

Chapman Client Alert

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Current Issues Relevant to Our Clients

New Jersey Approves Atlantic City Stabilization Plan

New Jersey has taken steps to aid troubled Atlantic City in an apparent attempt to avoid a bankruptcy filing that may not only impact the distressed city but also other cities and towns in the State. On May 27, 2016, New Jersey Governor Chris Christie signed into law the Casino Tax Property Stabilization Act (the “Act”) in an effort to help Atlantic City — a once thriving gambling mecca — get back on the path to fiscal stability.¹

The troubles of Atlantic City have been widely reported and serve as a cautionary tale for any municipality that relies on a single industry for its economic well-being. In the immediate two decades following New Jersey’s authorization of casino gaming in Atlantic City in 1976, Atlantic City experienced explosive growth. This was because Atlantic City held a virtual gambling monopoly on the East Coast during this time. Then, other states decided that they, too, wanted to get in on the act; and the ensuing regional competition, combined with prolific government spending when the going was good, led to Atlantic City’s fiscal demise.

The Act aims to tackle a central problem resulting from the competitive environment in which Atlantic City now operates: Over time, operating a casino in Atlantic City has become less profitable and, thus, casino property values have declined concomitantly. The casinos, therefore, began challenging their property assessments, and won. Atlantic City was therefore not only facing significant unemployment resulting from closing casinos and decreased visitors to the City and a drop in other revenues, it was required to make substantial property tax refunds to its casinos.

The Act seeks to establish a steady stream of revenue for Atlantic City over the next ten years, by replacing property taxes for certain casinos with a guaranteed mandatory minimum payment. The goal of this guaranteed minimum payment is to stabilize Atlantic City’s finances, while reducing the time and burden of property tax appeals in the City. Specifically, the Act would apply to “casino gaming properties” in Atlantic City, meaning those properties upon which a facility licensed to operate as a casino existed in 2014 (whether or not the casino is actually operating), and the facility has more than 500 hotel rooms.

In exchange for an exemption from property taxation, casinos meeting the requirements of the Act now have the option to enter into a 10-year financial agreement with Atlantic City to

make quarterly payments to Atlantic City of the casino’s allocated portion of the annual payment in lieu of taxes. Any new owner of a casino that is an existing party to such a financial agreement with Atlantic City would immediately be required to enter into its own agreement with the City. It is important to note, however, that participating casinos may withdraw from the agreement, and if a participating casino withdraws, it will no longer be required to pay its allocated share of the annual payment.

In 2016, the first amount in lieu of taxes, divided by all participating casinos is \$120 million. Pursuant to the Act, this amount will fluctuate based upon a formula derived from the annual gross gaming revenues of the participating casinos, as determined by the New Jersey Division of Gaming Enforcement of the New Jersey Department of Law and Public Safety. The New Jersey Local Finance Board² is responsible for establishing the formula as to how the \$120 million would be divided among the participating casinos, using a criterion set forth in the Act.

Additionally, participating casinos are also required to make certain payments to the State of New Jersey. The State would then remit those payments back to Atlantic City upon the approval by the Local Finance Board of a financial plan submitted to it by Atlantic City. This, permits the State to continue to monitor Atlantic City and to help place it on a path to stability. Given the novelty of the Act’s taxation provisions, the Act also establishes a review commission to determine whether the Act’s provisions should be expanded beyond 10 years.

In addition, the New Jersey legislature has stated that it *intends* to request that \$10 million be included in New Jersey’s budget for economic development in Atlantic City, and that another \$8 million be appropriated to fund the promotion of Atlantic City. Whether these funds will come to fruition is not guaranteed, however, along with the steps taken by New

Jersey to help stabilize Atlantic City, it is apparent that New Jersey is willing to use creative methods to help redevelop that region.

New Jersey, in the passage of the Act, is just another example of the cash strapped States devising creative solutions to help troubled municipalities restructure. Only time will tell, however, if the Act will succeed in its goals. Success, if possible, will require buy-in by not only the City's casinos but also the City itself and its citizens. While the Act provides the City with baseline revenues and additional assistance from the State, Atlantic City will still be required to make difficult decisions to establish a successful financial recovery plan and positive future.

For More Information

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- 1 N.J. Senate Bill No. 1715 (signed into law May 27, 2016).
 - 2 The Local Finance Board is a part of the Division of Local Government Services of the New Jersey Department of Community Affairs.



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