

By: Senator(s) Blount, Thompson, Wiggins,  
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To: Gaming; Ports and Marine  
Resources

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2780

1 AN ACT TO DEFINE STATE JURISDICTION OVER PUBLIC TRUST  
2 TIDELANDS AND THE AUTHORITY OF THE SECRETARY OF STATE TO APPROVE  
3 LEASES LOCATED ON PUBLIC TRUST TIDELANDS; TO AMEND SECTIONS  
4 7-11-11, 29-1-107, 29-15-1, 29-15-3, 29-15-5, 29-15-9, 29-15-10  
5 AND 29-15-13, MISSISSIPPI CODE OF 1972, AND TO CODIFY SECTION  
6 29-15-2, MISSISSIPPI CODE OF 1972, TO DECLARE LEGISLATIVE INTENT  
7 RELATIVE TO PUBLIC TRUST TIDELANDS, TO CLARIFY THE REQUIREMENT OF  
8 A SEPARATE LEASE FROM THE SECRETARY OF STATE TO RENT LAND ON  
9 PUBLIC TRUST TIDELANDS PROPERTY, TO CLARIFY THAT THE LEASE NEEDED  
10 TO MOVE ON SHORE IS ONE WITH THE STATE OR THE STATE PORT AT  
11 GULFPORT, TO REVISE DEFINITIONS, TO PROVIDE THAT STATE-HELD  
12 TIDELANDS SUBJECT TO PUBLIC TRUST ARE PRESCRIBED IN TIDELANDS MAPS  
13 AND BOUNDARY AGREEMENTS AND COURT ORDERS CONFIRMING THE MAPS, TO  
14 CONFIRM ALL AUTHORITY OVER TIDELANDS IN THE STATE UNLESS  
15 SPECIFICALLY SEVERED OR GIVEN TO A SPECIFIC STATE AGENCY OR  
16 POLITICAL SUBDIVISION, TO CONFIRM AUTHORITY, MANAGEMENT AND  
17 ADMINISTRATIVE CONTROL OVER TIDELANDS IN THE SECRETARY OF STATE,  
18 TO CLARIFY THAT ONLY SPECIFIC ACTION BY THE LEGISLATURE CAN DIVEST  
19 THE SECRETARY OF STATE OF SUCH MANAGEMENT AND CONTROL, TO PROVIDE  
20 THAT ALL USES OF PUBLIC TRUST TIDELANDS FOR ANY GAMING PURPOSES BY  
21 A PERSON POSSESSING OR APPLYING FOR A GAMING LICENSE SHALL REQUIRE  
22 A TIDELANDS LEASE FROM THE STATE THROUGH THE SECRETARY OF STATE  
23 AND BE SUBJECT TO ANNUAL RENT, TO FURTHER CLARIFY THAT THE  
24 SECRETARY OF STATE IS THE TRUSTEE OF THE PUBLIC TRUST TIDELANDS,  
25 TO FURTHER CLARIFY THAT A TIDELANDS LEASE WITH THE SECRETARY OF  
26 STATE IS REQUIRED FOR USE OF THE TIDELANDS AND THAT STATE AGENCIES  
27 AND POLITICAL SUBDIVISIONS EXERCISING LITTORAL OR RIPARIAN RIGHTS  
28 ALSO REQUIRE A TIDELANDS LEASE, TO PROVIDE THAT THESE SECTIONS  
29 CONTROL ALL OTHER STATUTES, TO CONFIRM STATE OWNERSHIP AND CONTROL  
30 OF TIDELANDS IN THE SECRETARY OF STATE UNLESS CLEAR TITLE OR  
31 CONTROL WAS DIVESTED, TO PROVIDE THAT ADMINISTRATIVE COSTS, LEGAL  
32 FEES AND LOST AD VALOREM TAXES SHALL BE PAID OUT OF THE PUBLIC  
33 TRUST TIDELANDS FUND, TO CLARIFY THE NEED FOR A TIDELANDS LEASE  
34 EVEN IF RENT EXEMPT, TO CLARIFY THAT THE USE OF TIDELANDS FOR



35 MUNICIPAL HARBORS REQUIRES A TIDELANDS LEASE WITH THE SECRETARY OF  
36 STATE, AND IN CONFORMITY THERETO; TO AMEND SECTIONS 59-7-405 AND  
37 59-15-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF THE USE OF  
38 THE PUBLIC TRUST TIDELANDS IS TO CONSTRUCT, OWN, HOLD, MAINTAIN,  
39 EQUIP, USE, CONTROL AND OPERATE AT SEAPORTS OR HARBORS, WHARVES,  
40 PIERS, DOCKS, WAREHOUSES, COLD STORAGE FACILITIES, WATER AND RAIL  
41 TERMINALS, AIRPLANE LANDING FIELDS AND STRIPS, AND OTHER  
42 STRUCTURES AND FACILITIES NEEDFUL FOR THE CONVENIENT USE OF THE  
43 SAME IN THE AID OF COMMERCE NAVIGATION, LAND INCLUDING THE  
44 DREDGING OF CHANNELS AND APPROACHES TO THE FACILITIES, THE LOCAL  
45 MUNICIPAL GOVERNING AUTHORITY SHALL HAVE EXCLUSIVE CONTROL OF THE  
46 LEASED PREMISES, AND ALL REVENUES GENERATED THEREFROM SHALL BE  
47 USED TO MAINTAIN, REPAIR OR IMPROVE THE LEASED PROPERTY, TO  
48 PROVIDE THAT THE LOCAL GOVERNING AUTHORITY SHALL NOT LEASE,  
49 SUBLEASE, RENT OR PROVIDE ACCESS FOR ANY GAMING PURPOSES UNDER  
50 THIS AUTHORITY AND TO PROVIDE THAT IF THE USE OF PUBLIC TRUST  
51 TIDELANDS IS TO ACQUIRE, PURCHASE, INSTALL, RENT, LEASE, MORTGAGE,  
52 INCUMBER, CONSTRUCT, OWN, HOLD, MAINTAIN, EQUIP, USE, CONTROL AND  
53 OPERATE RECREATIONAL PARKS AND HARBORS FOR SMALL WATER CRAFT, THE  
54 LOCAL MUNICIPAL GOVERNING AUTHORITY SHALL HAVE EXCLUSIVE CONTROL  
55 OF THE LEASED PREMISES AND ALL REVENUES GENERATED THEREFROM SHALL  
56 BE USED TO MAINTAIN, REPAIR OR IMPROVE THE LEASED PROPERTY; TO  
57 AMEND SECTIONS 75-76-67, 87-1-5, 97-33-1, 97-33-7, 97-33-17,  
58 97-33-25 AND 97-33-27, MISSISSIPPI CODE OF 1972, TO DEFINE AND  
59 CLARIFY THE AUTHORITY OF THE MISSISSIPPI GAMING COMMISSION IN  
60 DETERMINING LEGAL GAMING SITES AND PRELIMINARY SITE APPROVAL AND  
61 TO CLARIFY AREAS AUTHORIZED FOR GAMING CASINO OPERATIONS AND THE  
62 AUTHORITY OF THE COMMISSION TO REGULATE MINIMUM SIZE, MINIMUM  
63 IMPROVEMENTS AND OTHER PROJECT REQUIREMENTS; AND FOR RELATED  
64 PURPOSES.

65 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

66 **SECTION 1.** Section 7-11-11, Mississippi Code of 1972, is  
67 amended as follows:

68 7-11-11. The Secretary of State shall have charge of the  
69 swamp and the overflowed lands and indemnity lands in lieu  
70 thereof, the internal improvement lands, the lands forfeited to  
71 the state for nonpayment of taxes after the time allowed by law  
72 for redemption shall have expired, the Public Trust Tidelands, and  
73 of all other public lands belonging to or under the control of the



74 state. The regulation, sale and disposition of all such lands  
75 shall be made through the Secretary of State's office.

76 The Secretary of State shall sign all conveyances and leases  
77 of any and all state-owned lands and shall record same in a book  
78 kept in his office for such purposes.

79 **SECTION 2.** Section 29-1-107, Mississippi Code of 1972, is  
80 amended as follows:

81 29-1-107. (1) The Secretary of State, with the approval of  
82 the Governor, shall, as far as practicable, rent or lease all  
83 lands belonging to the state, except as otherwise provided  
84 by \* \* \* this section, for a period of not exceeding one (1) year,  
85 and account for the rents therefrom in the same manner as money  
86 received from the sale of state lands, provided that no state land  
87 shall be rented or leased to individuals, corporations,  
88 partnerships, or association of persons for hunting or fishing  
89 purposes. Property belonging to the state in municipalities, even  
90 though it may have been subdivided into lots, blocks, divisions,  
91 or otherwise escheated or was sold to the state by such  
92 description, may likewise be leased or rented by the Secretary of  
93 State under the terms provided above for other state lands, and  
94 the rents accounted for in the same manner. The state shall have  
95 all the liens, rights and remedies accorded to landlords in  
96 Sections 89-7-1 through 89-7-125; said leases and rental contracts  
97 shall automatically terminate on the date provided in said leases  
98 or contracts. A person possessing a gaming license under the



99 Mississippi Gaming Control Act or who wishes to apply for a gaming  
100 license under the Mississippi Gaming Control Act and who further  
101 uses or wishes to use Public Trust Tidelands as part of its  
102 proposed gaming project shall be required to obtain a tidelands  
103 lease from the Secretary of State notwithstanding any statute, law  
104 or other provision providing other authority to municipalities and  
105 counties or any other political subdivision to use the Public  
106 Trust Tidelands and such lease may be conditioned upon the gaming  
107 licensee or license applicant obtaining such other necessary and  
108 required approvals.

109       (2) (a) The Secretary of State, with the approval of the  
110 Governor, may rent or lease surface lands, tidelands or submerged  
111 lands owned or controlled by the State of Mississippi lying in or  
112 adjacent to the Mississippi Sound or Gulf of Mexico or streams  
113 emptying therein, for a period not exceeding forty (40) years for  
114 rental payable to the state annually. However, the term of any  
115 lease of State Public Trust Tidelands to a person possessing a  
116 license under the Mississippi Gaming Control Act shall be governed  
117 by the provisions of subsection (4) of this section.

118       (b) The lessee under such agreement may construct such  
119 necessary items for marking channels, docking, wharfing, mooring  
120 or fleeting vessels which shall be in aid of navigation and not  
121 obstructions thereto.

122       (c) A lessee of record may be given the option to renew  
123 for an additional period not to exceed twenty-five (25) years;



124 however, the term of a renewal for a lease of State Public Trust  
125 Tidelands to a person possessing a gaming license under the  
126 Mississippi Gaming Control Act shall be governed by the provisions  
127 of subsection (4) of this section. The holder of a lease of  
128 Public Trust Tidelands, at the expiration thereof, shall have a  
129 prior right, exclusive of all other persons, to re-lease as may be  
130 agreed upon between the holder of the lease and the Secretary of  
131 State.

132 (d) Leases shall provide for review and rent  
133 adjustments at each fifth anniversary tied either to the All Urban  
134 Consumer Price Index-All Items (CPI) or to an appraisal which  
135 deducts the value of any improvements by the lessee which  
136 substantially enhance the value of the land. In the case where  
137 the initial rental was based on the value set by the ad valorem  
138 tax rolls, then the rent review and adjustment clause shall be  
139 likewise based on the value set by such tax rolls. In the event  
140 that the lessor and lessee cannot agree on a rental amount, the  
141 lease may be cancelled at the option of the lessor. The lessee  
142 shall, within thirty (30) days after execution of a sublease or  
143 assignment, file a copy thereof, including the total consideration  
144 therefor, with the Secretary of State. This paragraph shall not  
145 apply to a lease of State Public Trust Tidelands or submerged  
146 lands to a person possessing a gaming license under the  
147 Mississippi Gaming Control Act who operates a gaming establishment  
148 on such tidelands or submerged lands or to a person who has or



149 will apply for a gaming license under the Mississippi Gaming  
150 Control Act and to use Public Trust Tidelands or submerged lands  
151 as part of its proposed gaming project.

152 (e) The Secretary of State shall not grant a lease for  
153 gaming purposes whether directly or indirectly on Public Trust  
154 Tidelands on which the sand beach was constructed or which are  
155 adjacent to the sand beach, as defined in Section 29-15-1.

156 (3) Provided, however, the current occupants of Public Trust  
157 Tidelands that were developed after the determinable mean  
158 high-water line nearest the effective date of the Coastal Wetlands  
159 Protection Law shall pay an annual rental based on the fair market  
160 value as determined by the assessed valuation of the property.  
161 The holder of a lease of Public Trust Tidelands, at the expiration  
162 thereof, shall have a prior right, exclusive of all other persons,  
163 to re-lease as may be agreed upon between the holder of the lease  
164 and the Secretary of State.

165 (4) (a) This section shall apply to any person possessing a  
166 license under the Mississippi Gaming Control Act or who wishes to  
167 apply for a gaming license under the Mississippi Gaming Control  
168 Act and who operates or proposes to operate a gaming establishment  
169 in any of the three (3) most southern counties of the state. Any  
170 gaming licensee or proposed gaming licensee shall be required to  
171 obtain a lease from the Secretary of State to use any State Public  
172 Trust Tidelands notwithstanding any statute, law or other  
173 provision providing other authority to municipalities and counties



174 or any other political subdivision to use the Public Trust  
175 Tidelands. To locate onshore and qualify to pay the in-lieu  
176 tidelands assessment, a gaming operation must have or show that it  
177 would have been qualified in all respects to obtain prior to  
178 August 29, 2005, a lease of Public Trust Tidelands from the State  
179 of Mississippi through the Secretary of State for a gaming  
180 operation.

181 (b) The following shall apply to all leases of State  
182 Public Trust Tidelands executed by such a licensee:

183 (i) Every lease executed after August 29, 2005,  
184 shall be for a period of thirty (30) years for rental payable to  
185 the state annually.

186 (ii) By operation of this section, any lease  
187 executed before August 29, 2005, may, at the option of the lessee,  
188 either remain at the term stated in the original execution of the  
189 lease or be converted to a thirty-year term lease, beginning on  
190 such date after August 29, 2005, that the lessee either resumes or  
191 begins permanent gaming activities as approved by the Mississippi  
192 Gaming Commission, and the lessee shall be required to comply with  
193 all other provisions of the lease. Should the lessee choose to  
194 operate in a structure that is not on State Public Trust Tidelands  
195 and that is on property contiguous to State Public Trust Tidelands  
196 leased by the State of Mississippi to the lessee, the lessee shall  
197 be required to comply with all other provisions of the lease with  
198 the State of Mississippi and shall be exempt from the assessment



199 provided for in paragraph (c) of this subsection. Easements for  
200 and rights-of-way for public streets and highways shall not be  
201 construed to interrupt the contiguous nature of a parcel of  
202 property. In the event that a lessee does not elect either to  
203 remain bound by the original term of the lease with the State of  
204 Mississippi or to convert the lease to a thirty-year term, the  
205 Secretary of State may lease the State Public Trust Tidelands that  
206 are the subject of the lease to any other person or entity.

207 (iii) Leases shall provide for review and rent  
208 adjustments at each annual anniversary tied to the All Urban  
209 Consumer Price Index-All Items (CPI). In the case of the renewal  
210 of a lease after the expiration of the original thirty-year term  
211 under this subsection, each renewal shall be for a term of thirty  
212 (30) years. The base rate to which the CPI shall apply for  
213 purposes of executing the subsequent lease shall be negotiated by  
214 the lessee with the Secretary of State.

215 (c) (i) Except as otherwise provided in this  
216 paragraph, any person possessing a license under the Mississippi  
217 Gaming Control Act who does not lease for a gaming site Public  
218 Trust Tidelands from the State \* \* \* of Mississippi by and through  
219 the Secretary of State or a state port, and who operates a gaming  
220 establishment in any of the three (3) most southern counties of  
221 the state, shall pay an annual in-lieu tidelands assessment to the  
222 Public Trust Tidelands Assessments Fund (hereinafter referred to





223 as "fund") created in Section 29-15-10, in the amount and manner  
224 provided for in this paragraph.

225 For calendar year 2006, the annual in-lieu tidelands  
226 assessment paid by the licensee to the fund shall be:

227 1. Four Hundred Thousand Dollars  
228 (\$400,000.00), if the capital investment in the part of the  
229 structure in which licensed gaming activities are conducted is  
230 Fifty Million Dollars (\$50,000,000.00) or less.

231 2. Four Hundred Fifty Thousand Dollars  
232 (\$450,000.00), if the capital investment in the part of the  
233 structure in which licensed gaming activities are conducted is  
234 equal to or more than Fifty Million Dollars (\$50,000,000.00) but  
235 less than Sixty Million Dollars (\$60,000,000.00).

236 3. Five Hundred Thousand Dollars  
237 (\$500,000.00), if the capital investment in the part of the  
238 structure in which licensed gaming activities are conducted is  
239 equal to or more than Sixty Million Dollars (\$60,000,000.00) but  
240 less than Seventy-five Million Dollars (\$75,000,000.00).

241 4. Six Hundred Thousand Dollars  
242 (\$600,000.00), if the capital investment in the part of the  
243 structure in which licensed gaming activities are conducted is  
244 equal to or more than Seventy-five Million Dollars  
245 (\$75,000,000.00) but less than One Hundred Million Dollars  
246 (\$100,000,000.00).



247                   5.   Seven Hundred Thousand Dollars  
248   (\$700,000.00), if the capital investment in the part of the  
249   structure in which licensed gaming activities are conducted is  
250   equal to or more than One Hundred Million Dollars  
251   (\$100,000,000.00) but less than One Hundred Twenty-five Million  
252   Dollars (\$125,000,000.00).

253                   6.   Seven Hundred Fifty Thousand Dollars  
254   (\$750,000.00), if the capital investment in the part of the  
255   structure in which licensed gaming activities are conducted is  
256   equal to or more than One Hundred Twenty-five Million Dollars  
257   (\$125,000,000.00).

258           For each calendar year thereafter, the Secretary of State  
259   shall review and adjust the value of the capital investment and  
260   the annual in-lieu tidelands assessment due. Such review and  
261   adjustment shall be tied to the CPI.

262                   (ii) This paragraph shall not apply to a gaming  
263   licensee if the licensee conducts gaming in a structure that is  
264   located on property that is leased from the Mississippi State Port  
265   at Gulfport or any political subdivision of the state, or to a  
266   licensee who conducts gaming in a structure that is located on  
267   property that is leased to the licensee jointly by the State of  
268   Mississippi and the City of Biloxi; however, with regard to  
269   property owned by a political subdivision of the state, this  
270   exception shall only apply to property owned by the political



271 subdivision on August 29, 2005, if legal gaming could have been  
272 conducted on such property on that date.

273 (iii) This paragraph shall not apply to a gaming  
274 licensee if the licensee conducts gaming in a structure that is  
275 located on property that is not leased from the State of  
276 Mississippi, and/or a political subdivision of the State of  
277 Mississippi and is not on State Public Trust Tidelands, and if a  
278 gaming licensee conducted gaming on that property before August  
279 29, 2005, and shall not apply to a gaming licensee if the licensee  
280 or a former licensee conducted gaming on \* \* \* contiguous property  
281 through a lease with the State Port at Gulfport before August 29,  
282 2005.

283 **SECTION 3.** Section 29-15-1, Mississippi Code of 1972, is  
284 amended as follows:

285 29-15-1. (a) "Commission" means the Mississippi Advisory  
286 Commission on Marine Resources.

287 (b) "Local tidal datum" means the datum established for a  
288 specific tide station through the use of tidal observations made  
289 at that station.

290 (c) "Department" means the Mississippi Department of Marine  
291 Resources.

292 (d) "Fastlands" means tidelands and submerged lands  
293 waterward of the historic natural mean high-water line but  
294 artificially filled such that the area waterward of that line is  
295 above mean high water.



296 ( \* \* \*e) "Mean high water" means the arithmetic mean of all  
297 the high waters occurring in a particular nineteen-year tidal  
298 epoch period; or for a shorter period of time after corrections  
299 are applied to the short-term observations to reduce these values  
300 to the equivalent nineteen-year value.

301 ( \* \* \*f) "Mean high-water line" means the intersection of  
302 the tidal datum plane of mean high water with the shore.

303 ( \* \* \*g) "Mean high-water survey" means a survey of the  
304 intersection of the shoreline with the tidal datum plane of mean  
305 high water using local tidal datums and surveying methodologies  
306 approved by the commission. Methodologies shall include, but not  
307 be limited to, the "staking method," "the topographic method" and  
308 "tide coordinated aerial photography."

309 ( \* \* \*h) "National map accuracy standards" means a set of  
310 guidelines published by the Office of Management and Budget of the  
311 United States to which maps produced by the United States  
312 government adhere.

313 (i) "Public Trust Tidelands" means those surface lands,  
314 tidelands and submerged lands owned by the state and held in trust  
315 for the citizens of the State of Mississippi.

316 (j) "Sand beach" means all areas of an artificial or  
317 man-made sand beach constructed on Public Trust Tidelands  
318 waterward of the public trust boundary represented by the natural  
319 mean high-water line or toe of a structure referred to as a  
320 seawall, retaining wall, or bulkhead, or other similar structure



321 used to prevent erosion of uplands or property landward of the  
322 structure.

323 ( \* \* \*k) "Submerged lands" means lands which remain covered  
324 by waters, where the tides ebb and flow, at ordinary low tides.

325 (1) "Surface lands" means the same as fastlands.

326 ( \* \* \*m) "Tidelands" means those lands which are daily  
327 covered and uncovered by water by the action of the tides, up to  
328 the mean high-water line \* \* \*.

329 **SECTION 4.** The following shall be codified as Section  
330 29-15-2, Mississippi Code of 1972:

331 29-15-2. Legislative public policy. (1) It is declared  
332 that the state-held tidelands subject to the public trust and the  
333 boundary between trust lands and other lands are shown on the  
334 Final Public Trust Tidelands Map and Public Trust Submerged Land  
335 Maps, Final December 1994, created and published pursuant to  
336 Section 29-15-7, as modified by any boundary agreements or court  
337 orders.

338 (2) Absent clear, specific and expressed legislative intent  
339 to sever fee simple title of a specific parcel of Public Trust  
340 Tidelands from the state in favor of a specific state agency or  
341 political subdivision, fee simple title remains in the state.

342 (3) Absent clear, specific and expressed legislative intent  
343 to grant management and administrative control and authority,  
344 including leasing authority, of a specific area of Public Trust  
345 Tidelands to a specific state agency or political subdivision, the



346 Secretary of State is not divested of management and  
347 administrative control and authority, and leasing authority.

348 (4) All uses of Public Trust Tidelands for any gaming  
349 purpose or purpose related to a gaming operation shall require a  
350 Public Trust Tidelands lease from the state through the Secretary  
351 of State as Trustee of the Public Trust Tidelands and shall be  
352 subject to annual rent pursuant to Section 29-1-107.

353 (5) All previous or prior statutory provisions which affect  
354 the Public Trust Tidelands shall be construed and interpreted  
355 subject to and consistent with the provisions contained in this  
356 statute.

357 **SECTION 5.** Section 29-15-3, Mississippi Code of 1972, is  
358 amended as follows:

359 29-15-3. (1) It is declared to be the public policy of this  
360 state to favor the preservation of the natural state of the  
361 state's Public Trust Tidelands and their ecosystems and to prevent  
362 the despoliation and destruction of them, except where a specific  
363 alteration of specific Public Trust Tidelands would serve a higher  
364 public interest in compliance with the public purposes of the  
365 public trust in which such tidelands are held.

366 (2) It is hereby declared to be a higher public purpose of  
367 this state and the public tidelands trust to resolve the  
368 uncertainty and disputes which have arisen as to the location of  
369 the boundary between the state's Public Trust Tidelands and the  
370 upland property and to confirm the mean high-water boundary line



371 as determined by the Mississippi Supreme Court, the laws of this  
372 state and this chapter.

373 (3) Absent clear and specific intent by the Legislature to  
374 sever fee-simple ownership or to grant management and  
375 administrative control and authority, to include, but not be  
376 limited to, leasing authority, of a specific area of Public Trust  
377 Tidelands to a specific state agency or political subdivision,  
378 then fee-simple title, management and administrative control and  
379 authority, and leasing authority to and of the Public Trust  
380 Tidelands is in the State of Mississippi.

381 (4) It is hereby declared that Public Trust Tidelands held  
382 by the state will be managed and administered by the Secretary of  
383 State as the Land Commissioner and Trustee of the Public Trust  
384 Tidelands.

385 **SECTION 6.** Section 29-15-5, Mississippi Code of 1972, is  
386 amended as follows:

387 29-15-5. (1) Tidelands and submerged lands are held by the  
388 state in trust for use of all the people, and are so held in their  
389 character as the beds and shores of the sea and its tidally  
390 affected arms and tributaries for the purposes defined by common  
391 law and statutory law. Littoral and riparian property owners have  
392 common-law and statutory rights under the Coastal Wetlands  
393 Protection Law which extend into the waters and beyond the low  
394 tide line, and the state's responsibilities as trustee extends to  
395 such owners as well as to the other members of the public.



396 (2) Residential property owners shall not be required to  
397 obtain a Public Trust Tidelands lease from the state for  
398 exercising their common-law and statutory littoral and riparian  
399 rights attached to residential property for personal noncommercial  
400 use.

401 (3) All existing and proposed uses of or projects on Public  
402 Trust Tidelands by any commercial activity shall require a Public  
403 Trust Tidelands lease from the state through the Secretary of  
404 State as Trustee of the Public Trust Tidelands and shall be  
405 subject to annual rent pursuant to Section 29-1-107.

406 (4) All existing or proposed public uses or projects of any  
407 federal, state or local governmental entity, including counties  
408 and municipalities, shall serve a higher public purpose of  
409 promoting the conservation, reclamation, preservation of the  
410 tidelands and submerged lands, public use for boating, boat  
411 launches, piers, small craft harbors and marina, fishing, or  
412 navigation shall require a lease of State Public Trust Tidelands  
413 from the state through the Secretary of State as Trustee of the  
414 Public Trust Tidelands pursuant to Section 29-1-107(2).

415 (5) Provided the use of the leased property serves the  
416 higher public purpose, the federal, state or local governmental  
417 entity, including counties and municipalities, shall have  
418 exclusive control of the leased premises, and all revenues  
419 generated therefrom shall be used to maintain, repair or improve  
420 the leased property.





421 (6) The federal, state or local governmental entity,  
422 including counties and municipalities, shall not lease, sublease,  
423 rent, or provide access for any gaming purpose or purpose related  
424 to a gaming operation.

425 **SECTION 7.** Section 29-15-9, Mississippi Code of 1972, is  
426 amended as follows:

427 29-15-9. (1) There is created in the State Treasury a  
428 special fund to be known as the "Public Trust Tidelands Fund."  
429 The fund shall be administered by the Secretary of State as  
430 trustee.

431 (2) Any funds derived from lease rentals of tidelands and  
432 submerged lands, except those funds derived from mineral leases,  
433 or funds previously specifically designated to be applied to other  
434 agencies, shall be transferred to the special fund. \* \* \* Subject  
435 to legislative authorization, funds derived from lease  
436 rentals \* \* \* will be used to cover the administrative cost,  
437 including legal expenses, incurred by the Secretary of State in  
438 administering the Public Trust Tidelands. Any remaining funds  
439 derived from lease rentals shall then be disbursed pro rata to the  
440 local taxing authorities for the replacement of lost ad valorem  
441 taxes, if any. Then, any remaining funds shall be disbursed to  
442 the \* \* \* Department of Marine Resources for new and extra  
443 programs of tidelands management, such as conservation,  
444 reclamation, preservation, acquisition, education or the



445 enhancement of public access to the Public Trust Tidelands or  
446 public improvement projects as they relate to those lands.

447 (3) Any funds that are appropriated as separate line items  
448 in an appropriation bill for tideland programs or projects  
449 authorized under this section for political subdivisions or other  
450 agencies shall be disbursed as provided in this subsection.

451 (a) The Department of Marine Resources shall make  
452 progress payments in installments based on the work completed and  
453 material used in the performance of a tidelands project only after  
454 receiving written verification from the political subdivision or  
455 agency. The political subdivision or agency shall submit  
456 verification of the work completed or materials in such detail and  
457 form that the department may require.

458 (b) The Department of Marine Resources shall make funds  
459 available for the purpose of using such funds as a match or  
460 leverage for federal or other funds that are available for the  
461 designated tidelands project.

462 **SECTION 8.** Section 29-15-10, Mississippi Code of 1972, is  
463 amended as follows:

464 29-15-10. (1) There is created in the State Treasury a  
465 special fund to be known as the "Public Trust Tidelands  
466 Assessments Fund." The purpose of the fund is to ensure that  
467 monies derived from the Public Trust Tidelands assessments shall  
468 be used for the benefit of preserving and protecting the tidelands  
469 and submerged lands found within the three (3) most southern



470 counties of the state. One (1) specific purpose of the fund is to  
471 ensure that the annual payment made by the state for the purchase  
472 of Deer Island shall continue uninterrupted until the purchase  
473 transaction is completed. The fund shall be administered by the  
474 Secretary of State, as trustee. None of the funds that are in the  
475 special fund or that are required to be deposited into the special  
476 fund shall be transferred, diverted or in any other manner  
477 expended or used for any purpose other than those purposes  
478 specified in this section.

479 (2) (a) Any funds derived from assessments made pursuant to  
480 Section 29-1-107(4) (c) shall be deposited into the special fund.

481 (b) Funds paid pursuant to paragraph (a) of this  
482 subsection may be appropriated by the Legislature in an amount  
483 necessary to cover the administrative cost incurred by the  
484 Mississippi Advisory Commission on Marine Resources. Any  
485 remaining funds shall be disbursed \* \* \* to the \* \* \* Department  
486 of Marine Resources for new and extra programs of tidelands  
487 management, such as conservation, reclamation, preservation,  
488 acquisition, education or the enhancement of public access to the  
489 Public Trust Tidelands or public improvement projects as they  
490 relate to those lands.

491 (3) Any funds that are appropriated as separate line items  
492 in an appropriation bill for tideland programs or projects  
493 authorized under this section for political subdivisions or other  
494 agencies shall be disbursed as provided in this subsection.



495 (a) The Department of Marine Resources shall make  
496 progress payments in installments based on the work completed and  
497 material used in the performance of a tidelands project only after  
498 receiving written verification from the political subdivision or  
499 agency. The political subdivision or agency shall submit  
500 verification of the work completed or materials in such detail and  
501 form that the department may require.

502 (b) The Department of Marine Resources shall make funds  
503 available for the purpose of using such funds as a match or  
504 leverage for federal or other funds that are available for the  
505 designated tidelands project.

506 **SECTION 9.** Section 29-15-13, Mississippi Code of 1972, is  
507 amended as follows:

508 29-15-13. (1) All existing or proposed public uses or  
509 projects of any federal, state or local governmental entity \* \* \*,  
510 including counties and municipalities, shall serve a higher public  
511 purpose of promoting the conservation, reclamation, preservation  
512 of the tidelands and submerged lands, public use for boating, boat  
513 launches, piers, small craft harbors and marinas, fishing, \* \* \*  
514 or navigation \* \* \* shall require a lease of Public Trust  
515 Tidelands from the Secretary of State but shall be exempt from any  
516 use, lease or rental fees.

517 (2) The federal, state or local governmental entity,  
518 including counties and municipalities, shall not lease, sublease,



519 rent, or provide access for any gaming purpose or purpose related  
520 to a gaming operation.

521         **SECTION 10.** Section 59-7-405, Mississippi Code of 1972, is  
522 amended as follows:

523         59-7-405. (1) (a) The governing authorities of any  
524 municipality in which there is situated and located, in whole or  
525 in part, a port or harbor through which commerce flows, and having  
526 not less than eight (8) industries engaged in the seafood  
527 industry, which maintains a channel and/or harbor to a depth of  
528 not less than eight (8) feet, may engage in, either directly or  
529 through the commission hereinafter provided and designated, and  
530 such other agencies as hereafter may be provided by law, works of  
531 internal improvement, or promoting, developing, constructing,  
532 maintaining and operating harbors or seaports within the state and  
533 its jurisdiction, and either directly or through the commission  
534 hereinafter provided for, with the power and authority to acquire,  
535 purchase, install, rent, lease, mortgage and/or otherwise  
536 encumber, to construct, own, hold, maintain, equip, use, control  
537 and operate at seaports or harbors, wharves, piers, docks,  
538 warehouses, cold storage facilities, water and rail terminals,  
539 airplane landing fields and strips, and other structures and  
540 facilities, needful for the convenient use of the same in the aid  
541 of commerce and navigation, and including the dredging of channels  
542 and approaches to the facilities, and being authorized to fill  
543 in \* \* \* bottomlands where incidental and necessary to the



544 foregoing development. All uses of Public Trust Tidelands shall  
545 be through a lease with the state by and through the Secretary of  
546 State, subject to a lease as required by Section 59-15-1, provided  
547 the use of the Public Trust Tidelands is to construct, own, hold,  
548 maintain, equip, use, control and operate at seaports or harbors,  
549 wharves, piers, docks, warehouses, cold storage facilities, water  
550 and rail terminals, airplane landing fields and strips, and other  
551 structures and facilities, needful for the convenient use of the  
552 same in the aid of commerce navigation, and including the dredging  
553 of channels and approaches to the facilities, the municipal  
554 authority or commission shall have exclusive control of the leased  
555 premises, and all revenues generated therefrom shall be used to  
556 maintain, repair or improve the leased property.

557 (b) A municipality, which is operating a port through a  
558 port commission under this section, may dissolve the port  
559 commission as provided in Section 59-7-408 and directly operate  
560 and maintain the port as provided under this article.

561 (2) The municipal authorities or commission, in connection  
562 with the exercise of the foregoing works of improvement and  
563 development, may as an adjunct to any such work of improvement or  
564 development to erect or construct such bridges, causeways or  
565 structures as may be required for access to and from the harbors  
566 or facilities provided as aforesaid by the municipal authorities  
567 or the commission, and including any necessary bridge or causeway  
568 or combination of the same, connecting with any island or islands



569 lying within three (3) leagues of the main shoreline of the  
570 Mississippi Sound or the Gulf of Mexico, and whether the same be  
571 within or without the limits of the municipality concerned.

572 (3) The municipal authorities or commission may procure, by  
573 gift, grant, purchase, or by the exercise of eminent domain, and  
574 for the public purposes and uses herein provided for, such land or  
575 interest therein as may be required for the purposes of this  
576 article, and regardless of whether the land be within or without  
577 the limits of the municipality involved. All uses of Public Trust  
578 Tidelands shall be through a lease with the state through the  
579 Secretary of State.

580 (4) The municipal authorities or commission, in the exercise  
581 of the powers granted hereunder, may provide any of the aforesaid  
582 facilities alone or in collaboration and in conjunction with any  
583 other public bodies, entities or commissions, as may now or  
584 hereafter be established by law.

585 (5) The municipal authorities or commission may provide,  
586 among other harbor facilities, small craft and pleasure craft  
587 harbors and facilities needed therefor, including park and  
588 recreational facilities as an adjunct thereto, and in order to  
589 develop and promote tourist and recreational trade in the port.

590 (6) The municipal authorities or commission have the power  
591 and authority to carry out the provisions of this article, to  
592 employ engineers, attorneys, and such employees as may be  
593 necessary in carrying out the provisions of this article, from



594 time to time, and for the purpose of operating the facilities  
595 herein provided for, and may prescribe reasonable compensation in  
596 connection with such employment.

597 (7) The municipal authorities or commission shall not lease,  
598 sublease, rent, or provide access for any gaming purpose or  
599 purpose related to a gaming operation.

600 **SECTION 11.** Section 59-15-1, Mississippi Code of 1972, is  
601 amended as follows:

602 59-15-1. The authorities of any city in this state which has  
603 a population of ten thousand (10,000) or more, according to the  
604 last official government census, and the authorities of any  
605 municipality bordering on the Mississippi Sound or Gulf of Mexico  
606 are hereby given the authority to acquire by purchase, deed,  
607 donation, gift, grant, \* \* \* lease, dedication, or otherwise, and  
608 if state-owned Public Trust Tidelands by lease subject to Sections  
609 29-1-107(2) and 29-15-13, such land, harbor sites or water  
610 frontage for the purpose of establishing, developing, promoting,  
611 maintaining, and operating harbors for small water crafts and  
612 recreational parks connected therewith within its territorial  
613 limits, or both, and shall have the power to acquire, purchase,  
614 install, rent, lease, mortgage, incumber, construct, own, hold,  
615 maintain, equip, use, control and operate recreational parks and  
616 harbors for small water craft. Any such existing use of State  
617 Public Trust Tidelands shall require a Public Trust Tidelands  
618 lease from the State of Mississippi by and through the Secretary





619 of State. Provided the use of the Public Trust Tidelands is to  
620 acquire, purchase, install, rent, lease, mortgage, incumber,  
621 construct, own, hold, maintain, equip, use, control and operate  
622 recreational parks and harbors for small water craft, the  
623 municipal authority hereunder shall have exclusive control of the  
624 leased premises, and all revenues generated therefrom shall be  
625 used to maintain, repair or improve the leased property. Any use  
626 of State Public Trust Tidelands for gaming as contemplated by  
627 Section 29-1-107(4) will require a direct lease of the Public  
628 Trust Tidelands from the State of Mississippi by and through the  
629 Secretary of State and such lease may be conditioned upon the  
630 gaming licensee obtaining such other necessary and required  
631 approvals.

632       **SECTION 12.** Section 75-76-67, Mississippi Code of 1972, is  
633 amended as follows:

634       75-76-67. (1) Any person who the commission determines is  
635 qualified to receive a license or be found suitable under the  
636 provisions of this chapter, having due consideration for the  
637 proper protection of the health, safety, morals, good order and  
638 general welfare of the inhabitants of the State of Mississippi and  
639 the declared policy of this state, may be issued a state gaming  
640 license or found suitable. The burden of proving his  
641 qualification to receive any license or be found suitable is on  
642 the applicant.



643           (2) An application to receive a license or be found suitable  
644 shall not be granted unless the commission is satisfied that the  
645 applicant is:

646                 (a) A person of good character, honesty and integrity;

647                 (b) A person whose prior activities, criminal record,  
648 if any, reputation, habits and associations do not pose a threat  
649 to the public interest of this state or to the effective  
650 regulation and control of gaming, or create or enhance the dangers  
651 of unsuitable, unfair or illegal practices, methods and activities  
652 in the conduct of gaming or the carrying on of the business and  
653 financial arrangements incidental thereto; and

654                 (c) In all other respects qualified to be licensed or  
655 found suitable consistent with the declared laws of the state.

656           (3) No person shall be granted a license or found suitable  
657 under the provisions of this chapter who has been convicted of a  
658 felony in any court of this state, another state, or the United  
659 States; and no person shall be granted a license or found suitable  
660 hereunder who has been convicted of a crime in any court of  
661 another state or the United States which, if committed in this  
662 state, would be a felony; and no person shall be granted a license  
663 or found suitable under the provisions of this chapter who has  
664 been convicted of a misdemeanor in any court of this state or of  
665 another state, when such conviction was for gambling, sale of  
666 alcoholic beverages to minors, prostitution, or procuring or  
667 inducing individuals to engage in prostitution.



668 (4) A license to operate a gaming establishment shall not be  
669 granted unless the applicant has satisfied the commission that:

670 (a) He has adequate business probity, competence and  
671 experience, in gaming or generally; \* \* \*

672 (b) The proposed financing of the entire operation is:

673 (i) Adequate for the nature of the proposed  
674 operation; and

675 (ii) From a suitable source. Any lender or other  
676 source of money or credit which the commission finds does not meet  
677 the standards set forth in subsection (2) may be deemed  
678 unsuitable \* \* \*;

679 (c) Other than with respect to a licensee which has  
680 been licensed by the commission, or to any person which has  
681 received approval to proceed with development from the commission,  
682 prior to December 31, 2023 (or to such licensee upon any licensing  
683 renewal after such date), a proposed project shall meet, at a  
684 minimum, the following:

685 (i) A parking facility in close proximity to the  
686 casino complex to accommodate a minimum of five hundred (500)  
687 cars;

688 (ii) A hotel with a minimum of three hundred (300)  
689 rooms;

690 (iii) A restaurant capable of seating at least two  
691 hundred (200) people;



692                   (iv) A fine dining establishment capable of  
693 seating at least seventy-five (75) people;  
694                   (v) A casino floor of at least forty thousand  
695 (40,000) square feet; and  
696                   (vi) An amenity unique to the licensee's market in  
697 order to encourage economic development and promote tourism; and  
698                   (d) The commission shall not adopt any rule or  
699 regulation that would reduce the requirements in paragraph (c) of  
700 this subsection; however, the commission may exercise discretion  
701 with respect to such requirements as to proposed projects if  
702 located in a gaming market along the Mississippi River; but, in  
703 all other areas where a project is proposed to be located, these  
704 shall be deemed minimum requirements.

705           (5) An application to receive a license or be found suitable  
706 constitutes a request for a determination of the applicant's  
707 general character, integrity and ability to participate or engage  
708 in, or be associated with gaming. Any written or oral statement  
709 made in the course of an official proceeding of the commission or  
710 the executive director or any witness testifying under oath which  
711 is relevant to the purpose of the proceeding is absolutely  
712 privileged and does not impose liability for defamation or  
713 constitute a ground for recovery in any civil action.

714           (6) The commission may, in its discretion, grant a license  
715 to a corporation which has complied with the provisions of this  
716 chapter.



717 (7) The commission may, in its discretion, grant a license  
718 to a limited partnership which has complied with the provisions of  
719 this chapter.

720 (8) No limited partnership, except one whose sole limited  
721 partner is a publicly traded corporation which has registered with  
722 the commission, or business trust or organization or other  
723 association of a quasi-corporate character is eligible to receive  
724 or hold any license under this chapter unless all persons having  
725 any direct or indirect interest therein of any nature whatsoever,  
726 whether financial, administrative, policymaking or supervisory,  
727 are individually qualified to be licensed under the provisions of  
728 this chapter.

729 (9) The commission may, by regulation, limit the number of  
730 persons who may be financially interested and the nature of their  
731 interest in any corporation or other organization or association  
732 licensed under this chapter, and may establish such other  
733 qualifications of licenses as the commission, in its discretion,  
734 deems to be in the public interest and consistent with the  
735 declared policy of the state.

736 **SECTION 13.** Section 87-1-5, Mississippi Code of 1972, is  
737 amended as follows:

738 87-1-5. If any person, by playing at any game whatever, or  
739 by betting on the sides or hands of such as do play at any game,  
740 or by betting on any horse race or cockfight, or at any other  
741 sport or pastime, or by any wager whatever, shall lose any money,



742 property, or other valuable thing, real or personal, and shall pay  
743 or deliver the same or any part thereof, the person so losing and  
744 paying or delivering the same, or his wife or children, may sue  
745 for and recover such money, property, or other valuable thing so  
746 lost and paid or delivered, or any part thereof, from the person  
747 knowingly receiving the same, with costs. However, this section  
748 shall not apply to betting, gaming or wagering:

749 (a) On a cruise vessel as defined in Section 27-109-1  
750 whenever such vessel is in the waters within the State of  
751 Mississippi, which lie adjacent to the State of Mississippi south  
752 of the three (3) most southern counties in the State of  
753 Mississippi, including the Mississippi Sound, St. Louis Bay,  
754 Biloxi Bay and Pascagoula Bay;

755 (b) In a structure located in whole or in part on shore  
756 in any of the three (3) most southern counties in the State of  
757 Mississippi in which the registered voters of the county have  
758 voted to allow such betting, gaming or wagering on cruise vessels  
759 as provided in Section 19-3-79, if:

760 (i) The structure is owned, leased or controlled  
761 by a person possessing a gaming license, as defined in Section  
762 75-76-5, to conduct legal gaming \* \* \* at a location that was  
763 legal for dockside gaming prior to August 29, 2005;

764 (ii) The part of the structure in which licensed  
765 gaming activities are conducted is located entirely in an area  
766 which is located no more than eight hundred (800) feet from the



767 mean high-water line (as defined in Section 29-15-1) of the waters  
768 within the State of Mississippi, which lie adjacent to the State  
769 of Mississippi south of the three (3) most southern counties in  
770 the State of Mississippi, including the Mississippi Sound, St.  
771 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to the  
772 Mississippi Sound at Harrison County only, no farther north than  
773 the southern boundary of the right-of-way for U.S. Highway 90,  
774 whichever is greater; and in determining the distance to the mean  
775 high-water line, the following considerations apply:

776 1. Rights-of-way and easements for public  
777 streets and highways shall not be construed to interrupt the  
778 contiguous nature of a parcel of property, nor shall the footage  
779 contained within such easements and rights-of-way be considered in  
780 the calculation of the distances specified in subparagraph (ii) of  
781 this paragraph; and

782 2. An imaginary line drawn from any point  
783 along the mean high-water line referenced and utilized pursuant to  
784 subparagraph (ii) of this paragraph to any other point of  
785 reference must cross only property under the exclusive use and  
786 control of the gaming licensee or proposed licensee based on its  
787 ownership or lease thereof, except for rights-of-way and easements  
788 for public streets and highways; and

789 (iii) In the case of a structure that is located  
790 in whole or part on shore, the part of the structure in which



791 licensed gaming activities are conducted shall \* \* \* be located  
792 on:

793 1. Property entirely under the exclusive use  
794 and control of the proposed licensee based on its ownership or  
795 lease thereof that extends from the gaming floor to the mean  
796 high-water line and such land is capable of accommodating the  
797 minimum improvement requirements set forth in Section 75-76-67(4);  
798 and

799 2. The entire parcel(s) of land used to  
800 establish the necessary ownership and/or lease and control of the  
801 property to the mean high-water line must be immediately adjacent  
802 to waters at a location which would have qualified as a legal  
803 gaming site for docking a cruise vessel under paragraph (a) of  
804 this section prior to August 29, 2005;

805 (c) On a vessel as defined in Section 27-109-1 whenever  
806 such vessel is on the Mississippi River or navigable waters within  
807 any county bordering on the Mississippi River; or

808 (d) That is legal under the laws of the State of  
809 Mississippi.

810 **SECTION 14.** Section 97-33-1, Mississippi Code of 1972, is  
811 amended as follows:

812 97-33-1. Except as otherwise provided in Section 97-33-8, if  
813 any person shall encourage, promote or play at any game, play or  
814 amusement, other than a fight or fighting match between dogs, for  
815 money or other valuable thing, or shall wager or bet, promote or





816 encourage the wagering or betting of any money or other valuable  
817 things, upon any game, play, amusement, cockfight, Indian ball  
818 play or duel, other than a fight or fighting match between dogs,  
819 or upon the result of any election, event or contingency whatever,  
820 upon conviction thereof, he shall be fined in a sum not more than  
821 Five Hundred Dollars (\$500.00); and, unless such fine and costs be  
822 immediately paid, shall be imprisoned for any period not more than  
823 ninety (90) days. However, this section shall not apply to  
824 betting, gaming or wagering:

825           (a) On a cruise vessel as defined in Section 27-109-1  
826 whenever such vessel is in the waters within the State of  
827 Mississippi, which lie adjacent to the State of Mississippi south  
828 of the three (3) most southern counties in the State of  
829 Mississippi, including the Mississippi Sound, St. Louis Bay,  
830 Biloxi Bay and Pascagoula Bay, and in which the registered voters  
831 of the county in which the port is located have not voted to  
832 prohibit such betting, gaming or wagering on cruise vessels as  
833 provided in Section 19-3-79;

834           (b) In a structure located, in whole or in part, on  
835 shore in any of the three (3) most southern counties in the State  
836 of Mississippi in which the registered voters of the county have  
837 voted to allow such betting, gaming or wagering on cruise vessels  
838 as provided in Section 19-3-79, if:

839           (i) The structure is owned, leased or controlled  
840 by a person possessing a gaming license, as defined in Section



841 75-76-5, to conduct legal gaming \* \* \* at a location that was  
842 legal for dockside gaming prior to August 29, 2005;

843 (ii) The part of the structure in which licensed  
844 gaming activities are conducted is located entirely in an area  
845 which is located no more than eight hundred (800) feet from the  
846 mean high-water line (as defined in Section 29-15-1) of the waters  
847 within the State of Mississippi, which lie adjacent to the State  
848 of Mississippi south of the three (3) most southern counties in  
849 the State of Mississippi, including the Mississippi Sound, St.  
850 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to the  
851 Mississippi Sound at Harrison County only, no farther north than  
852 the southern boundary of the right-of-way for U.S. Highway 90,  
853 whichever is greater; and in determining the distance to the mean  
854 high-water line, the following considerations apply:

855 1. Rights-of-way and easements for public  
856 streets and highways shall not be construed to interrupt the  
857 contiguous nature of a parcel of property, nor shall the footage  
858 contained within such easements and rights-of-way be considered in  
859 the calculation of the distances specified in subparagraph (ii) of  
860 this paragraph; and

861 2. An imaginary line drawn from any point  
862 along the mean high-water line referenced and utilized pursuant to  
863 subparagraph (ii) of this paragraph to any other point of  
864 reference must cross only property under the exclusive use and  
865 control of the gaming licensee or proposed licensee based on its



866 ownership or lease thereof, except for rights-of-way and easements  
867 for public streets and highways; and

868 (iii) In the case of a structure that is located  
869 in whole or part on shore, the part of the structure in which  
870 licensed gaming activities are conducted shall \* \* \* be located  
871 on:

872 1. Property entirely under the exclusive use  
873 and control of the gaming licensee or proposed licensee based on  
874 its ownership or lease thereof that extends from the gaming floor  
875 to the mean high-water line and such land is capable of  
876 accommodating the minimum improvement requirements set forth in  
877 Section 75-76-67(4); and

878 2. The entire parcel(s) of land used to  
879 establish the necessary ownership and/or lease and control of the  
880 property to the mean high-water line must be immediately adjacent  
881 to waters at a location which would have qualified as a legal  
882 gaming site for docking a cruise vessel under paragraph (a) of  
883 this section prior to August 29, 2005;

884 (c) On a vessel as defined in Section 27-109-1 whenever  
885 such vessel is on the Mississippi River or navigable waters within  
886 any county bordering on the Mississippi River, and in which the  
887 registered voters of the county in which the port is located have  
888 not voted to prohibit such betting, gaming or wagering on vessels  
889 as provided in Section 19-3-79; or



890 (d) That is legal under the laws of the State of  
891 Mississippi.

892 **SECTION 15.** Section 97-33-7, Mississippi Code of 1972, is  
893 amended as follows:

894 97-33-7. (1) Except as otherwise provided in Section  
895 97-33-8, it shall be unlawful for any person or persons, firm,  
896 copartnership or corporation to have in possession, own, control,  
897 display, or operate any cane rack, knife rack, artful dodger,  
898 punch board, roll down, merchandise wheel, slot machine, pinball  
899 machine, or similar device or devices. Provided, however, that  
900 this section shall not be so construed as to make unlawful the  
901 ownership, possession, control, display or operation of any  
902 antique coin machine as defined in Section 27-27-12, or any music  
903 machine or bona fide automatic vending machine where the purchaser  
904 receives exactly the same quantity of merchandise on each  
905 operation of said machine. Any slot machine other than an antique  
906 coin machine as defined in Section 27-27-12 which delivers, or is  
907 so constructed as that by operation thereof it will deliver to the  
908 operator thereof anything of value in varying quantities, in  
909 addition to the merchandise received, and any slot machine other  
910 than an antique coin machine as defined in Section 27-27-12 that  
911 is constructed in such manner as that slugs, tokens, coins or  
912 similar devices are, or may be, used and delivered to the operator  
913 thereof in addition to merchandise of any sort contained in such  
914 machine, is hereby declared to be a gambling device, and shall be



915 deemed unlawful under the provisions of this section. Provided,  
916 however, that pinball machines which do not return to the operator  
917 or player thereof anything but free additional games or plays  
918 shall not be deemed to be gambling devices, and neither this  
919 section nor any other law shall be construed to prohibit same.

920 (2) No property right shall exist in any person, natural or  
921 artificial, or be vested in such person, in any or all of the  
922 devices described herein that are not exempted from the provisions  
923 of this section; and all such devices are hereby declared to be at  
924 all times subject to confiscation and destruction, and their  
925 possession shall be unlawful, except when in the possession of  
926 officers carrying out the provisions of this section. It shall be  
927 the duty of all law enforcing officers to seize and immediately  
928 destroy all such machines and devices.

929 (3) A first violation of the provisions of this section  
930 shall be deemed a misdemeanor, and the party offending shall, upon  
931 conviction, be fined in any sum not exceeding Five Hundred Dollars  
932 (\$500.00), or imprisoned not exceeding three (3) months, or both,  
933 in the discretion of the court. In the event of a second  
934 conviction for a violation of any of the provisions of this  
935 section, the party offending shall be subject to a sentence of not  
936 less than six (6) months in the county jail, nor more than two (2)  
937 years in the State Penitentiary, in the discretion of the trial  
938 court.



939           (4) Notwithstanding any provision of this section to the  
940 contrary, it shall not be unlawful to operate any equipment or  
941 device described in subsection (1) of this section or any gaming,  
942 gambling or similar device or devices by whatever name called  
943 while:

944           (a) On a cruise vessel as defined in Section 27-109-1  
945 whenever such vessel is in the waters within the State of  
946 Mississippi, which lie adjacent to the State of Mississippi south  
947 of the three (3) most southern counties in the State of  
948 Mississippi, including the Mississippi Sound, St. Louis Bay,  
949 Biloxi Bay and Pascagoula Bay, and in which the registered voters  
950 of the county in which the port is located have not voted to  
951 prohibit such betting, gaming or wagering on cruise vessels as  
952 provided in Section 19-3-79;

953           (b) In a structure located, in whole or in part, on  
954 shore in any of the three (3) most southern counties in the State  
955 of Mississippi in which the registered voters of the county have  
956 voted to allow such betting, gaming or wagering on cruise vessels  
957 as provided in Section 19-3-79, if:

958           (i) The structure is owned, leased or controlled  
959 by a person possessing a gaming license, as defined in Section  
960 75-76-5, to conduct legal gaming \* \* \* at a location that was  
961 legal for dockside gaming prior to August 29, 2005;

962           (ii) The part of the structure in which licensed  
963 gaming activities are conducted is located entirely in an area



964 which is located no more than eight hundred (800) feet from the  
965 mean high-water line (as defined in Section 29-15-1) of the waters  
966 within the State of Mississippi, which lie adjacent to the State  
967 of Mississippi south of the three (3) most southern counties in  
968 the State of Mississippi, including the Mississippi Sound, St.  
969 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to the  
970 Mississippi Sound at Harrison County only, no farther north than  
971 the southern boundary of the right-of-way for U.S. Highway 90,  
972 whichever is greater; and in determining the distance to the mean  
973 high-water line, the following considerations apply:

974 1. Rights-of-way and easements for public  
975 streets and highways shall not be construed to interrupt the  
976 contiguous nature of a parcel of property, nor shall the footage  
977 contained within such easements and rights-of-way be considered in  
978 the calculation of the distances specified in subparagraph (ii) of  
979 this paragraph; and

980 2. An imaginary line drawn from any point  
981 along the mean high-water line referenced and utilized pursuant to  
982 subparagraph (ii) of this paragraph to any other point of  
983 reference must cross only property under the exclusive use and  
984 control of the gaming licensee or proposed licensee based on its  
985 ownership or lease thereof, except for rights-of-way and easements  
986 for public streets and highways; and

987 (iii) In the case of a structure that is located  
988 in whole or part on shore, the part of the structure in which



989 licensed gaming activities are conducted shall \* \* \* be located  
990 on:

991 1. Property entirely under the exclusive use  
992 and control of the gaming licensee or proposed licensee based on  
993 its ownership or lease thereof that extends from the gaming floor  
994 to the mean high-water line and such land is capable of  
995 accommodating the minimum improvement requirements set forth in  
996 Section 75-76-67(4); and

997 2. The entire parcel(s) of land used to  
998 establish the necessary ownership and/or lease and control of the  
999 property to the mean high-water line must be immediately adjacent  
1000 to waters at a location which would have qualified as a legal  
1001 gaming site for docking a cruise vessel under paragraph (a) of  
1002 this subsection prior to August 29, 2005;

1003 (c) On a vessel as defined in Section 27-109-1 whenever  
1004 such vessel is on the Mississippi River or navigable waters within  
1005 any county bordering on the Mississippi River, and in which the  
1006 registered voters of the county in which the port is located have  
1007 not voted to prohibit such betting, gaming or wagering on vessels  
1008 as provided in Section 19-3-79; or

1009 (d) That is legal under the laws of the State of  
1010 Mississippi.

1011 (5) Notwithstanding any provision of this section to the  
1012 contrary, it shall not be unlawful (a) to own, possess, repair or  
1013 control any gambling device, machine or equipment in a licensed





1014 gaming establishment or on the business premises appurtenant to  
1015 any such licensed gaming establishment during any period of time  
1016 in which such licensed gaming establishment is being constructed,  
1017 repaired, maintained or operated in this state; (b) to install any  
1018 gambling device, machine or equipment in any licensed gaming  
1019 establishment; (c) to possess or control any gambling device,  
1020 machine or equipment during the process of procuring or  
1021 transporting such device, machine or equipment for installation on  
1022 any such licensed gaming establishment; or (d) to store in a  
1023 warehouse or other storage facility any gambling device, machine,  
1024 equipment, or part thereof, regardless of whether the county or  
1025 municipality in which the warehouse or storage facility is located  
1026 has approved gaming aboard cruise vessels or vessels, provided  
1027 that such device, machine or equipment is operated only in a  
1028 county or municipality that has approved gaming aboard cruise  
1029 vessels or vessels. Any gambling device, machine or equipment  
1030 that is owned, possessed, controlled, installed, procured,  
1031 repaired, transported or stored in accordance with this subsection  
1032 shall not be subject to confiscation, seizure or destruction, and  
1033 any person, firm, partnership or corporation which owns,  
1034 possesses, controls, installs, procures, repairs, transports or  
1035 stores any gambling device, machine or equipment in accordance  
1036 with this subsection shall not be subject to any prosecution or  
1037 penalty under this section. Any person constructing or repairing  
1038 such cruise vessels or vessels within a municipality shall comply



1039 with all municipal ordinances protecting the general health or  
1040 safety of the residents of the municipality.

1041         **SECTION 16.** Section 97-33-17, Mississippi Code of 1972, is  
1042 amended as follows:

1043         97-33-17. (1) All monies exhibited for the purpose of  
1044 betting or alluring persons to bet at any game, and all monies  
1045 staked or betted, shall be liable to seizure by any sheriff,  
1046 constable, or police officer, together with all the appliances  
1047 used or kept for use in gambling, or by any other person; and all  
1048 the monies so seized shall be accounted for by the person making  
1049 the seizure, and all appliances seized shall be destroyed;  
1050 provided, however, this section shall not apply to betting, gaming  
1051 or wagering on:

1052             (a) A cruise vessel as defined in Section 27-109-1  
1053 whenever such vessel is in the waters within the State of  
1054 Mississippi, which lie adjacent to the State of Mississippi south  
1055 of the three (3) most southern counties in the State of  
1056 Mississippi, including the Mississippi Sound, St. Louis Bay,  
1057 Biloxi Bay and Pascagoula Bay, and in which the registered voters  
1058 of the county in which the port is located have not voted to  
1059 prohibit such betting, gaming or wagering on cruise vessels as  
1060 provided in Section 19-3-79;

1061             (b) In a structure located in whole or in part on shore  
1062 in any of the three (3) most southern counties in the State of  
1063 Mississippi in which the registered voters of the county have



1064 voted to allow such betting, gaming or wagering on cruise vessels  
1065 as provided in Section 19-3-79, if:

1066 (i) The structure is owned, leased or controlled  
1067 by a person possessing a gaming license, as defined in Section  
1068 75-76-5, to conduct legal gaming \* \* \* at a location that was  
1069 legal for dockside gaming prior to August 29, 2005;

1070 (ii) The part of the structure in which licensed  
1071 gaming activities are conducted is located entirely in an area  
1072 which is located no more than eight hundred (800) feet from the  
1073 mean high-water line (as defined in Section 29-15-1) of the waters  
1074 within the State of Mississippi, which lie adjacent to the State  
1075 of Mississippi south of the three (3) most southern counties in  
1076 the State of Mississippi, including the Mississippi Sound, St.  
1077 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to the  
1078 Mississippi Sound at Harrison County only, no farther north than  
1079 the southern boundary of the right-of-way for U.S. Highway 90,  
1080 whichever is greater; and in determining the distance to the mean  
1081 high-water line, the following considerations apply:

1082 1. Rights-of-way and easements for public  
1083 streets and highways shall not be construed to interrupt the  
1084 contiguous nature of a parcel of property, nor shall the footage  
1085 contained within such easements and rights-of-way be counted in  
1086 the calculation of the distances specified in subparagraph (ii) of  
1087 this paragraph; and



1088                   2. An imaginary line drawn from any point  
1089 along the mean high-water line referenced and utilized pursuant to  
1090 subparagraph (ii) of this paragraph to any other point of  
1091 reference must cross only property under the exclusive use and  
1092 control of the gaming licensee or proposed licensee based on its  
1093 ownership or lease thereof, except for rights-of-way and easements  
1094 for public streets and highways; and

1095                   (iii) In the case of a structure that is located  
1096 in whole or part on shore, the part of the structure in which  
1097 licensed gaming activities are conducted shall \* \* \* be located  
1098 on:

1099                   1. Property entirely under the exclusive use  
1100 and control of the gaming licensee or proposed licensee based on  
1101 its ownership or lease thereof that extends from the gaming floor  
1102 to the mean high-water line and such land is capable of  
1103 accommodating the minimum improvement requirements set forth in  
1104 Section 75-76-67(4); and

1105                   2. The entire parcel(s) of land used to  
1106 establish the necessary ownership and/or lease and control of the  
1107 property to the mean high-water line must be immediately adjacent  
1108 to waters at a location which would have qualified as a legal  
1109 gaming site for docking a cruise vessel under paragraph (a) of  
1110 this subsection prior to August 29, 2005;

1111                   (c) A vessel as defined in Section 27-109-1 whenever  
1112 such vessel is on the Mississippi River or navigable waters within



1113 any county bordering on the Mississippi River, and in which the  
1114 registered voters of the county in which the port is located have  
1115 not voted to prohibit such betting, gaming or wagering on vessels  
1116 as provided in Section 19-3-79; or

1117 (d) That is legal under the laws of the State of  
1118 Mississippi.

1119 (2) Nothing in this section shall apply to any gambling  
1120 device, machine or equipment that is owned, possessed, controlled,  
1121 installed, procured, repaired or transported in accordance with  
1122 subsection (4) of Section 97-33-7.

1123 **SECTION 17.** Section 97-33-25, Mississippi Code of 1972, is  
1124 amended as follows:

1125 97-33-25. If any person shall sell or buy, either directly  
1126 or indirectly, any chance in what is commonly called pool, upon  
1127 any event whatever, or shall in any manner engage in such business  
1128 or pastime, he shall be fined not more than Five Hundred Dollars  
1129 (\$500.00) or shall be imprisoned in the county jail not more than  
1130 ninety (90) days; provided, however, this section shall not apply  
1131 to betting, gaming or wagering:

1132 (a) On a cruise vessel as defined in Section 27-109-1  
1133 whenever such vessel is in the waters within the State of  
1134 Mississippi, which lie adjacent to the State of Mississippi south  
1135 of the three (3) most southern counties in the State of  
1136 Mississippi, including the Mississippi Sound, St. Louis Bay,  
1137 Biloxi Bay and Pascagoula Bay, and in which the registered voters



1138 of the county in which the port is located have not voted to  
1139 prohibit such betting, gaming or wagering on cruise vessels as  
1140 provided in Section 19-3-79;

1141 (b) In a structure located in whole or in part on shore  
1142 in any of the three (3) most southern counties in the State of  
1143 Mississippi in which the registered voters of the county have  
1144 voted to allow such betting, gaming or wagering on cruise vessels  
1145 as provided in Section 19-3-79, if:

1146 (i) The structure is owned, leased or controlled  
1147 by a person possessing a gaming license, as defined in Section  
1148 75-76-5, to conduct legal gaming \* \* \* at a location that was  
1149 legal for dockside gaming prior to August 29, 2005;

1150 (ii) The part of the structure in which licensed  
1151 gaming activities are conducted is located entirely in an area  
1152 which is located no more than eight hundred (800) feet from the  
1153 mean high-water line (as defined in Section 29-15-1) of the waters  
1154 within the State of Mississippi, which lie adjacent to the State  
1155 of Mississippi south of the three (3) most southern counties in  
1156 the State of Mississippi, including the Mississippi Sound, St.  
1157 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to the  
1158 Mississippi Sound at Harrison County only, no farther north than  
1159 the southern boundary of the right-of-way for U.S. Highway 90,  
1160 whichever is greater; and in determining the distance to the mean  
1161 high-water line, the following considerations apply:



1162 1. Rights-of-way and easements for public  
1163 streets and highways shall not be construed to interrupt the  
1164 contiguous nature of a parcel of property, nor shall the footage  
1165 contained within such easements and rights-of-way be considered in  
1166 the calculation of the distances specified in subparagraph (ii) of  
1167 this paragraph; and

1168 2. An imaginary line drawn from any point  
1169 along the mean high-water line referenced and utilized pursuant to  
1170 subparagraph (ii) of this paragraph to any other point of  
1171 reference must cross only property under the exclusive use and  
1172 control of the gaming licensee or proposed licensee based on its  
1173 ownership or lease thereof, except for rights-of-way and easements  
1174 for public streets and highways; and

1175 (iii) In the case of a structure that is located  
1176 in whole or part on shore, the part of the structure in which  
1177 licensed gaming activities are conducted shall \* \* \* be located  
1178 on:

1179 1. Property entirely under the exclusive use  
1180 and control of the gaming licensee or proposed licensee based on  
1181 its ownership or lease thereof that extends from the gaming floor  
1182 to the mean high-water line and such land is capable of  
1183 accommodating the minimum improvement requirements set forth in  
1184 Section 75-76-67(4); and

1185 2. The entire parcel(s) of land used to  
1186 establish the necessary ownership and/or lease and control of the



1187 property to the mean high-water line must be immediately adjacent  
1188 to waters at a location which would have qualified as a legal  
1189 gaming site for docking a cruise vessel under paragraph (a) of  
1190 this section prior to August 29, 2005;

1191 (c) On a vessel as defined in Section 27-109-1 whenever  
1192 such vessel is on the Mississippi River or navigable waters within  
1193 any county bordering on the Mississippi River, and in which the  
1194 registered voters of the county in which the port is located have  
1195 not voted to prohibit such betting, gaming or wagering on vessels  
1196 as provided in Section 19-3-79; or

1197 (d) That is legal under the laws of the State of  
1198 Mississippi.

1199 **SECTION 18.** Section 97-33-27, Mississippi Code of 1972, is  
1200 amended as follows:

1201 97-33-27. If any person shall bet on a horse race or a yacht  
1202 race or on a shooting match, he shall be fined not more than Five  
1203 Hundred Dollars (\$500.00), and, unless the fine and costs be  
1204 immediately paid, he shall be imprisoned in the county jail not  
1205 more than ninety (90) days; provided, however, this section shall  
1206 not apply to betting, gaming or wagering:

1207 (a) On a cruise vessel as defined in Section 27-109-1  
1208 whenever such vessel is in the waters within the State of  
1209 Mississippi, which lie adjacent to the State of Mississippi south  
1210 of the three (3) most southern counties in the State of  
1211 Mississippi, including the Mississippi Sound, St. Louis Bay,





1212 Biloxi Bay and Pascagoula Bay, and in which the registered voters  
1213 of the county in which the port is located have not voted to  
1214 prohibit such betting, gaming or wagering on cruise vessels as  
1215 provided in Section 19-3-79;

1216 (b) In a structure located in whole or in part on shore  
1217 in any of the three (3) most southern counties in the State of  
1218 Mississippi in which the registered voters of the county have  
1219 voted to allow such betting, gaming or wagering on cruise vessels  
1220 as provided in Section 19-3-79, if:

1221 (i) The structure is owned, leased or controlled  
1222 by a person possessing a gaming license, as defined in Section  
1223 75-76-5, to conduct legal gaming \* \* \* at a location that was  
1224 legal for dockside gaming prior to August 29, 2005;

1225 (ii) The part of the structure in which licensed  
1226 gaming activities are conducted is located entirely in an area  
1227 which is located no more than eight hundred (800) feet from the  
1228 mean high-water line (as defined in Section 29-15-1) of the waters  
1229 within the State of Mississippi, which lie adjacent to the State  
1230 of Mississippi south of the three (3) most southern counties in  
1231 the State of Mississippi, including the Mississippi Sound, St.  
1232 Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to the  
1233 Mississippi Sound at Harrison County only, no farther north than  
1234 the southern boundary of the right-of-way for U.S. Highway 90,  
1235 whichever is greater; and in determining the distance to the mean  
1236 high-water line, the following considerations apply:



1237 1. Rights-of-way and easements for public  
1238 streets and highways shall not be construed to interrupt the  
1239 contiguous nature of a parcel of property, nor shall the footage  
1240 contained within such easements and rights-of-way be considered in  
1241 the calculation of the distances specified in subparagraph (ii) of  
1242 this paragraph; and

1243 2. An imaginary line drawn from any point  
1244 along the mean high-water line referenced and utilized pursuant to  
1245 subparagraph (ii) of this paragraph to any other point of  
1246 reference must cross only property under the exclusive use and  
1247 control of the gaming licensee or proposed licensee based on its  
1248 ownership or lease thereof, except for rights-of-way and easements  
1249 for public streets and highways; and

1250 (iii) In the case of a structure that is located  
1251 in whole or part on shore, the part of the structure in which  
1252 licensed gaming activities are conducted shall \* \* \* be located  
1253 on:

1254 1. Property entirely under the exclusive use  
1255 and control of the gaming licensee or proposed licensee based on  
1256 its ownership or lease thereof that extends from the gaming floor  
1257 to the mean high-water line and such land is capable of  
1258 accommodating the minimum improvement requirements set forth in  
1259 Section 75-76-67(4); and

1260 2. The entire parcel(s) of land used to  
1261 establish the necessary ownership and/or lease and control of the



1262 property to the mean high-water line must be immediately adjacent  
1263 to waters at a location which would have qualified as a legal  
1264 gaming site for docking a cruise vessel under paragraph (a) of  
1265 this section prior to August 29, 2005;

1266 (c) On a vessel as defined in Section 27-109-1 whenever  
1267 such vessel is on the Mississippi River or navigable waters within  
1268 any county bordering on the Mississippi River, and in which the  
1269 registered voters of the county in which the port is located have  
1270 not voted to prohibit such betting, gaming or wagering on vessels  
1271 as provided in Section 19-3-79; or

1272 (d) That is legal under the laws of the State of  
1273 Mississippi.

1274 **SECTION 19.** This act shall take effect and be in force from  
1275 and after its passage.

