Products Agreement.

(p) "Trust Expenditures" shall mean, collectively, (i) payment of all principal of, premium, if any, and interest on all Indebtedness, (ii) all Financial Products Payments and Termination Obligations, and (iii) all other costs, fees and expenses of the Trust, howsoever denominated, including, without limitation, administrative and operating fees and costs, maintenance fees, reserve payments, sinking fund payments, and any other amounts required by the Trust to meet its obligations.

II. Revenue Share amounts paid by the Tribe to the State shall be calculated as follows:

(a) The Tribe and the State acknowledge and agree that since the Effective Date of the Compact through commencement of the Initial Period, the Tribe has paid and will have paid certain Revenue Share amounts to the State in accordance with the Compact (the "Prior Payments").

(b) During the Initial Period, the Tribe agrees to pay a Revenue Share to the State (the "Revenue Share Payment") with respect to each Revenue Sharing Cycle equal to (A) the greater of (1) the Fixed Revenue Share Amount or (2) the amount calculated in accordance with subsections (i) through (vi) below (the "Percentage Revenue Share Amount"), plus (B) Revenue Share Adjustments payable or allocable to such Revenue Sharing Cycle:

(i) Ten percent (10%) of all amounts up to Two Billion Dollars (\$2,000,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(ii) Twelve percent (12%) of all amounts between Two Billion and One Dollars (\$2,000,000,001) and Two and one half Billion Dollars (\$2,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(iii) Fifteen percent (15%) of all amounts between Two and one half Billion and One Dollars (\$2,500,000,001) and Three Billion Dollars (\$3,000,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(iv) Twenty percent (20%) of all amounts between Three Billion and One Dollars (\$3,000,000,001) and Four Billion Dollars (\$4,000,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle;

(v) Twenty-two and one half percent (22.5%) of all amounts between Four Billion and One Dollars (\$4,000,000,001) and Four and one half Billion Dollars (\$4,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle, less the Revenue Share Adjustments payable or allocable to such Revenue Sharing Cycle;

(vi) Twenty-five percent (25%) of all amounts over Four and one half Billion Dollars (\$4,500,000,000) of Net Win received by the Tribe from the operation and play of Covered Games during each Revenue Sharing Cycle.

(c) Except during the Initial Period (until the termination of the Compact, subject to the rights and remedies set forth in the Compact), the Tribe agrees to pay a Revenue Share Payment to the State for each Revenue Sharing Cycle equal to the greater of (i) the Percentage Revenue Share Amount for such Revenue Sharing Cycle, or (ii) the Guaranteed Minimum Amount.

(d) Monthly Payment

(i) On or before the fifteenth (15th) day of the month following each month of a Revenue Sharing Cycle, the Tribe will remit to the State or its assignee the Revenue Share Payment due in respect of the prior month (the "monthly payment"). For purposes of this Section, the monthly payment shall be eight and one-third percent (8.3%) of the estimated Revenue Share Payment to be paid by the Tribe during such Revenue Sharing Cycle.

(ii) The Tribe will make available to the State at the time of the monthly payment the basis for the calculation of the payment.

(iii) The Tribe will, on a monthly basis, internally "true up" the calculation of the estimated Revenue Share Payment based on the Tribe's un-audited financial statements related to Covered Games.

(iv) If at the end of any Revenue Sharing Cycle during the Initial Period, the Fixed Revenue Share Amount is greater than the sum of (A) the

Percentage Revenue Share Amount for such Revenue Sharing Cycle, plus (B) the Revenue Share Adjustments payable or allocable to such Revenue Sharing Cycle (the "Excess Amount"), then the Tribe shall receive a credit equal to the Excess Amount to be applied against the Revenue Share Payment in the next succeeding Revenue Sharing Cycle, or, at the end of the Initial Period, a refund equal to the Excess Amount.

(e) Payment Verification

(i) On or before the Forty-fifth (45th) day after the third month, sixth month, ninth month, and twelfth month of each Revenue Sharing Cycle (provided that the twelve (12) month period does not coincide with the Tribe's fiscal year end date as indicated in subsection (iii) below), the Tribe will provide the State with an audit report by its independent auditors as to the annual Revenue Share calculation.

(ii) For each quarter within any Revenue Sharing Cycle the Tribe agrees to engage its independent auditors to conduct a review of the un-audited net revenue from Covered Games. On or before the one hundred and twentieth (120th) day after the end of the Tribe's fiscal year, the Tribe agrees to require its independent auditors to provide an audit report with respect to Net Win for Covered Games and the related payment of the annual Revenue Share to the SCA for State review.

(iii) If the twelfth (12th) month of the Revenue Sharing Cycle does not coincide with the Tribe's fiscal year, the Tribe agrees to require its independent auditors to deduct Net Win from Covered Games for any of the months that are outside of the Revenue Sharing Cycle and to include Net Win from Covered Games for those months which fall outside of the Tribe's audit period but fall within the Revenue Sharing Cycle, prior to issuing the audit report.

(iv) No later than thirty (30) calendar days after the day the audit report is issued, the Tribe will remit to the State any underpayment of the annual Revenue Share, and the State will either reimburse to the Tribe any overpayment of the annual Revenue Share or authorize the overpayment to be deducted from the next successive monthly payment or payments.

III. The Tribe will facilitate the issuance of Indebtedness by the Trust at the times and in the amounts described below, subject to the following terms and conditions:

(a) Subject to the occurrence of a Force Majeure Event, the Tribe will exercise its best efforts to facilitate the issuance or incurrence by the Trust of Indebtedness, the net proceeds of which (together with the Prior Payments) will be equal to six hundred million dollars (\$600,000,000) (the "Initial Payment"), which will be paid to the State once during the period commencing on January 1, 2010 through and including March 31, 2010. Such Indebtedness will be backed by Revenue Share Payments assigned by the State to the Trust during the Initial Period.

The interest rate for any such Indebtedness will be a “market rate” consistent with then-current market conditions, and the “costs of issuance” with respect to such Indebtedness will be reasonable and customary for transactions of its type, all as determined by the Tribe in its reasonable discretion. At least two (2) business days prior to the Tribe or the Trust executing a binding definitive agreement with respect to the issuance or incurrence of such Indebtedness, the Trust or the Tribe shall provide a written notice (the “Trust Notice”) to the Governor setting forth an estimate of the interest rate and an estimate of the total “costs of issuance” with respect to such Indebtedness (the “Estimates”). The Estimates are not intended to be the actual interest rate or “costs of issuance” with respect to any Indebtedness, and shall not be construed in any manner to be a cap or limitation on the actual interest rate or “costs of issuance.” If the Governor objects to the Estimates, the Governor may, within one (1) business day of receipt of the Trust Notice, provide a written notice to the Tribe and the Trust (the “Governor Notice”) directing the Trust and Tribe to not issue or incur the Indebtedness. If the Tribe and the Trust do not receive the Governor Notice within such one (1) business day period, the Estimates shall be deemed to be approved. Upon receipt of the Governor Notice, all of the Tribe’s and the Trust’s obligations pursuant to this Section III.(a) shall automatically terminate, and the Tribe and the Trust shall be relieved of its obligation to, among other things, facilitate the payment to the State of the Initial Payment. In the event that the Trust’s and the Tribe’s obligations pursuant to this Section III.(a) are so terminated pursuant to this paragraph, all other terms and conditions of the Compact shall continue in full force and effect.

The Tribe or the Trust shall provide the Governor with the material financial terms and conditions of all Financial Products Agreements (or a summary thereof) prior to the execution of any such Financial Products Agreement by the Trust.

(b) During the State’s 2010-11 fiscal year, the Tribe will either, at the State’s option (as indicated in a written notice provided to the Trust and the Tribe from the Governor) (i) attempt to facilitate the issuance by the Trust of additional Indebtedness on terms and conditions acceptable to the Tribe and the State, in each parties’ reasonable discretion, the net proceeds of which will be in an amount specified by the Governor not to exceed five hundred million dollars (\$500,000,000), or (ii) provide reasonable assistance to the State in its attempt to issue indebtedness secured by Revenue Share Payments made by the Tribe to the State or its assigns pursuant to the Compact; provided, however, that in connection with any financing transaction pursuant to (i) or (ii) above, the Tribe and the State shall have agreed to extend the Initial Period to a mutually agreeable time, as determined in each parties’ reasonable discretion. Upon issuance or incurrence of such Indebtedness, the net proceeds of such Indebtedness shall be distributed to the State. Such Indebtedness (or indebtedness) will be backed by Revenue Share Payments made during the Initial Period.

(c) In connection with the issuance by the Trust of any Indebtedness, the State will irrevocably assign to the Trust all Revenue Share Payments pursuant to an assignment agreement to be entered into by the State, the Tribe and the Trust (the “Assignment Agreement”). If the Trust is current on all payment, reserve and other obligations with respect to any outstanding Indebtedness, on a periodic basis the Trust shall distribute to the State an amount equal to the (i) Percentage Revenue Share Amount for such period, plus (ii) the Revenue Share Adjustments payable or allocable to such period, less (iii) the Trust Expenditures payable or allocable to such

period; provided, however, that during the period commencing February 1, 2010 through and including January 1, 2011, the Trust shall distribute to the State an amount not less than one hundred fifty million dollars (\$150,000,000) less Trust Expenditures payable or allocable to such period. The periodic distributions from the Trust to the State referenced in this Section III.(c) above shall occur no less than twice annually, with at least one such distribution occurring on or before June 30 of each Revenue Cycle.

(d) The Assignment Agreement and related documents will contain provisions customary for similar financing transactions of this type, including, without limitation, representations and warranties, covenants, and indemnities of the State, the Tribe and the Trust. In addition, the State agrees to cooperate with the Tribe and the Trust, as reasonably requested from time to time, in connection with the issuance or incurrence of any Indebtedness by the Trust, including, without limitation, to execute and deliver (or cause the execution and delivery of) agreements, certificates, legal opinions, and other agreements and documents as may be required to facilitate the issuance or incurrence of Indebtedness; provided, however, that if as a result, directly or indirectly, of the State's failure to take any action (or omission from taking any action) reasonably requested by the Tribe or Trust, the Tribe or Trust determine, in each of their reasonable discretion, that it is impracticable or impossible to facilitate the issuance or incurrence of Indebtedness, then the Tribe's and Trust's obligations pursuant to Section III.(a) above shall automatically terminate, and the Tribe and Trust shall be relieved of their respective obligations to, among other things, facilitate the payment to the State of the Initial Payment. In the event that the Tribe's and Trust's obligations pursuant to Section III.(a) are so terminated pursuant to this paragraph, all other terms and conditions of the Compact shall continue in full force and effect.

(b) Subsection D 10 shall be added to Part V, which shall read as follows:

10. The Tribe shall make an annual donation to The Florida Council on Compulsive Gaming in an amount not less than Two-Hundred Fifty Thousand Dollars (\$250,000.00) per facility.

(c) Subsection B 2 to Part XII shall be deleted in its entirety and replaced with the following:

2. The legislature may authorize any or all of the following activities at pari-mutuel locations licensed as of April 1, 2009 in Broward or Miami-Dade County and such authorization shall not be deemed to be a breach of this Compact:

- a) Operation of gaming for any number of hours up to 24 hours per day;
- b) Complimentary alcohol utilizing marketing credits;

- c) Treatment of lease and participation fees on gaming devices as deductions from gross revenues;
- d) Adjustment to statutory poker limits;
- e) Presence of Automated Teller Machines for withdrawal of cash on the casino floor;
- f) Issuance of credit to player's club members.

The foregoing is not intended to indicate that the provision of any other particular benefit to pari-mutuel licensees would necessarily constitute a breach of this Compact. Whether or not such additional benefit would constitute a breach should be determined based upon the intent and spirit of the exclusivity provisions embodied in this Part.

- (d) Section E of Part XII shall be amended to read as follows:

~~Nothing in this Compact is intended to affect the ability of the State Legislature to enact laws either further restricting or expanding gambling on non-tribal lands.~~

Notwithstanding anything to the contrary contained herein, except as expressly provided in Subsection B of Part XII, during the Initial Period (as that term is defined in Exhibit A) the exclusivity provisions contained in Subsection A of Part XII shall not be impaired.

- (e) Section F is added to Part XII, which shall read as follows:

F. If, during the Initial Period, as such term is defined in Exhibit A, there is an impairment or breach of the exclusivity provisions contained in Subsection A of Part XII, or an expansion of gaming not expressly permitted by this compact, the Tribe shall have the following remedies:

- 1. The Tribe shall have the right to file an action in any state or federal court having venue to enjoin any third party from conducting such gaming. Upon

proof that any statute or constitutional amendment purports to authorize such gaming or that such gaming is taking place, there shall be an irrebuttable presumption of irreparable injury to the Seminole Tribe of Florida and no specific evidence of such injury shall be required.

2. Upon a determination that an impairment or breach has occurred in accordance with the procedures for dispute resolution set forth in Article XIII, the Tribe shall be entitled to liquidated damages in an amount equal to the sum of all Revenue Share Payments (as such term is defined in Exhibit A) to be made during the remainder of the Initial Period from the date that any such additional gaming is authorized or commences, whichever occurs first.

(f) Section D of Part XIII shall be amended to read:

D. If the parties are unable to resolve a dispute through the process specified in Sections A, B, and C of this Part, notwithstanding any other provision of law, ~~the State~~ either party may bring an action ~~against the Tribe~~ in federal district court ("federal court") regarding any dispute arising under this Compact in a district in which the federal court has venue. If the federal court declines to exercise jurisdiction, or federal precedent exists that rules that the federal court would not have jurisdiction over such a dispute, ~~the State~~ either party may bring the action in the Courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. ~~The State is~~ parties are entitled to all rights of appeal permitted by law in the court system in which the action is brought.

(g) Section H shall be added to Part XVIII, which shall read as follows:

H. The Tribe shall, with respect to its Facilities where Covered Games are played, adopt and comply with tribal requirements that meet the same minimum state

requirements applicable to Florida businesses with respect to environmental and building standards.

Section 2. In addition to the ratification provided in Section 1, upon execution of the addendum provided for herein, the November 14, 2007 compact as modified by the addendum shall be considered ratified by this Legislature and shall require no without further action by the Legislature to become effective.

Section 3. This act shall take effect upon becoming a law