

# Catania Gaming Consultants



*A Catania Gaming Consultants Client Newsletter August 2011*

## *Could This Be the Year for a Federal Bill on Online Gaming?*

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Change may be in the air for the US Congress when it comes to online gaming. While on summer break, the House of Representatives will consider two new proposals on the subject. The first, H.R. 1174, would give the federal government the power and authority to allow the licensing of Internet casino games and poker. The second, H.R. 2366, would delegate most power and authority to state and tribal regulators, and allow the licensing of Internet poker only.

During the last Congress, the House saw only one proposal, which was similar to H.R. 1174. The bill, sponsored by Rep. Barney Frank, was sent to the floor of the House after the House Financial Services Committee approved it 41-22, but a vote on the floor never occurred.

One sign that Congress members may be seriously considering the legislation this time around is a recent letter sent from key U.S. Senators to Attorney General Eric Holder. The letter, cosigned by Arizona's notoriously anti-gaming Senator Jon Kyl and Nevada's notoriously pro-gaming Senator and Senate Majority Leader Harry Reid, asked Holder and the Department of Justice to aggressively pursue those offering illegal Internet gambling in the United States.

The letter also requests that Holder "reiterate the Department's longstanding position that federal law prohibits gambling over the Internet, including intra-state gambling (e.g., lotteries)." The Senators do not address the intrastate Internet exception Congress included in the Unlawful Internet Gambling Enforcement Act (UI-GEA).

While the letter could be interpreted as an indication that any form of Internet gaming is not likely to occur before the November 2012 national elections, it might also be seen as an indication that the federal government is getting ready to take action before states decide to

pass their own intrastate legislation.

In fact, New Jersey Senator Raymond Lesniak responded to the letter by reiterating his support for online gaming in New Jersey, and his intention to reintroduce new gaming legislation in the state in the fall.

“Under existing federal law, there’s simply no basis to deny New Jersey or any other state from establishing and regulating intrastate online gambling,” Lesniak said in a statement. “In fact, such operations are expressly exempted under the 2006 law on unlawful Internet gambling. New Jersey should be allowed to pursue online gaming, so long as we conform to the provisions set forth in the 2006 law.”

Whether enough support exists in Congress to regulate Internet gambling on a federal level before individual states pass their own legislation is the biggest question. Now that Rep. Barney Frank has been replaced as chairman of the House Financial Services Committee by Rep. Spencer Bachus, who was one of the lead sponsors of prohibition legislation leading up to UIGEA, the issue may not even be scheduled for serious discussion in the Committee. In addition, the introduction into the mix of a second proposal, H.R. 2366, may elongate the process of establishing one bill that the House can vote on.

Still, the tide may be turning for at least a few key Congressmen. Large Republican donor and Las Vegas Sands CEO Sheldon Adelson is now on board for federal legislation regulating Internet gaming. Adelson is close to House Majority Leader Eric Cantor, who will be important for gambling advocates to win over.

In addition, the long-time aide of House Speaker John Boehner, Lee Askew, recently became vice president of government affairs for the American Gaming Association. Even Senator Jon Kyl seems to have dialed down his rhetoric. The Senator, who in 2006 likened the addictiveness of e-gaming to “crack cocaine,” said in April that “efforts to carve out an exception for games like poker, which many believe is a game of skill, may be considered later this year.”

Whether or not this will be enough is anyone’s guess, but at the very least, the signs point to serious consideration of the topic on a federal level. “I think there is becoming a feeling in Congress that this is something that needs to be regulated and be done,” a source close to the discussions said. “I believe there is a possibility a bill will pass towards the end of the year.”

## ***Cuomo Considers End to Ban on Casino Gambling***

In a statement in August, New York Governor Andrew Cuomo said he was weighing the legalization of commercial, non-Indian casinos in New York State.

“It’s really not an issue anymore of, well, if we don’t officially sanction [gambling] as a government, it’s not going to happen,” Cuomo said at a press conference in Albany. “It is happening.”

Most gambling is already permitted in New York, from lottery games to commercial racinos, and the state is also home to five Indian casinos. About the only things not yet offered are sports betting and table games like blackjack.

In order to overturn the prohibition on forms of commercial gambling like table games, legislators would actually have to amend the state constitution, a move requiring approval from two consecutive Legislatures, followed by a public referendum. This process makes the change inherently difficult.

Still, at a time when New York faces a heavy deficit, the prospect of millions—if not billions—of extra dollars rolling in will be tempting. The state expects to earn \$684 million this year from its share of the revenue from racinos. Allowing them to expand into full-blown casinos would substantially raise that figure.

“It comes down to one word: money,” said Joe Kelly, who is associated with Catania gaming Consultants, in an interview with GamingCompliance.

Several lawmakers in the state have already expressed support for the plan. “I’m hoping that [Governor Cuomo] sees it in a positive light and we can move forward,” said Assemblyman J. Gary Pretlow, “because I think it would be an economic boon for the state of New York.”

State Senator John J. Boncacic, chairman of the Judiciary Committee and the Racing, Gaming, and Wagering Committee, has scheduled hearings for September to discuss how to proceed with the issue.

The announcement from Cuomo comes just as the New York Gaming Association, a coalition of New York racinos, begins its own push to repeal the table game ban, starting with a study this fall on the issue. The group plans to follow the study with a legislative push early next year.

The New York Gaming Association is backed by Asian casino giant Genting. Genting is spending \$1 billion to transform the aging Aqueduct racetrack into a modern racino, but has made no secret of its desire to expand further Aqueduct into a full-scale casino.

Those who will likely fall on the other side of the issue are gambling opponents, as well as the state’s Indian tribes, whose casinos will face increased competition with the expansion of gaming in the state.

Mark F. Emery, a spokesman from the Oneida Indian Nation, said the Cuomo administration might do better to “bring gaming to the state promptly and assuredly under already-existing laws by working closely with its in-state Indian nations to enjoy immediate revenue sharing.” However, with a long-running dispute causing the Seneca Nation to withhold hundreds of millions in payments, that alternative seems neither more prompt nor more assured.

While Governor Cuomo’s announcement came as a surprise to some, one clue was already there. Back in early June, Cuomo quietly appointed Bennett Liebman, the former executive director of the Government Law Center at Albany Law School, as deputy secretary for gaming and racing.

In a research paper published last year, Liebman made a case for removing the prohibition against gambling, and outlined the ways in which it might be amended. Perhaps he will soon have the opportunity to put those theories into practice.

## ***Bill Seeks Clarity on Racing Issue for U.S.***

US Representative Chris Gibson announced in mid-August that he was introducing a bill to make sure that gamblers can legally wager on horse races over the Internet. Gibson said the bill would fix the ambiguity problems left by the Unlawful Internet Gambling Enforcement Act (UIGEA), especially since federal officials began enforcing regulations in 2010.

Gibson said the regulations “have unintentionally created confusion regarding the validity of credit card transactions for legitimate Internet-based wagers on horseracing,” causing some credit card companies to refuse processing even legal gaming transactions on horseracing.

Gibson’s bill, H.R. 2702, would clarify federal law to ensure that neither the 1961 Wire Act, nor UIGEA, could be applied to online bets placed in accordance with amendments to separate legislation on interstate racing wagers. A similar bill was introduced last year but died before reaching the floor after being endorsed by only six co-sponsors.

Despite past public statements that all forms of online betting should be considered banned under federal law, the US Justice Department has not prosecuted any operators for accepting wagers on horse races in accordance with the Interstate Horse Racing Act. The horseracing industry has always asserted that an amendment exempts pari-mutuel wagering from UIGEA.

Because the Justice Department has never prosecuted any pari-mutuel operators before, some are wary of passing a bill that would clarify things out of fear that it could force the Justice Department to crack down if Internet racing wagers were deemed illegal.

Still, Gibson is confident that the bill would provide the industry with more security in the long-run. "This legislation will protect the horseracing industry, preserving the foundation of many local communities," he said.

## *Genting Group Has Miami in Sights*

Genting, the Asian gaming giant, recently purchased the 13.9 acre Miami Herald property on the Miami waterfront, with plans to create a \$3 billion destination resort, it hopes with casino gaming. The move marks the company's latest step to expand from a significant Asian player to a global high roller.

The company first expanded from Asia to the Bahamas and Australia in 2002, and in 2006 became the largest casino operator in the United Kingdom. In 2010, the company opened Resorts World Sentosa in Singapore, a \$5.5 billion destination resort that includes a Universal Studios Theme Park.

This fall, Genting will open its first US gaming facility, Resorts World New York at Aqueduct Race Track in Queens. The resort will include a casino with 4,500 video terminals, restaurants, and event space.

Genting Malaysia Berhad, the subsidiary that purchased the Miami land, announced plans in 2010 to focus on international expansion, and Chairman KT Lim said that the decision to spend \$236 million for the Miami property was an easy one. Lim noted that the city's international feel made it a good portal for Asian and South American visitors, and said that he himself had spent a lot of time in the city and felt that he understood it.

Once Lim decided to buy property in Miami, it was barely a matter of months before he had assembled a team of experts, evaluated a handful of sites, and closed a deal.

"Their style is to do very serious due diligence, but they are also capable of making relatively quick decisions," said Walter Revell, who helped Lim coordinate the South Florida team. "These are smart people who do their homework. Right now they know more about Miami than many people in Miami. Genting has a global view but a local focus."

Though the Miami project is not contingent on legalized gaming in Florida, Lim's vision includes a Las Vegas-style resort casino. Without casino gambling, the development of the site could take up to 20 years, Lim said. To ensure that that is not the case, Genting has already begun lobbying for approval of several resort-style casinos in the state.

While some Asian investors were concerned that Genting might be overextending its balance with the new project and taking a gamble, analysts have called those concerns "overblown." An analyst with CLSA Asia-Pacific Markets called Genting one of the most "attractively valued gaming stocks globally."

Although likely that Genting will not limit its US properties to New York and Miami, the company said that a property in Las Vegas would not be in the cards. "We just don't think the long-term prospects of the market are rich enough in terms of growth," said the senior vice president of development for Resorts World. "As the proliferation of gaming in other locations continues, it's going to get harder and harder to draw people to Las Vegas."

I don't think you can create a distinctive property there that hasn't already been done."

For now, the company is excited about the Miami project and believes it could be a turning point for the city, transforming Miami into a gateway city connecting Asia, the United States, and Latin America. Lim believes the Asian market is looking for new destinations outside of California and New York for vacations and real estate investments, and Miami could be the answer.

"Florida can be the new California for the Asian market," Lim said. "There's a huge pent-up demand waiting to be released. We can be the lead factor to open up that flow. I'm confident this is going to be a transformational thing for Miami."

## ***Developers Roll Out Plan for Casino at Belmont***

Representatives from the Shinnecock Indian Nation recently gave Nassau County residents a peek at the preliminary development plan for a casino at Belmont Racetrack. The tentative proposal calls for building a 500- to 600-unit hotel, a gaming facility and entertainment complex, which includes restaurants, a renovated Long Island Railroad Station, and a soccer field.

State Senator Jack Martins said that the proposal is not a done deal, and still has to be approved at the state and federal levels. "It may never happen, just because of all the different hurdles that they have to overcome, but the fact that the Shinnecoaks are willing to take on that possibility, let them go ahead and do it," said Martins.

While some community members supported the plan and the additional economic opportunities a casino could provide, others were less enthusiastic. Mayor Tom Tweedy of Floral Park, a neighboring town, expressed concern about the additional traffic that the casino could bring in as well as the competition that other local retailers off-site of the casino could face.

"Will local businesses, restaurants, clothing and jewelry stores, realize dwindling receipts as customers are enticed to spend entertainment dollars at the gaming tables and slots lured by inexpensive casino subsidized dining options and no state sales tax on goods purchased within the boundaries of the sovereign Indian Nation?" Tweedy asked in a July 28 message. He also said that Belmont should remain first and foremost a racing facility rather than a gambling facility.

Local retailers are not the only ones to face increased competition from a Belmont casino. Atlantic City, whose tourism has declined sharply in recent years due to the proliferation of other local gambling spots, could take another hit from a resort casino at Belmont, which could draw even more New Yorkers away.

## ***Massachusetts Looks To Roll-the-Dice With Mega-Casinos***

Massachusetts Gov. Deval Patrick and legislative leaders in the state's House and Senate have agreed to move forward a proposal to expand gaming in the state. In this down economy, the gaming proposal effort is being promoted as a means to create jobs while also helping to close the state's close to \$2 billion budget shortfall. The gaming proposal would require approval from the entire Legislature.

As part of the proposed gaming expansion, Massachusetts would authorize three stand-alone mega casinos and a fourth slot machine-only facility. The three casinos would be located in three geographic areas within the state—western, northern and southeastern.

The three resort casino licenses would be auctioned for at least \$85 million and would require developers to invest \$500 million in each project. The slot machine casino license would be auctioned for at least \$25 million and would require a minimum capital investment of \$125 million.

While the proposal appears to have support in the state Legislature, a provision that potentially gives the Mashpee Wampanoag an inside track on a casino license in Southeastern Massachusetts is being criticized by some as a handout to special interests. The proposal provides the tribe with an opportunity to attain one of the casino licenses without having to compete against other gaming companies and commercial developers.

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