



# INDIANA RACINOS: STAY OR GO?

By Gregory F. Hahn



From the time Indiana joined the Union in 1816 until approximately 20 years ago, all forms of wagering were illegal in the state. Then, in 1989, the Indiana General Assembly passed the Indiana Lottery Act, which allowed the sale of lottery and scratch-off tickets. Also enacted into legislation that year was the Indiana Pari-Mutuel Wagering statute, which allowed legal wagering on both live horse racing as well as simulcast horse racing.

The following year saw the authorization of not-for-profit organizations to conduct bingo and other small-stakes gaming, referred to as “charity gaming.” In 1992, the legislature expanded the pari-mutuel legislation to allow the Indiana Horse Racing Commission to issue licenses for off-track betting (OTB) facilities. Since then, five OTB facilities have appeared in Indiana. Those in Indianapolis, Fort Wayne and Merrillville are operated by Hoosier Park, while those in Evansville and Clarksville are operated by Indiana Downs, which later changed its name to Indiana Live!

In July of 1993, the Indiana Riverboat Gaming Act was passed, allowing a maximum of 11 casino licenses. Five riverboat casinos were to operate on Lake Michigan, five on the Ohio River, and the remaining one on Southern Indiana’s Patoka Lake. These licenses were given to operators in statutorily designated cities after extensive investigations; in some cases, four or five operators were competing for each license.

Casino Aztar, in Evansville, was the first to begin operating, in December 1995. Argosy, Trump Resorts and others quickly followed.

In 2003, the statutory authority for the Patoka Lake license was repealed because the lake was under the jurisdiction of the Army Corps of Engineers, which prohibited gaming on such sites. To replace that license, the General Assembly enacted legislation in 2004 to permit a land-based casino in French Lick.

Live horse racing began at Hoosier Park in Anderson on Sept. 1, 1994, while Indiana Downs (Indiana Live!) in Shelbyville opened its gates on Dec. 2, 2002.

Legislation to allow racing was motivated partly because a certain percentage of the tracks’ adjusted gross receipts went to

support the state's horseman's association for breeding development; the legislation was therefore viewed as an agricultural subsidy.

Throughout their existence, both racetracks have struggled to survive financially, depending on statutorily enacted casino subsidies. For example, casinos pay a \$3 admission tax for every person who enters their establishment. Of that tax, \$1 goes to the host city, another \$1 to the host county, and \$1 to the state. Of the single dollar that the state receives, 65 cents goes to the Horse Racing Commission. By calculating the admission tax revenues from 2000 to 2009, the horse racing industry received nearly \$200 million in subsidies. Some of this money has gone to breeding development and some to racing purses, but a majority of it has been dispersed to the two racetracks.

In an effort to provide the horse racing industry a means to stand on its own without future subsidization, legislation was passed in 2007 to allow electronic gaming at both Hoosier Park and Indiana Live!

Each racetrack casino, or "racino," is permitted to have slot machines and virtual table games where individuals can play roulette, craps, blackjack or poker. However, the ability to have electronic gaming at the two horse tracks came with a hefty price tag. First, both tracks had to pay the state a \$250 million licensing fee. The riverboat casinos operating in the state at that time did not pay a fee, and no racino in the country has ever paid more than \$50 million. Second, the state limited the number of electronic gaming machines at each racino to a maximum of 2,000, while there is no limit for the casinos. Third, the racinos pay taxes on nearly 47 percent of gross revenues, while the typical Indiana riverboat pays 35 percent. This difference is largely due to the fact that racinos must pay 15 percent of their after-tax revenues to the state's horse racing industry for race purses and breeding development. The racinos also have to give 3 percent of their revenue to the local government and a 1 percent subsidy to the French Lick casino. In effect, the racinos are basically being double taxed. No doubt, the racinos in Indiana are on unequal footing with the casinos.

There are a number of reasons the state enforced such a costly burden for the two tracks to gain casino-type gaming. First, if lawmakers were going to allow electronic gaming at horse tracks, they wanted to provide greater subsidization to the horse racing industry. Also, lawmakers believed that the racinos would pull away potential customers from the casinos, specifically those in French Lick, Lawrenceburg, Rising Sun and Vevay. Based on the admissions and wagering tax revenue from those casinos since 2007, only the Hollywood Casino in Lawrenceburg has seen a rise in revenues—and that was during the 2008–2009 season, after it spent \$336 million on construction of a new casino boat. The other three casinos have endured a yearly drop in revenue since 2007.

It's hard to tell whether the drop is due to the state of the economy or to racinos stealing the competition, but even if the racinos are affecting the revenues of other casinos in Indiana, the undue burden imposed upon them through the licensing fee and the tax structure still causes them to struggle. For example, in October of last year, Centaur Gaming, the parent company of Hoosier Park, defaulted with some of its lenders. Reflecting on this, the 2009 legislature listened as both racinos asked for a

four-year, \$75 million tax reduction. The bill passed the House but died in the Senate.

Virtually the same legislation was proposed in the 2010 legislative session, but it was opposed by the administration and many of the legislators who live outside of the racino locations. The legislation died again this year, and therefore, the racinos will have to do their best to financially move forward without assistance.

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Critics of the tax break believe it is the fault of the racinos for entering into a bad deal and that it would be wrong to provide such a large handout to any one industry, especially the gaming industry and especially now. Nevertheless, lawmakers who are pushing for a tax break realize that if the racinos are

not given some form of relief, they could default on their loans. Because Hoosier Park generates nearly \$200 million per year in gaming revenue and employs more than 1,100 people, the city of Anderson and Madison County cannot afford to watch their racino fail. The same situation exists for Indiana Live!, which generates roughly \$190 million per year in gaming revenue but has lost more than \$50 million since its inception in June 2008. Still, opponents of the licensing fee and tax relief believe that Indiana will see no effects if either racino is forced out of business because the state would simply transfer ownership to another company.

Ultimately, however, the two horse track casinos are very important to central Indiana's economy. By providing individuals in central Indiana with casino-type gaming, the racinos offer a means of entertainment that, at one time, required a minimum drive of at least two hours. And the racinos are not asking the state legislature to completely bail them out of their financial situation; the owners are merely requesting to be put on equal footing with the casinos. They may have entered into a bad deal when they agreed to the tax structure and the licensing fees, but they also believed then that they would be attracting more revenue by this time—and that they would not be double-taxed on part of that revenue.

Indiana's best interests would be served if Indiana Live! and Hoosier Park obtained a fairer deal. Hoosiers, especially those in central Indiana, want the racinos to stay open, prosper and add important tax revenue to local communities and the state. Hoosiers also want to see a continuous stream of customers come into their local businesses to purchase food, gas and other items. But it will be up to the Indiana Legislature as to whether they will view the racinos in the same light as do the local communities of central Indiana.



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