



AN ACT GENERALLY REVISING ALCOHOL AND GAMBLING LAWS; REVISING OWNERSHIP CONSIDERATIONS IN GAMBLING AND ALCOHOL LICENSES; REVISING LAWS RELATED TO REGULATED LENDERS AND ALCOHOL AND GAMBLING LICENSES; REVISING LAWS RELATED TO OTHER PERSONS AND OWNERSHIP INTERESTS IN AN ALCOHOLIC BEVERAGE LICENSE OR GAMBLING LICENSE; AND AMENDING SECTIONS 16-4-801 AND 23-5-118, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-801, MCA, is amended to read:

"16-4-801. Security interest in alcoholic beverage license -- definitions. (1) (a) A security interest in an alcoholic beverage license is an interest in the alcoholic beverage license that secures payment or performance of an obligation. A contract for the sale of an alcoholic beverage license, including a provision allowing the seller to retain an ownership interest in the license solely for the purpose of guaranteeing payment for the license, may, for the purposes of this section, be treated as a security interest.

(b) For the purposes of this section:

(i) "alcoholic beverage license" means a license issued under this chapter; and

(ii) "default" means that:

(A) the defaulting party has acknowledged in writing pursuant to the terms of a written security agreement or contract for sale that the defaulting party no longer has any ownership interest or any other rights to possess or control the alcoholic beverage license;

(B) a court of competent jurisdiction has made an order foreclosing all of the defaulting party's interests in the license; or

(C) there has been a nonjudicial sale by the secured party made pursuant to the Uniform Commercial Code and the secured party has provided written proof of the sale to the department.

(2) The department, after review of the underlying documents creating the security interest, may approve a transfer of ownership of an alcoholic beverage license subject to a security interest as provided in subsection (1). A person holding a security interest may not have any control in the operation of the business operated under a license subject to a security interest nor may that person share in the profits or the liabilities of the business other than the payment or performance of the licensee's obligation under a security agreement.

(3) (a) Within 7 days of a default by a licensee, the person holding the security interest shall give notice to the department of the licensee's default and either apply to have the license transferred to that person, subject to that person meeting the requirements of 16-4-401 and all other applicable provisions of this code, or the person shall place the license on nonuse status. On receipt of an application to transfer the license, the department may, pursuant to 16-4-433, grant the applicant temporary operating authority to operate the license. If the person holding the license places the license on nonuse status, the person shall transfer ownership of the license within 180 days from the date on which the notice of the default was given to the department. The operation of a business under a license by a person holding a security interest for more than 7 days after default of the licensee or without temporary operating authority issued by the department must be considered to be a violation of this code and constitutes grounds for the department to either deny an application for transfer of the license or for the revocation of the license pursuant to 16-4-406.

(b) If the person holding the security interest does not qualify for or cannot qualify for ownership of an alcoholic beverage license under 16-4-401, the secured party shall transfer ownership of the alcoholic beverage license within 180 days of the notice of the default of the licensee.

(c) The department, on a showing of good cause, may in its discretion extend the time for sale of the license for an additional period of up to 180 days.

(4) (a) A regulated lender, as defined in 31-1-111, may obtain a security interest in an alcoholic beverage license or in other assets of a business operating an alcoholic beverage license to secure a loan or a guaranty of a loan. A regulated lender may use loan and collateral documentation and loan and collateral structure consistent with that used by the regulated lender in commercial loans generally, and the documentation and structure used by the lender do not create an undisclosed ownership interest in the alcoholic beverage license or the licensee's business by a coborrower, or guarantor, or other person who may directly or indirectly benefit from the pledge of the alcoholic beverage license as collateral if the department

~~determines the borrower, coborrower, guarantor, and owner or owners of the assets pledged as collateral meet the requirements of 16-4-404.~~ As used in this subsection (4), permissible loan and collateral structuring includes but is not limited to permitting owners and nonowners of an alcoholic beverage license to:

- (i) be coborrowers of a borrower's loan;
- (ii) be guarantors of a borrower's loan, with or without a requirement that the regulated lender exhaust remedies against the borrower before collecting from the guarantor; ~~or~~
- (iii) pledge assets as collateral for a borrower's loan or for a guaranty of a borrower's loan; or
- (iv) pledge an alcoholic beverage license or the assets of an alcoholic beverage operation as additional collateral for a loan made by a regulated lender.

(b) A person claiming a security interest in an alcoholic beverage license may submit to the department copies of documents evidencing the security interest, the license number, and a \$30 notification fee. The department shall deposit the fee as provided in 16-2-108. The department may create and provide a form to be used for this purpose.

- (c) The department shall notify those that have filed information provided in subsection (4)(b):
- (i) at least 20 days prior to issuance of an order of default for revocation, nonrenewal, or lapse of a license; or
 - (ii) immediately after the department's office of dispute resolution has issued a decision to uphold the department's revocation or nonrenewal of a license under 16-4-406 or lapse of a license under 16-3-310.

(5) When a licensee is the borrower, an owner of the licensee may make a payment on the institutional loan. If a payment is made under this subsection (5):

- (a) the party making the payment must be vetted and approved prior to making the payment;
 - (b) the licensee shall notify the department within 90 days that the payment was made and designate whether the payment will be treated as a loan or an equity investment as follows:
 - (i) for a payment treated as a loan, the licensee shall memorialize the loan by a written agreement, which must be provided to the department; or
 - (ii) for a payment treated as an equity investment, if a change in ownership percentage occurs as a result, the licensee shall follow department requirements for disclosing changes in ownership percentages;
- and

(c) the funds used for the payment must be the party's own funds or funds borrowed from an institutional lender.

(6) If a borrower, coborrower, ~~or guarantor~~, or other person who may directly or indirectly benefit from the pledge of the alcoholic beverage license or the assets of an alcoholic beverage operation as collateral is not the licensee or an owner of the licensee, the coborrower, ~~or guarantor~~, or other person may make a payment on ~~the a licensee's~~ institutional loan, and the payment does not create an undisclosed ownership interest in the alcoholic beverage license by the borrower, coborrower, ~~or guarantor~~, or other person only if:

- (a) the licensee notifies the department within 90 days that the payment was made;
- (b) the payment is made as a loan that is memorialized by a written agreement; and
- (c) the funds used for the payment are the coborrower's, ~~or guarantor's~~, or other person's own funds or funds borrowed from an institutional lender.

(7) A regulated lender that obtains a security interest in an alcoholic beverage license or in other assets of a business operating an alcoholic beverage license has no duty to ensure a coborrower's or guarantor's compliance with the requirements of subsection (5) or (6) in connection with loan or guaranty payments it may receive from the coborrower or guarantor.

(8) For the purposes of subsections (5) and (6), the term "borrower" means the party that is primarily responsible for making payments and that receives the funds or on whose behalf the funds were paid."

Section 2. Section 23-5-118, MCA, is amended to read:

"23-5-118. Transfer of ownership interest -- definitions. (1) In this section, "licensed gambling operation" means a business for which a license was obtained under parts 1 through 8 of this chapter.

(2) Except as provided in subsection (4), an owner of an interest in a licensed gambling operation shall notify the department in writing and receive approval from the department before transferring any ownership interest in the operation to a person other than another approved owner of an interest in the operation.

(3) An owner of an interest in a licensed gambling operation may transfer an ownership interest to another owner of an interest in the same licensed gambling operation without prior department approval subject to reporting requirements provided by department rules.

(4) This section does not apply to the transfer of a security interest in a licensed gambling operation under the requirements of subsection (5) or to the transfer of less than 5% of the interest in a publicly traded corporation.

(5) A regulated lender, as defined in 31-1-111, may obtain a security interest in the assets of a licensed gambling operation to secure a loan or a guaranty of a loan. A regulated lender may use loan and collateral documentation and loan and collateral structure consistent with that used by the regulated lender in commercial loans generally, and the documentation and structure used by the lender do not create an undisclosed ownership interest in the licensee's business by a coborrower, ~~or guarantor, or other person who may directly or indirectly benefit from the pledge of the assets as collateral if the department determines the borrower, coborrower, guarantor, and owner or owners of the assets pledged as collateral meet the requirements of 23-5-176.~~ As used in this subsection (5), permissible loan and collateral structuring includes but is not limited to permitting owners and nonowners of a licensed gambling operation to:

- (a) be coborrowers of a borrower's loan;
- (b) be guarantors of a borrower's loan, with or without a requirement that the regulated lender exhaust remedies against the borrower before collecting from the guarantor; ~~or~~
- (c) pledge assets as collateral for a borrower's loan or for a guaranty of a borrower's loan; or
- (d) pledge the assets of a licensed gambling operation as additional collateral for a loan made by a regulated lender.

(6) When a licensee is the borrower, an owner of the licensee may make a payment on the institutional loan. If a payment is made under this subsection (6):

- (a) the licensee must notify the department within 90 days that the payment was made and designate whether the payment will be treated as a loan or an equity investment as follows:
 - (i) for a payment treated as a loan, the licensee must memorialize the loan by a written agreement, which must be provided to the department; or
 - (ii) for a payment treated as an equity investment, if a change in ownership percentage occurs as a result, the licensee must follow department requirements for disclosing changes in ownership percentages; and
- (b) the funds used for the payment must be the party's own funds or funds borrowed from an

institutional lender.

(7) If a borrower, coborrower, or guarantor is not the licensee or an owner of the licensee, the coborrower or guarantor may make a payment on ~~the~~ a licensee's institutional loan, and the payment does not create an undisclosed ownership in the licensee's business by the borrower, coborrower, or guarantor only if:

- (a) the licensee notifies the department within 90 days that the payment was made;
- (b) the payment is made as a loan that is memorialized by a written agreement; and
- (c) the funds used for the payment are the coborrower's or guarantor's own funds or funds

borrowed from an institutional lender.

(8) A regulated lender that obtains a security interest in the assets of a licensed gambling operation has no duty to ensure a coborrower's or guarantor's compliance with the requirements of subsection (6) or (7) in connection with loan or guaranty payments it may receive from the coborrower or guarantor.

(9) For the purposes of subsections (6) and (7), the term "borrower" means the party that is primarily responsible for making payments and that receives the funds or on whose behalf the funds were paid."

- END -

I hereby certify that the within bill,
HB 150, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2025.

President of the Senate

Signed this _____ day
of _____, 2025.

HOUSE BILL NO. 150

INTRODUCED BY S. FITZPATRICK

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