

## MODERNIZING CASINO GAMING IN THE BAHAMAS\*

### I. Introduction

Casino gaming is omnipresent in many Caribbean jurisdictions, and in total there exist more than one hundred casinos on the Caribbean islands.<sup>1</sup> Although the Netherland Antilles and the Dominican Republic are the largest gaming jurisdictions in the region, with twenty-five and twenty-two casinos, respectively,<sup>2</sup> The Bahamas, with three active casino licensees<sup>3</sup> and additional casinos in the planning stage,<sup>4</sup> was previously found to be the most successful gaming jurisdiction in the Caribbean.<sup>5</sup> Visitors of Bahamian casinos appreciate the casinos' unique destination in one of the most beautiful settings,<sup>6</sup> and hence tourists—and potential casino customers—continue to come to this archipelago of 700 islands and islets.<sup>7</sup>

Casinos in the Caribbean have been around since the 1950s,<sup>8</sup> and the growth of gaming in the region makes gaming today very different from its earlier years. While in many Caribbean

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<sup>1</sup> WILLIAM N. THOMPSON, GAMBLING IN AMERICA: AN ENCYCLOPEDIA OF HISTORY, ISSUES, AND SOCIETY 38 (2001); *Caribbean Casinos and Gambling*, WORD CASINO DIRECTORY, <http://www.worldcasinodirectory.com/> (last visited May 2, 2013).

<sup>2</sup> *Id.*

<sup>3</sup> Jeffrey Todd, *MoT: Bahamas to Become 'Gaming Nation'*, NASSAU GUARDIAN, May 23, 2013, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&view=article&id=39343:mot-bahamas-to-become-gaming-nation-&catid=40:business&Itemid=2](http://www.thenassauguardian.com/index.php?option=com_content&view=article&id=39343:mot-bahamas-to-become-gaming-nation-&catid=40:business&Itemid=2). The opening of Baha Mar will bring the active licensees to four. *Id.* There are four inactive licensees, two on the Island of Grand Bahama, one on the Island of New Providence, and one on the Island of San Salvador. *Id.*

<sup>4</sup> Jeffrey Todd, *New Freeport Casino Nears Approval*, May 15, 2013, NASSAU GUARDIAN, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&view=article&id=39153:new-freeport-casino-nears-final-approval&catid=3:news&Itemid=27](http://www.thenassauguardian.com/index.php?option=com_content&view=article&id=39153:new-freeport-casino-nears-final-approval&catid=3:news&Itemid=27).

<sup>5</sup> LINCOLN H. MARSHALL & DENNIS P. RUDD, INTRODUCTION TO CASINO AND GAMING OPERATIONS 221-23 (1996).

<sup>6</sup> *Guide to Modernization of Casino Regulations in The Bahamas*, Bahamas Hotel Association Casino Committee 2 (2013) (on file with author) [hereinafter *2013 Guide*]. This Guide was submitted to the Bahamian Government by industry stakeholders. Candia Dames, *A Bad Gamble*, NASSAU GUARDIAN, Apr. 29, 2013, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&view=article&id=38646&Itemid=37](http://www.thenassauguardian.com/index.php?option=com_content&view=article&id=38646&Itemid=37).

<sup>7</sup> In fact, more than half of all tourists coming to The Bahamas are repeat visitors. See *Islands of The Bahamas*, RESEARCH AND STATISTICS DEPARTMENT MINISTRY OF TOURISM 29 (2010), available at <http://www.tourismtoday.com/home/statistics/exit-study-reports/>; *Bahamas Country Profile*, BBC NEWS, Aug. 2, 2012, available at [http://news.bbc.co.uk/2/hi/americas/country\\_profiles/1154642.stm](http://news.bbc.co.uk/2/hi/americas/country_profiles/1154642.stm).

<sup>8</sup> THOMPSON, *supra* note 1, at 38.

jurisdictions there exists lax regulatory supervision over casino gaming,<sup>9</sup> The Bahamas has enacted a Gaming Act in 1969 (“1969 Gaming Act”). However, since 1969, this Act has not been updated, which may contribute to the fact that Bahamian casino operators rank at the bottom when compared to eighty global casino operators.<sup>10</sup>

## **II. The History of Casino Gaming in The Bahamas**

Casinos have existed in The Bahamas for almost one hundred years. The first casino, the small Bahamian Club,<sup>11</sup> opened in 1920 in Nassau on New Providence Island and catered to mostly American tourists as a seasonal business.<sup>12</sup> Although prior to 1960 gaming was not significant to the economy, illegal gaming flourished, and the Bahamian Club casino was the first casino in The Bahamas to receive a license and exemption to the prohibition of gaming, in an effort to curb and regulate illegal gaming.<sup>13</sup> In 1964, the first larger casino, The Monte Carlo, opened in the Lucayan Beach Hotel on the Island of Grand Bahama.<sup>14</sup> The second casino on Grand Bahama opened in Freeport two years later.<sup>15</sup> Finally, the legislature responded and passed the 1969 Gaming Act, which remains in place today.<sup>16</sup>

During the years following the passage of the 1969 Gaming Act, casinos continued to

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<sup>9</sup> *Id.*

<sup>10</sup> Jeffrey Todd, *Casino Industry Ranks ‘at the Bottom’*, NASSAU GUARDIAN, Apr. 30, 2013, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&view=article&id=38681:casino-industry-ranks-at-the-bottom&catid=40:business&Itemid=2](http://www.thenassauguardian.com/index.php?option=com_content&view=article&id=38681:casino-industry-ranks-at-the-bottom&catid=40:business&Itemid=2) (referring to global operators being ranked based on revenue generation). To compare, casinos in Las Vegas average \$240.8 million in annual revenue, while Bahamian casinos average 48.6 million in annual revenue. Neil Hartnell, *Bahamas Casinos’ Revenue 20% Of Las Vegas Rivals*, TRIBUNE 242, Apr. 30, 2013, available at <http://www.tribune242.com/news/2013/apr/30/bahamas-casinos-revenue-20-of-las-vegas-rivals/>.

<sup>11</sup> Reno Rollins, *Bahamian Gambling Laws*, <http://onlinecasinosuite.com/gambling/bahamas/> (last visited May 3, 2013).

<sup>12</sup> INTERNATIONAL CASINO LAW 213-17 (Anthony N. Cabot et al. eds., 1999).

<sup>13</sup> WILLIAM N. THOMPSON, THE INTERNATIONAL ENCYCLOPEDIA OF GAMBLING 406 (2010) [hereinafter INTERNATIONAL ENCYCLOPEDIA]; Larry Smith, *The Very Strange World of Gambling in the Bahamas*, Aug. 8, 2012, <http://www.bahamapundit.com/2012/08/the-very-strange-world-of-gambling-in-the-bahamas.html>.

<sup>14</sup> Rollins, *supra* note 11.

<sup>15</sup> THOMPSON, *supra* note 1, at 15.

<sup>16</sup> Chapter 387, Lotteries and Gaming Act, available at [http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1969/1969-0008/LotteriesandGamingAct\\_1.pdf](http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1969/1969-0008/LotteriesandGamingAct_1.pdf) (last visited May 2, 2013).

open and close on several islands.<sup>17</sup> In part due to the growth of gaming, tourism became a dominant product of the Bahamian economy, and currently about forty percent of the workforce in The Bahamas are employed in resorts and casinos.<sup>18</sup> Unfortunately, the economic downturn also affected tourism to The Bahamas and caused the most recent closure of a casino resort in 2009, when Pinnacle Entertainment shut down its Exuma resort due to financial hardship.<sup>19</sup> Currently, the largest casino resort, not only in The Bahamas, but in the entire Caribbean region, is the Atlantis Casino on Paradise Island.<sup>20</sup>

A new casino development, the Resorts World Bimini Bay, will open in December 2013 on the Island of Bimini.<sup>21</sup> Bimini is a mere forty-eight nautical miles off the Florida coast and is the Bahamian island closest to Florida.<sup>22</sup> The Genting Group, a Malaysian company, will operate Resorts World Bimini Bay that includes a 10,000-square-foot multimillion-dollar casino.<sup>23</sup> This resort will provide economic stability to the local economy and employment to several hundred Bahamian residents.<sup>24</sup> Bimini already enjoys a seventy-nine percent repeat visitor return, and Genting is investing \$100 million to acquire a high-speed cruise ship and a jet aircraft to facilitate and increase transportation to the island.<sup>25</sup>

Baha Mar, located in a prime location on the north shore of New Providence Island, is

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<sup>17</sup> THOMPSON, *supra* note 1, at 15.

<sup>18</sup> *Id.*

<sup>19</sup> GGB Staff, *Pinnacle Writes Off, Closes Bahamas Casino*, GLOBAL GAMING BUSINESS, Jan. 30, 2009, available at [http://ggbmagazine.com/issue/vol\\_\\_8\\_no\\_\\_2\\_\\_february\\_2009/article/pinnacle\\_writes\\_off\\_closes\\_bahamas\\_casino](http://ggbmagazine.com/issue/vol__8_no__2__february_2009/article/pinnacle_writes_off_closes_bahamas_casino).

<sup>20</sup> INTERNATIONAL CASINO LAW, *supra* note 12, at 213-17; *About Atlantis*, <http://www.atlantis.com/aboutatlantis.aspx> (last visited May 4, 2013).

<sup>21</sup> GGB Staff, *Bahamas Bound*, GLOBAL GAMING BUSINESS, Oct. 24, 2012, available at <http://ggbmagazine.com/issue/vol-11-no-11-november-2012/article/bahamas-bound> [hereinafter *Bahamas Bound*].

<sup>22</sup> Elaine Walker, *Genting Group Opening Luxury Boutique Casino in Bimini*, MIAMI HERALD, June 29, 2012, available at <http://www.miamiherald.com/2012/06/29/2873648/genting-group-opening-luxury-boutique.html>.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Jeffrey Todd, *Genting Group Swallows Bimini Bay*, NASSAU GUARDIAN, Mar. 19, 2013, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&view=article&id=37893&Itemid=2](http://www.thenassauguardian.com/index.php?option=com_content&view=article&id=37893&Itemid=2).

currently one of the world's largest luxury resort projects in development.<sup>26</sup> The resort will open in December 2014 and will include a one-thousand room casino-hotel and three other hotels.<sup>27</sup> Caesars Entertainment had initially signed on to manage Baha Mar in 2007, however, it backed out, and in 2010 China's Export-Import Bank agreed to finance the \$3.5 billion development.<sup>28</sup> The fact that Baha Mar obtained financing and that new investors are attracted to The Bahamas shows that the region is emerging from the recession<sup>29</sup> and that investors are confident in the continued growth of tourism to The Bahamas.<sup>30</sup>

### **III. Modernizing the Bahamian Casino Gaming Regulations**

The Bahamian casino gaming regulations have been unchanged since 1969.<sup>31</sup> Although the 1969 Gaming Act established a Gaming Board<sup>32</sup> that oversees casinos and increases the stability of the local casino industry,<sup>33</sup> today, the 1969 Gaming Act's references to coin hoppers, slot machine handles, and a secured-credit-only policy<sup>34</sup> show that The Bahamas lost traction compared to the advanced legislation of other gaming jurisdictions.

Given the global expansion of casino gaming, interest groups have recently launched a public- and private-sector effort to modernize The Bahamas' casino gaming laws and regulations.<sup>35</sup> These interest groups are strategically lobbying to exert leverage upon the

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<sup>26</sup> Gay Nagle Myers, *Baha Mar Megaresort Project Taking Shape in The Bahamas*, TRAVEL WEEKLY, Jan. 29, 2013, available at <http://www.travelweekly.com/Travel-News/Hotel-News/Baha-Mar-megaresort-project-taking-shape-in-the-Bahamas/>.

<sup>27</sup> *Id.*; Howard Stutz, *Bahamian Resort on Fast Forward*, LAS VEGAS REV. J., Jan. 2, 2013, available at <http://www.reviewjournal.com/business/casinos-gaming/bahamian-resort-fast-forward>.

<sup>28</sup> *Id.*

<sup>29</sup> MARSHALL & RUDD, *supra* note 5, at 221-23.

<sup>30</sup> *Bahamas Bound*, *supra* note 21.

<sup>31</sup> Neil Hartnell, *Casino Reform Vital To Driving 9,000 Potential New Jobs*, 242 TRIBUNE, Feb. 5, 2013, available at <http://www.tribune242.com/news/2013/feb/05/casino-reform-vital-to-driving-9000-potential-new/>.

<sup>32</sup> See Chapter 387, Lotteries and Gaming Act, *supra* note 16, at 5.

<sup>33</sup> See MARSHALL & RUDD, *supra* note 5, at 221-23.

<sup>34</sup> Email from Uri Clinton, Senior Vice President & General Counsel Baha Mar Ltd., to author (Apr. 18, 2013) (on file with author).

<sup>35</sup> Email from Piper Overstreet, Principal at Piper Overstreet Consulting, to author (Mar. 19, 2013) (on file with author). Piper Overstreet is one of the consultants and lobbyists working on the modernized casino regulations.

Bahamian Legislature,<sup>36</sup> and they proposed eighteen recommendations to modernize the 1969 Gaming Act (“modernized casino regulations”).<sup>37</sup> Their supporters credit the modernized casino regulations with the potential to transform The Bahamas to be a premier gaming destination, while maintaining a well-regulated industry and protecting local residents.<sup>38</sup> The modernized casino regulations were scheduled to be brought to the Bahamian Parliament in March 2013, but when this article was submitted in August 2013, the modernization has not been passed.<sup>39</sup>

Modernizing the Bahamian casino regulations will be essential to The Bahamas remaining competitive as a gaming jurisdiction in the long term.<sup>40</sup> Besides the competition from casinos within the Caribbean,<sup>41</sup> gaming recently expanded around the world so The Bahamas is forced to modernize in order to keep pace.<sup>42</sup> In fact, The Bahamas’ Gaming Board is concerned about increasing competition and seeks to ensure The Bahamas is as competitive as nearby jurisdictions.<sup>43</sup> However, the expansion of major gaming resort markets has been slowing in the United States, no new megaresorts are scheduled to open in the near future in Las Vegas or Atlantic City, and the Florida casino referendum has failed for the fourth time in 2012.<sup>44</sup> Hence, Bahamian casino operators could capitalize on the excitement surrounding the opening of Baha Mar in 2014, and the more revenue-oriented modernized casino regulations could facilitate the

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<sup>36</sup> Stephen J. Leacock, *Lotteries and Public Policy in American Law*, 46 J. MARSHALL L. REV. 37, 53 (2012).

<sup>37</sup> Natario McKenzie, *Casino Gaming ‘Fundamental’ For Tourism*, 242 TRIBUNE, May 1, 2013, available at <http://www.tribune242.com/news/2013/may/01/casino-gaming-fundamental-for-tourism/>.

<sup>38</sup> Dames, *supra* note 6.

<sup>39</sup> *See id.* In July 2013, local Bahamian newspapers reported that the modernized regulations will be presented to the Parliament before the end of the summer. Taneka Thompson, *Gaming Bill to be Tabled Before End of Summer*, THE FREEPORT NEWS, July 6, 2013, available at [http://freeport.nassauguardian.net/national\\_local/343844132898959.php](http://freeport.nassauguardian.net/national_local/343844132898959.php).

<sup>40</sup> *Bahamas Bound*, *supra* note 21.

<sup>41</sup> MARSHALL & RUDD, *supra* note 5, at 221-23.

<sup>42</sup> Hartnell, *supra* note 31.

<sup>43</sup> Taneka Thompson, *Rollins: Gaming Reform Laws Expected by Spring 2013*, NASSAU GUARDIAN, Oct. 22, 2012, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&view=article&id=34863&Itemid=27](http://www.thenassauguardian.com/index.php?option=com_content&view=article&id=34863&Itemid=27) [hereinafter *Thompson Gaming Reform*].

<sup>44</sup> Email from Piper Overstreet, *supra* note 35.

long-term success of gaming and could directly affect the local economy.<sup>45</sup>

#### A. Components of the Modernized Casino Regulations

The components of the modernized casino regulations are similar to the regulations of other large gaming jurisdictions such as Nevada.<sup>46</sup>

Accordingly, the modernized casino regulations would liberalize The Bahamas' existing scheme of casino credit, protect operators so they can recoup money from customers who played on credit, and therewith increase casino revenues.<sup>47</sup> This liberalization of credit would allow credit card payment for chips and allow non-secured credit to be granted by the casino cage, marketing host, and junket promoters.<sup>48</sup> Many other jurisdictions, such as Singapore, Macau, and Las Vegas, have more generous credit policies than The Bahamas under the 1969 Gaming Act.<sup>49</sup> Because credit-based play accounts for a large percentage of profits for the most successful casinos in other jurisdictions,<sup>50</sup> liberalizing the grant of credit would likely result in increased gaming revenues for Bahamian casinos.

Additionally, under the modernized casino regulations, Bahamian casinos could attract more customers with top of the line gaming equipment. The modernized casino regulations would allow an exemption of any government imposed tax, duty, or fee when importing gaming equipment,<sup>51</sup> while currently there is a one hundred percent duty on importing gaming equipment.<sup>52</sup> The older machines in Bahamian casinos likely have a negative impact on slot win; in fact, slot win for Bahamian casinos is less than half of the slot win in Las Vegas and Atlantic

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<sup>45</sup> Hartnell, *supra* note 31.

<sup>46</sup> See Stutz, *supra* note 28.

<sup>47</sup> Thompson Gaming Reform, *supra* note 43.

<sup>48</sup> 2013 Guide, *supra* note 6, at 7.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at 10.

<sup>52</sup> INTERNATIONAL CASINO LAW, *supra* note 12, at 213-17.

City.<sup>53</sup> Under the 1969 Gaming Act, it has been difficult and expensive for casino operators to replace unprofitable games.<sup>54</sup> However, customers demand the newest machines<sup>55</sup> and thus facilitating the replacement of outdated equipment is key for Bahamian casinos to remain competitive.<sup>56</sup>

Furthermore, the modernized casino regulations would provide for speedy Gaming Board approval of devices sold by approved manufacturers.<sup>57</sup> This process aims to guarantee that the devices meet technical standards as approved by the Board and that the devices are tested by approved gaming labs.<sup>58</sup> Hence, casino operators would benefit from a more streamlined approval process and would receive new equipment more timely, while the Bahamian Gaming Board maintains regulatory oversight.<sup>59</sup> Speedy approval would also be facilitated by the proposed independent testing labs,<sup>60</sup> which would conduct independent semiannual inspections of approved manufacturers and adopt specific technical standards.<sup>61</sup>

Finally, the modernized casino regulations would allow for field trials of new slot machines.<sup>62</sup> This would permit casinos to test new machines for up to 180 days prior to receipt of certification from the testing lab and receipt of Gaming Board approval.<sup>63</sup> Gaming manufacturers could unveil new games in The Bahamas, and casino operators could measure the profitability of a slot machine before buying a new game.<sup>64</sup> The Bahamas would enjoy a competitive advantage over other gaming jurisdictions if customers could play on slot machines in Bahamian casinos

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<sup>53</sup> *2013 Guide*, *supra* note 6, at 10.

<sup>54</sup> *Id.*

<sup>55</sup> See Frank Legato, *Future Slots 2013*, CASINOCENTER, available at <http://www.casinocenter.com/future-slots-2013/> (last visited May 2, 2013).

<sup>56</sup> *2013 Guide*, *supra* note 6, at 10.

<sup>57</sup> *Id.* at 16.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 14.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.* at 17.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

that are not yet available elsewhere.<sup>65</sup> Indeed, slot machines are very important to casino-goers because fifty-three percent of casino patrons favor slot machines and video poker over other games.<sup>66</sup> Therefore, facilitating the introduction of new slot machines and the replacement of older machines would offer customers a more Las Vegas-like experience and would directly contribute to keeping The Bahamas competitive with other gaming jurisdictions.<sup>67</sup>

#### B. The Modernized Casino Regulations Facilitate the Long-Term Success of Casino Gaming in The Bahamas

The majority of the about four million tourists visiting The Bahamas each year is from the United States.<sup>68</sup> However, during the last couple of years, commercial casinos became available for U.S. population throughout the country.<sup>69</sup> Although the Bahamian economy has been affected by the United States' economic downturn,<sup>70</sup> the provisions of the modernization will be critical to continue to attract U.S. customers in the first place and to drive growing occupancy levels from U.S. and other international customers.<sup>71</sup>

One of the challenges impeding long-term success of gaming in The Bahamas is the high cost to travel to The Bahamas and seasonal tourist patronage.<sup>72</sup> Hence, The Bahamas must offer an extraordinary experience in addition to casino gaming that customers can enjoy closer to home. Although only twenty percent of tourists visited The Bahamas to gamble, two-thirds of the

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<sup>65</sup> *Id.*

<sup>66</sup> *State of the States*, AMERICAN GAMING ASSOCIATION 29 (2012), available at [http://www.americangaming.org/sites/default/files/uploads/docs/sos/aga\\_sos\\_2012\\_web.pdf](http://www.americangaming.org/sites/default/files/uploads/docs/sos/aga_sos_2012_web.pdf).

<sup>67</sup> See Stutz, *supra* note 28. In fact, the President of Kerzner, owner of the Atlantis, stated that his customers “tend to want to play the newest versions of whatever is out there.” Andrew Knowles, *Atlantis Not Opposed To Casino Gambling For Locals*, BAHAMA JOURNAL, July 17, 2012, available at <http://jonesbahamas.com/atlantis-not-opposed-to-casino-gambling-for-locals/>.

<sup>68</sup> *U.S. Relations with The Bahamas*, U.S. DEPARTMENT OF STATE, Jan. 14, 2013, available at <http://www.state.gov/r/pa/ei/bgn/1857.htm>.

<sup>69</sup> *The Economic Impact of the Commercial Casino Industry*, AMERICAN GAMING ASSOCIATION 29 (2010), available at <http://www.americangaming.org/industry-resources/beyond-the-casino-floor/the-economic-impact-of-the-commercial-casino-industry>.

<sup>70</sup> *Bahamas Bound*, *supra* note 21.

<sup>71</sup> Hartnell, *supra* note 31.

<sup>72</sup> MARSHALL & RUDD, *supra* note 5, at 221-23.

tourists actually did some gambling.<sup>73</sup> Nevertheless, at existing revenue and visitation levels, it is a financial challenge for Bahamian casino operators to attract headliners,<sup>74</sup> and it may currently be too expensive to compete with other attractions that U.S. customers can find closer to home.<sup>75</sup>

Gaming industry experts recommend several measures to remove these impediments on the success of gaming in The Bahamas, and the modernized casino regulations could be key to implement these measures. First, operators seeking to hold gaming tournaments have been disadvantaged by the Bahamian geography and have often held these tournaments during the winter to attract customers by leveraging the warm weather.<sup>76</sup> However, given the popularity of slot machines<sup>77</sup> and that the modernized casino regulations would enable Bahamian Casino operators to test and purchase the newest machines, tournaments on these machines could become a major and year-round draw for customers. Therefore, these tournaments could be a competitive advantage to overcome the hurdle of increased competition within the United States, especially during off-season.<sup>78</sup>

Additionally, The Bahamas must focus on marketing itself as a gaming destination to VIP players. Bahamian casinos must develop a strategy to track a player's comp potential with a player card or other identification<sup>79</sup> and VIP clubs could keep such information on high-value players and provide players with updates on upcoming events.<sup>80</sup> The modernized casino regulations suggest several measures that cater directly to VIP players and would permit casinos to create separate areas for VIP players to ensure privacy, but also allow VIP and regular players

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<sup>73</sup> *Id.*

<sup>74</sup> INTERNATIONAL CASINO LAW, *supra* note 12, at 213-17.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *See supra* text accompanying note 67.

<sup>78</sup> INTERNATIONAL CASINO LAW, *supra* note 12, at 213-17.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

to gamble at the pool, beach, or on phones and tablets.<sup>81</sup> Thus, these unique offers may be key to attract more high-spending players.

Furthermore, the modernized casino regulations' provisions for a well-organized junket system could not only facilitate to establish VIP clubs, but a junket system is also crucial to attract VIP customers to The Bahamas in the first place.<sup>82</sup> The modernized casino regulations would redefine junkets and require an aggregate value of \$100,000 or more per group of twenty players.<sup>83</sup> The junkets would also be allowed to grant and enforce casino gaming debt on behalf of a casino licensee.<sup>84</sup> Hence, this redefined system would provide Bahamian casino operators access to profitable VIP players around the world and provide incentives to the best players, in contrast to the current system that defines junket as eight or more people with a total cost of \$250 per person—which no longer reflects the cost of doing business.<sup>85</sup> Also, the modernized system would reduce the risks for casino licensees,<sup>86</sup> and thus may positively impact the revenues of current casinos and facilitate an expansion of new casino operators into The Bahamas in the long term.

The interactive and mobile gaming provisions of the modernized casino regulations would be important factors in differentiating The Bahamas from other gaming jurisdictions. The modernized casino regulations would authorize licensees that are part of a resort hotel to operate remote wagering and proxy wagering systems.<sup>87</sup> First, remote wagering would allow people outside The Bahamas to gamble on a website that is established, maintained, and operated by the

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<sup>81</sup> *Thompson Gaming Reform*, *supra* note 43.

<sup>82</sup> INTERNATIONAL CASINO LAW, *supra* note 12, at 213-17.

<sup>83</sup> *2013 Guide*, *supra* note 6, at 15.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* at 11-12.

holder of a Bahamian gaming license.<sup>88</sup> Hence, this would establish criteria for a mobile gaming device and a wireless gaming system to include the conduct of gambling through communications devices operated solely within a licensed casino.<sup>89</sup> In April 2013, the Bahamian government permitted the Atlantis casino to introduce mobile gaming in a “test period,” however, to continue to offer mobile gaming, the Atlantis must apply for an appropriate license once the modernized casino regulations are passed.<sup>90</sup> Although some jurisdictions such as Nevada allow casinos to deploy platforms on mobile devices and already permit mobile gaming, mobile gaming would still create a competitive advantage in The Bahamas because nearby jurisdictions, such Florida and New Jersey, do not allow it.<sup>91</sup> Second, proxy wagering would allow a remote bettor to participate in a casino game through a proxy, another person, acting as a representative who is present to place a bet before a live dealer in a Bahamian casino.<sup>92</sup> So far, proxy wagering likely exists only in the Philippines.<sup>93</sup> Nevertheless, proxy and remote wagering systems would mitigate the seasonality of the resort business because they provide a competitive advantage and would have the prospect to increase gaming volume and associated revenues overall.<sup>94</sup>

Finally, the modernized casino regulations would allow for sports betting that is prohibited by the Professional and Amateur Sports Protection Act (“PASPA”) in most gaming jurisdictions in the United States.<sup>95</sup> PASPA includes an exception for states that operated some form of sports wagering scheme between 1976 and 1990, and Nevada is the only state where it is

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<sup>88</sup> See Dames, *supra* note 6.

<sup>89</sup> 2013 Guide, *supra* note 6, at 11-12.

<sup>90</sup> See Dames, *supra* note 6; Jeffrey Todd, *Mobile Gaming Starts Monday*, NASSAU GUARDIAN, Apr 26, 2013, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&id=38619&Itemid=27](http://www.thenassauguardian.com/index.php?option=com_content&id=38619&Itemid=27).

<sup>91</sup> 2013 Guide, *supra* note 6, at 11-12.

<sup>92</sup> Katrina L. Nepomuceno, *Philippines Proxy Betting*, 14 GAMING L. REV. AND ECON. 673, 673 (2010).

<sup>93</sup> *Id.* A thorough literature review revealed that the Philippines may be the only gaming jurisdiction that legalized proxy wagering.

<sup>94</sup> 2013 Guide, *supra* note 6, at 11-12.

<sup>95</sup> Professional and Amateur Sports Protection Act, 28 U.S.C. §§ 3701-3704 (2006).

legal to wager on a full complement of sporting events and leagues, while Oregon, Montana, and Delaware were granted more limited exceptions.<sup>96</sup> Because of PASPA, none of the other regional gaming jurisdictions offer sports book betting or in-play sports betting, and hence The Bahamas could enjoy another competitive advantage.<sup>97</sup> Bahamian casinos or their partners would be allowed to accept wagers on an event after a game has started and remains underway, and use new wagering technologies.<sup>98</sup> Specifically, in Nevada, \$2.8 billion were wagered on sports betting in 2011, resulting in gross revenue of \$141 million.<sup>99</sup> Therefore, sports betting would create major year-round opportunities to increase tourism and the resulting economic activity.<sup>100</sup>

### C. The Modernized Casino Regulations Lead to Economic Benefits

The Bahamas is one of the wealthiest Caribbean countries, but its economy is heavily dependent on tourism. Tourism, together with tourism-driven construction and manufacturing, accounts for approximately sixty percent of the country's gross domestic product and directly or indirectly employs half of the country's labor force.<sup>101</sup> Prior to 2006, a steady growth in tourism receipts and a boom in the construction of new hotels, resorts, and residences led to solid growth, but since then tourism receipts have begun to drop off.<sup>102</sup>

The debate on both sides of any discussion on gambling generally boils down to financial

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<sup>96</sup> See Michael Levinson, *A Sure Bet: Why New Jersey Would Benefit from Legalized Sports Wagering*, 13 SPORTS LAW. J. 143, 146 (2006).

<sup>97</sup> *2013 Guide*, *supra* note 6, at 13. For instance, New Jersey failed to establish any sports wagering scheme between 1976 and 1990, and PASPA prevents New Jersey from establishing any such scheme today. See 28 U.S.C. § 3704(a)(3). Hence, New Jersey's gaming industry has already experienced large declines in revenue caused in part by the recent expansion of gaming into nearby states. Chris Herring, *Neighbors Raise Stakes on New Jersey*, WALL ST. J., June 21, 2010, at A26.

<sup>98</sup> *2013 Guide*, *supra* note 6, at 13.

<sup>99</sup> See *State of the States*, *supra* note 66, at 33.

<sup>100</sup> *2013 Guide*, *supra* note 6, at 13; Neil Hartnell, *\$6m Atlantis Sports Betting Facility In September Opening*, TRIBUNE 242, Apr. 30, 2013, available at <http://www.tribune242.com/news/2013/apr/30/6m-atlantis-sports-betting-facility-in-september/>.

<sup>101</sup> *The World Factbook: The Bahamas*, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/bf.html> (last visited May 5, 2013).

<sup>102</sup> *Id.*

concerns<sup>103</sup> and The Bahamas' Gaming Board has realized the potential to increase gaming revenues with the new legislation.<sup>104</sup> Modernizing the Bahamian casino regulations and thereby facilitating an expansion of gaming in The Bahamas brings along significant economic benefits. When considering the economic impact of gaming in The Bahamas, it is challenging to see how critics of modernizing and expanding gaming do not appreciate its positive overall economic result.<sup>105</sup>

In general, a more licensee-friendly environment under the modernized casino regulations would likely attract other casino operators to The Bahamas in the long term. Although the Bahamian government has no immediate plans to grant new gaming licenses to operators,<sup>106</sup> the government stated that The Bahamas could support eight active licenses—more than double the status quo.<sup>107</sup> Frequently, the first economic concern related to casino gaming is the negative impact on local businesses in close proximity to a newly-opened casino.<sup>108</sup> However, not only does an objective analysis rebut the concern that when a casino opens, the profits and financial stability of neighboring businesses decrease,<sup>109</sup> but also, even under the modernized casino regulations, Bahamian casinos are exclusively located in resorts that are not direct competitors of local businesses.

What sets the Bahamas apart from the standard criticisms against the gainful economic advantages of expanding casino gaming is the significant commerce already generated from

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<sup>103</sup> Ronald Neroda, *A Winner for the Windy City: A Comment in Support of Establishing A Land-Based Casino in the City of Chicago*, 40 J. MARSHALL L. REV. 1391, 1401 (2007).

<sup>104</sup> *Thompson Gaming Reform*, *supra* note 43; *2013 Guide*, *supra* note 6, at 10.

<sup>105</sup> *See* Neroda, *supra* note 103 at 1402-03.

<sup>106</sup> Krystel Rolle, *Bahamians to Apply for Casino License*, NASSAU GUARDIAN, May 3, 2013, *available at* [http://www.thenassauguardian.com/index.php?option=com\\_content&id=38769&Itemid=27](http://www.thenassauguardian.com/index.php?option=com_content&id=38769&Itemid=27). However, the government is currently in the early stages of evaluating the application for a casino license of a group of Bahamian citizens. *Id.*

<sup>107</sup> *See* Todd, *supra* note 3.

<sup>108</sup> *See* Neroda, *supra* note 103, at 1403-04.

<sup>109</sup> *Id.*

gaming and tourism in The Bahamas. The Bahamas' established tourism base will catalyze a synergistic and long-term growth and expansion of the gaming industry under the modernized casino regulations.<sup>110</sup> Furthermore, The Bahamian government could enjoy increased tax revenue from more than two million annual cruise ship passengers in Nassau,<sup>111</sup> which could be attracted to the casinos, especially because cruise ships' slot machines are generally outdated.<sup>112</sup> Also, more exciting gaming options could attract more of the 422 million population living within 1,500 miles.<sup>113</sup>

The modernized casino regulations could help casinos' ailing revenues<sup>114</sup> in several areas. First, the modernization will likely increase the occupancy in hotels and resorts. Local industry experts opined that given the average annual occupancy rates of Bahamian resorts are in the high sixty to low seventy percent, a ten to twenty percentage point resort occupancy rate increase, once the modernized regulations are in place, is not unrealistic.<sup>115</sup> Additionally, permitting the placement of bets via cell phones and sports wagering during sports games would attract more casino players and increase revenues.<sup>116</sup> Estimates on the economic impact of allowing mobile gaming in The Bahamas found that a \$250 million boost to the economy will occur by additional tourists coming to the islands to experience mobile gaming.<sup>117</sup> Also, other gaming jurisdictions, such as Macau and Singapore, report that seventy percent and fifty percent

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<sup>110</sup> *Id.* at 1405.

<sup>111</sup> SOUTH AMERICA, CENTRAL AMERICA AND THE CARIBBEAN: 2002 117 (10th ed., Europa Publ'n. ed., 2002).

<sup>112</sup> Patron reviews on cruise ship slot machines indicate that slots on cruise ships are a "little on the older side" and include "old fashioned 'reel' slots." See, e.g., *Slot Machines Forum: Cruise Ship Slots*, <http://www.slotmachinesforum.com/archive/index.php/t-7239.html> (last visited May 5, 2013).

<sup>113</sup> Email from Piper Overstreet, *supra* note 35.

<sup>114</sup> *Should Cayman Follow the Bahamas on Gambling?*, CAYMAN ISLANDS J., Feb. 6, 2013, available at <http://www.compasscayman.com/journal/2013/02/06/Should-Cayman-follow-the-Bahamas-on-gambling/> [hereinafter *Cayman Follow The Bahamas*].

<sup>115</sup> Hartnell, *supra* note 31.

<sup>116</sup> *Id.*

<sup>117</sup> *Angry Numbers Men Throw 'Last Party' on Boat*, THE PUNCH, Apr. 29, 2013.

of gross gaming revenue, respectively, are from VIP suites.<sup>118</sup> Because the modernized casino regulations would provide for VIP gaming suites and salons to cater to the comfort and privacy needs of highspending casino players,<sup>119</sup> implementing these measures would likely result in an increase in gaming revenue from VIP players.

Further, the modernization of casino regulations would allow for streamlined enforcement of all debts incurred by gaming activities at a licenses casino.<sup>120</sup> The modernization expedites the process by which casinos can collect debt from patrons once they leave the jurisdiction.<sup>121</sup> Additionally, the modernization establishes new procedures to resolve disputes with patrons.<sup>122</sup> Previously, Bahamian casino operators faced challenges to collect debt,<sup>123</sup> which resulted in uncertainty and lost revenues for operators, however, the modernization may facilitate operators' collection efforts.

New casinos may even attract other tourists, who are not coming to The Bahamas to gamble. In fact, gaming destinations still attract non-gambling tourists because casino operators usually hedged their bets against those who oppose gaming by providing an abundance of dining, art, and entertainment options.<sup>124</sup> For instance, Baha Mar will support local artists by displaying their works and possibly raising tourists' interest to purchase Bahamian art.<sup>125</sup> This may not only attract tourists interested in art, but also, guests interested in art may visit locally-owned attractions in the area of the casino property, which may translate into revenue potential for local

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<sup>118</sup> 2013 Guide, *supra* note 6, at 6.

<sup>119</sup> See *supra* text accompanying note 79-81.

<sup>120</sup> 2013 Guide, *supra* note 6, at 9.

<sup>121</sup> See *id.*

<sup>122</sup> See *id.*

<sup>123</sup> See, e.g., *Carnival Leisure Indus., Ltd. v. Aubin*, 938 F.2d 624 (5th Cir. 1991) (holding that Texas public policy prevents enforcement of gambler's debts to two Bahamian casinos); *Froug v. Carnival Leisure Indus., Ltd.*, 627 So. 2d 538 (Fla. Dist. Ct. App. 1993) (holding that a Bahamian casino could not bring action in Florida court to collect legally incurred gambling debt).

<sup>124</sup> See Neroda, *supra* note 103 at 1408; *Cayman Follow The Bahamas*, *supra* note 114.

<sup>125</sup> Kara Cutruzzula, *Art, on Island Time: How long before a Bahamas Biennale?*, NEWSWEEK, Mar. 1, 2013, at 161.

businesses.<sup>126</sup>

Gaming in The Bahamas has always been an amenity; however, an expansion facilitated by the modernized casino regulations could transform The Bahamas into an international gaming destination.<sup>127</sup> Just as Las Vegas resorts aim to be “destination properties”<sup>128</sup> with high quality casinos, Bahamian resorts can become “destination properties,”<sup>129</sup> especially considering the significant unmet and geographically close demand for gaming, for instance from Latin America. Further, improving access to Bahamian casinos for tourists from China can significantly increase revenues.<sup>130</sup> China built a larger embassy in 2011 in Nassau that symbolizes a “mutually beneficial future,”<sup>131</sup> and there have been discussions about simplifying some of the visa restrictions on Chinese citizens travelling to The Bahamas.<sup>132</sup> Hence, strategies to market The Bahamas as a gaming destination to these countries, such as announcing Baha Mar’s partnership with Global Gaming Asset Management at a public event in Macau,<sup>133</sup> and increasing the airlift to The Bahamas may result in economic benefits that could be reinvested elsewhere to benefit the Bahamian population.

Modernizing casino regulations in The Bahamas directly increases employment opportunities for Bahamian citizens and permanent residents. Although Bahamian citizens are not allowed to gamble in casinos under the 1969 Gaming Act and would not be allowed to

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<sup>126</sup> See *State of the States*, *supra* note 66, at 31.

<sup>127</sup> Paul G. Turnquest, *Baha Mar ‘to Make Bahamas Stronger’*, TRIBUNE 242, May 23, 2013, available at <http://www.tribune242.com/news/2013/may/23/baha-mar-make-bahamas-stronger/>.

<sup>128</sup> A destination property is a resort that provides the guest with so many options that there is no reason for that person to leave the property. Cory Aronovitz, *The Regulation of Commercial Gaming*, 5 CHAP. L. REV. 181, 187 (2002).

<sup>129</sup> See Neroda, *supra* note 103, at 1405-06.

<sup>130</sup> Email from Piper Overstreet, *supra* note 35.

<sup>131</sup> Lindsay Thompson, *China to Build Embassy to Further Strengthen Ties*, BAHAMAS WEEKLY, Feb. 22, 2011, available at [http://www.thebahamasweekly.com/publish/bis-news-updates/China\\_to\\_build\\_embassy\\_to\\_further\\_strengthen\\_ties14583.shtml](http://www.thebahamasweekly.com/publish/bis-news-updates/China_to_build_embassy_to_further_strengthen_ties14583.shtml).

<sup>132</sup> Chester Robards, *More Chinese investment in The Bahamas*, CARIBBEAN NEWS NOW, Sep. 13, 2011, available at <http://www.caribbeannewsnow.com/topstory-More-Chinese-investment-in-The-Bahamas-7807.html>.

<sup>133</sup> Jeffrey Todd, *Baha Mar Announces Casino Partner*, NASSAU GUARDIAN, May 22, 2013, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&view=article&id=39306&Itemid=27](http://www.thenassauguardian.com/index.php?option=com_content&view=article&id=39306&Itemid=27).

gamble under the modernized casino regulations,<sup>134</sup> these individuals and any other Bahamian residents already take advantage of the significant number of jobs offered by the gaming and resort industry. For instance, the Atlantis resort employs a staff of 6,500 and is the largest private sector employer on the islands.<sup>135</sup> Statistics demonstrate the large number of jobs that could be created by realistic increases in visitation once the modernized casino regulations have been passed. First, an industry-wide ten percentage point rise in resort occupancy levels would create 9,000 additional jobs.<sup>136</sup> Fifty percent of those jobs would be direct jobs in the hotels and gaming sector, and fifty percent would be indirect jobs.<sup>137</sup> Second, every one hundred additional stopover visitors to The Bahamas were estimated to create twelve jobs.<sup>138</sup> Thus, the employment generated for the local construction, transportation, and retail industry could be significant.<sup>139</sup>

Specifically the Baha Mar project, a supporter of the modernized casino regulations, will raise the average annual income of a Bahamian family.<sup>140</sup> Although critics contend that the Bahamian people will not benefit to the fullest extent from Baha Mar during the construction phase because it is built by Chinese workers who live in purpose-built accommodations, the project will employ around seven to eight thousand people upon completion—thousands of which are Bahamian citizens and permanent residents.<sup>141</sup> Further, the project also provides an opportunity for highly skilled jobs for Bahamian people<sup>142</sup> and therewith supports the government’s quest for a “Bahamianisation” of employers, meaning to recruit talented

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<sup>134</sup> See Dames, *supra* note 6; see *infra* text accompanying notes 173-79.

<sup>135</sup> *Cayman Follow The Bahamas*, *supra* note 114.

<sup>136</sup> Hartnell, *supra* note 31.

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> See Llonella Gilbert, *Prime Minister Christie Praises Atlantis for Its Contributions to the Country’s Economy*, BAHAMAS WEEKLY, Mar. 20, 2013, available at [http://www.thebahamasweekly.com/publish/bis-news-updates/Prime\\_Minister\\_Christie\\_praises\\_Atlantis\\_for\\_its\\_contributions\\_to\\_the\\_country\\_s\\_economy27329.shtml](http://www.thebahamasweekly.com/publish/bis-news-updates/Prime_Minister_Christie_praises_Atlantis_for_its_contributions_to_the_country_s_economy27329.shtml).

<sup>140</sup> *Bahamas Bound*, *supra* note 21.

<sup>141</sup> *Id.*; Neil Hartnell, *Realtor Recovers 50% of Lost Sales*, TRIBUNE 242, Apr. 29, 2013, available at <http://www.tribune242.com/news/2013/apr/29/realtor-recovers-50-of-lost-sales/>.

<sup>142</sup> Hartnell, *supra* note 31.

Bahamians in various positions throughout an organization.<sup>143</sup> The modernized casino regulations propose a dual rating of employees that ensures training and advancement for workers and that will hence create a qualified pool of Bahamian workers with a clear career path.<sup>144</sup> Further, the operator of Baha Mar will even establish a facility to train service and casino workers,<sup>145</sup> and other employers may follow. Such training facilities may alleviate some of the concerns about high unemployment amongst young Bahamian citizens.<sup>146</sup>

The modernized casino regulations combined with a favorable tax environment for casino operators may increase tax revenue for the Bahamian government. Gaming jurisdictions permit commercial gaming primarily in order to increase tax revenue, as the industry in general is subject to high rates of taxation.<sup>147</sup> However, The Bahamas uses a reverse progressive taxation system to encourage casinos to promote tourism, and casinos with higher gross casino winnings pay a lower percentage in taxes on winnings over a certain amount.<sup>148</sup> Although gaming taxes in The Bahamas are lower than in other gaming jurisdictions,<sup>149</sup> the revenue from these taxes still has a trickle-down effect to benefit the local population. In the long term, the favorable tax for casino operators and the modernized casino regulations will create a competitive advantage for The Bahamas to attract new casino operators and will likely result in more casinos opening. The

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<sup>143</sup> *Immigration Policy Hurting Tourism Investment*, TRIBUNE 242, Apr. 26, 2013, available at <http://www.tribune242.com/news/2013/apr/26/immigration-policy-hurting-tourism-investment/?opinion>.

<sup>144</sup> *2013 Guide*, *supra* note 6, at 5.

<sup>145</sup> *Bahamas Bound*, *supra* note 21.

<sup>146</sup> *Unemployed Young Bahamian Questions Atlantis Decision to Fill Positions with Foreign Nationals*, BAHAMAS PRESS, Apr. 25, 2013, available at <http://www.bahamaspress.com/2013/04/25/unemployed-young-bahamian-questions-atlantis-decision-to-fill-positions-with-foreign-nationals/#comment-229864>.

<sup>147</sup> See Eric B. Becker, *Slots in the City: A Critical Look at the Balance of Decision-Making Power in Gaming Legislation*, 35 FORDHAM URB. L.J. 1033, 1050 (2008).

<sup>148</sup> INTERNATIONAL ENCYCLOPEDIA, *supra* note 13, at 406; see also *Bahamas Casino Taxation Act*, available at [http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1967/1967-0036/CasinoTaxationAct\\_1.pdf](http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1967/1967-0036/CasinoTaxationAct_1.pdf) (last visited May 5, 2013). For instance, gross winnings over \$20 million are taxed at five percent, while gross winnings of up to \$10 million are taxed at twenty-five percent. *Id.*

<sup>149</sup> The tax rate is 28.5% of gross gaming revenue. INTERNATIONAL CASINO LAW, *supra* note 12, at 213-17. The gaming tax rate is highly competitive compared to jurisdictions such as Massachusetts and Pennsylvania, and The Bahamas also do not have a corporate business tax. See Email from Piper Overstreet, *supra* note 35.

increase in tax revenue, such as the estimated \$5.3 billion in tax revenue from Baha Mar over the next twenty-five years, will help Bahamian community leaders to undertake projects that would otherwise not have been possible.<sup>150</sup>

The Bahamas already has the prerequisites in place to enjoy the economic benefits of expanded casino gaming. The country is centrally located and hence provides access to visitors from North America, Latin America, the United Kingdom, and Europe.<sup>151</sup> Also, the Bahamian government is committed to develop the necessary infrastructure to support the expansion of gaming and tourism in general. The government and several investors spent \$409 million on the expansion of Lynden Pindling International Airport, which will increase annual airlift by about fifty percent to five million passengers by 2013.<sup>152</sup> Because the airport expansion was debt financed, the government and investors have an interest in increasing air travel, considering the primary source of revenue for the airport is passenger fees.<sup>153</sup> In fact, direct flights from Atlanta, Philadelphia, Washington, D.C., New York, Dallas, and North Carolina have been added to land in The Bahamas,<sup>154</sup> and this increased supply will likely make airlift more affordable. As far as travel to the Island of Bimini is concerned, Genting will set up a ferry to transport tourists from Florida to its resort.<sup>155</sup> Finally, because the Bahamian Dollar is pegged to the U.S. dollar and the U.S. currency is accepted in all transactions, tourists and casino operators face no or limited currency exchange problems.<sup>156</sup>

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<sup>150</sup> See *State of the States*, *supra* note 66, at 25; *Baha Mar Resort to Establish Bahamas as Top Gaming Destination*, CASINO INTERNATIONAL, Feb. 3, 2013, available at [http://www.casinointernational-online.com/news/fullstory.php/aid/1690/Baha\\_Mar\\_resort\\_to\\_establish\\_Bahamas\\_as\\_top\\_gaming\\_destination.html](http://www.casinointernational-online.com/news/fullstory.php/aid/1690/Baha_Mar_resort_to_establish_Bahamas_as_top_gaming_destination.html).

<sup>151</sup> *Id.*

<sup>152</sup> See *Lynden Pindling International Airport*, available at <http://www.nas.bs/Public/Home.aspx> (last visited May 5, 2013); Email from Piper Overstreet, *supra* note 35.

<sup>153</sup> *Nassau Airport: Maximum Flexibility*, available at <http://www.higgsjohnson.com/news/Project%20Finance%20Magazine.pdf> (last visited May 3, 2013).

<sup>154</sup> Email from Piper Overstreet, *supra* note 35.

<sup>155</sup> See *supra* text accompanying note 25.

<sup>156</sup> See MARSHALL & RUDD, *supra* note 5, at 221-23; Email from Piper Overstreet, *supra* note 35.

#### D. Other Sensitive Issues Related to the Modernized Casino Regulations: Immigration, Religion, Problem Gambling, and Gaming for Bahamian Locals

Important goals of the modernized casino regulations are to facilitate healthy, sustainable economic growth and eradicate the undesired elements often associated with gaming.

However, the modernized casino regulations have been criticized for failing to address immigration policies that regulate the flow of work permits for foreign staff in specialized casino and resort positions.<sup>157</sup> Recently, reports surfaced about the Bahamian government enforcing its current immigration policies and publicly raiding resort employees.<sup>158</sup> Such actions may signal that The Bahamas does not welcome foreign investment and by extension does not welcome the “skill sets that are not readily available within the country,”<sup>159</sup> yet, some positions at local resorts require expertise of expatriate staff that is unavailable in the pool of Bahamian workers. The success of operations at Baha Mar, the Atlantis, and other future resort and casino developments depends on attracting expatriates; hence, The Bahamas must strengthen its immigration processes to support investors to attract skill sets that are not locally available and avoid to instill fear in the business community.<sup>160</sup>

Further, although casinos have been around in The Bahamas for almost one hundred years, opponents of Bahamian casino gaming as a whole or of a casino gaming expansion are concerned about increased rates of crime. They cite to controversial statistics showing that casinos lead to a plethora of social ills, such as violent crime, auto theft, and larceny, and that the

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<sup>157</sup> *Immigration Policy Hurting Tourism Investment*, *supra* note 143.

<sup>158</sup> *Attacking the Economic Engine*, NASSAU GUARDIAN, Apr. 26, 2013, available at <http://freeport.nassauguardian.net/editorial/305527643702094.php>.

<sup>159</sup> *Immigration Policy Hurting Tourism Investment*, *supra* note 141.

<sup>160</sup> Scieska Adderly, *Christie Urges ‘Sensitivity’ on Work Permits*, NASSAU GUARDIAN, Apr. 26, 2013, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&view=article&id=38604&Itemid=2](http://www.thenassauguardian.com/index.php?option=com_content&view=article&id=38604&Itemid=2); Dana Smith, *Baha Mar Confirms Immigration Held Staff at Sheraton*, TRIBUNE 242, Apr. 26, 2013, available at <http://www.tribune242.com/news/2013/apr/26/baha-mar-confirms-immigration-held-staff-sheraton/>.

latter three all increased by ten percent in communities that allowed gambling.<sup>161</sup> However, critics of such studies argue that the statistics were based on a lack of data and that the interpretation was skewed.<sup>162</sup> Further, the data behind the statistics is often from jurisdictions where casinos recently opened, whereas casino gaming is present in The Bahamas since 1920.<sup>163</sup> Bahamian regulators must still evaluate potentially negative externalities of gambling in the process of implementing the modernized casino regulations.<sup>164</sup> However, the fact that casino operators in The Bahamas have connections to other gaming jurisdictions and are hence subject to applicable licensing requirements makes it nearly impossible that these operators are connected to organized crime.<sup>165</sup> Also, the independent testing labs<sup>166</sup> that would be implemented under the modernized casino regulations would conduct independent semiannual inspections of approved manufacturers and adopt specific technical standards<sup>167</sup> that create confidence in casino games to ensure games are free from bias.<sup>168</sup>

Additionally, because casinos as businesses do not consider addictive gamblers good customers,<sup>169</sup> the modernized casino regulations seek to establish a responsible gaming plan by licensed casinos.<sup>170</sup> This plan would include a commitment of casino operators and their employees to focus on responsible gaming by promoting public education and by following

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<sup>161</sup> See Dylan Matthews, *Studies: Casinos Bring Jobs, but also Crime, Bankruptcy, and even Suicide*, WASH. POST, Oct. 30, 2012, available at <http://www.washingtonpost.com/blogs/wonkblog/wp/2012/10/30/studies-casinos-bring-jobs-but-also-crime-bankruptcy-and-even-suicide/>.

<sup>162</sup> Douglas M. Walker, *Do Casinos Really Cause Crime*, 2006, available at <http://econjwatch.org/articles/do-casinos-really-cause-crime>.

<sup>163</sup> See B. Grant Stitt, Mark Nichols & David Giacomassi, *Does the Presence of Casinos Increase Crime? An Examination of Casino and Control Communities*, 49 CRIME & DELINQUENCY 2 (1964), available at [http://www.sagepub.com/mssw3/overviews/pdfs/Stitt\\_Article.pdf](http://www.sagepub.com/mssw3/overviews/pdfs/Stitt_Article.pdf).

<sup>164</sup> Becker, *supra* note 147, at 1052.

<sup>165</sup> INTERNATIONAL ENCYCLOPEDIA, *supra* note 13, at 406.

<sup>166</sup> 2013 Guide, *supra* note 6, at 14.

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> See Neroda, *supra* note 103, at 1407.

<sup>170</sup> 2013 Guide, *supra* note 6, at 20.

industry best practices.<sup>171</sup> Still, Bahamian casino operators should launch a national education campaign and develop a Code of Conduct for Responsible Gaming,<sup>172</sup> similar to such codes in other leading gaming jurisdictions.

The modernized casino regulations would also make changes to local resident gambling in Bahamian casinos. Under the 1969 Gaming Act, The Bahamas completely prohibits citizens, permanent residents, and work permit holders to enter a casino.<sup>173</sup> Under the modernized casino regulations, permanent residents and work permit holders would be allowed to patronize casinos, but not Bahamian citizens.<sup>174</sup> Therefore, many commentators criticized the modernization because of alleged favoritism for foreigners.<sup>175</sup> Hence, on the one hand, some Bahamian residents feel discriminated against because, although the government shut down all illegal locals' gambling in webshops, a form of internet gaming, after a referendum in January 2013,<sup>176</sup> under the modernized casino regulations the government would allow some locals to gamble.

On the other hand, religious fundamentalists and some local population resent gaming<sup>177</sup> and argue that gaming is a sin based on greed.<sup>178</sup> The Bahamas has a powerful church lobby and by the January 2013 referendum its residents recently declined an expansion of the 1969 Gaming

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<sup>171</sup> *Id.*

<sup>172</sup> *Promoting Responsible Gaming and Problem Gambling Research, Education, and Treatment*, AMERICAN GAMING ASSOCIATION, available at [http://www.americangaming.org/sites/default/files/uploads/docs/whitepapers/wpaper\\_rg\\_1111\\_05\\_final.pdf](http://www.americangaming.org/sites/default/files/uploads/docs/whitepapers/wpaper_rg_1111_05_final.pdf).

<sup>173</sup> See Dames, *supra* note 6.

<sup>174</sup> *Id.* However, the Prime Minister of The Bahamas promised that the question whether locals are allowed to gamble will be on the ballot of a future compromised constitutional referendum. *Id.*

<sup>175</sup> See, e.g., Sancheska Brown, *New Gambling Bill 'Favours Foreigners'*, TRIBUNE 242, Apr. 26, 2013, available at <http://www.tribune242.com/news/2013/apr/26/new-gambling-bill-favours-foreigners/>; Royston Jones, Jr., *New Gaming Bill Called 'Shame and Disgrace'*, NASSAU GUARDIAN, Apr. 26, 2013, available at [http://www.thenassauguardian.com/index.php?option=com\\_content&id=38615&Itemid=27](http://www.thenassauguardian.com/index.php?option=com_content&id=38615&Itemid=27); Dana Smith, *New Gaming Act Shows Referendum was a Farce*, TRIBUNE 242, Apr. 26, 2013, available at <http://www.tribune242.com/news/2013/apr/26/new-gaming-act-shows-referendum-was-a-farce-bran/>.

<sup>176</sup> *Gaming in the Bahamas: A Bettor Option*, ECONOMIST, Jan. 26, 2013, available at <http://www.economist.com/news/americas/21570700-churches-and-internet-caf%C3%A9s-face-referendum-gambling-bettor-option>.

<sup>177</sup> MARSHALL & RUDD, *supra* note 5, at 221-23.

<sup>178</sup> Smith, *supra* note 13.

Act related to any locals gaming<sup>179</sup> because there exists widespread belief that the social ills of gaming outweigh tax revenue benefits.<sup>180</sup> The religious leaders argue that gaming negatively impacts core Bahamian values such as work ethic<sup>181</sup> and hence Bahamians should not be allowed to play in casinos. Although a complete prohibition for all locals to gamble may eliminate some of the social cost of gaming,<sup>182</sup> the modernized casino regulations propose a balanced approach and would impose an entry levy following the Singaporean model<sup>183</sup> to allow permanent residents and work permit holders to enter casinos to gamble. Wealthy permanent residents should be able to gamble in Bahamian casinos to increase revenue and keep gaming taxes in the country,<sup>184</sup> while still protecting the public interest by limiting gambling to those who can truly afford it.

#### **IV. Conclusion**

Casino gaming in The Bahamas exists since the 1920s, but the gaming code of The Bahamas has not been updated since 1969.<sup>185</sup> As a result, The Bahamas trail behind other gaming jurisdictions.<sup>186</sup> Given the increased competition of legalized casino gaming, the Bahamian casino regulations should be modernized, not only for The Bahamas to remain competitive, but also to position The Bahamas for long-term growth.<sup>187</sup>

A recent proposal to modernize the Bahamian casino regulations includes provisions that may drive gaming revenue, create several competitive advantages, and expand tourism. First, the

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<sup>179</sup> See *supra* text accompanying note 176.

<sup>180</sup> Jeff Todd, *Bahamas Voters Reject Bid to Legalize Gambling*, WORLDNEWS, Jan. 29, 2013, available at [http://worldnews.nbcnews.com/\\_news/2013/01/29/16754944-bahamas-voters-reject-bid-to-legalize-gambling?lite](http://worldnews.nbcnews.com/_news/2013/01/29/16754944-bahamas-voters-reject-bid-to-legalize-gambling?lite).

<sup>181</sup> *Cayman Follow The Bahamas*, *supra* note 114.

<sup>182</sup> See INTERNATIONAL CASINO LAW, *supra* note 12, at 213-17; Paul A. Reid, *Referendum on Casinos? Bahamas Gaming Czar Says People Should Decide*, WEEKLY GLEANER JAMAICA, June 25, 2003, at 4.

<sup>183</sup> The Bahamas Hotel Association's casino committee suggests to follow the Singaporean model that charges one \$100 per day or \$2000 per year. See *2013 Guide*, *supra* note 6, at 8.

<sup>184</sup> *Id.*

<sup>185</sup> See *supra* Part I.

<sup>186</sup> See *supra* Part III.

<sup>187</sup> See *supra* Part III.B-C.

modernization would liberalize casino credit and would create a similar credit scheme as in jurisdictions such as Singapore, Macau, and Las Vegas.<sup>188</sup> Once the modernization is passed, casino patrons in The Bahamas would be able to play on the newest slot machines because the modernization would exempt machines from any tax, duty, or import fee, and allow for speedy approval of new machines and field trials to test new machines.<sup>189</sup> Further, The Bahamas would enjoy a competitive advantage over many other gaming jurisdictions because the modernization would allow interactive and mobile gaming.<sup>190</sup>

The modernized casino regulations would also create a favorable environment for investors and would likely attract other casino operators in the long term.<sup>191</sup> Existing Bahamian casino operators would benefit from a likely increase in occupancy of hotels and resorts.<sup>192</sup> Other provisions, such as sports wagering, interactive gaming, VIP gaming suites and salons, a remodeled junket system, and streamlined enforcement of all gaming debts may also increase gaming revenues and thus tax revenues of the Bahamian government.<sup>193</sup> In addition, the Bahamian population would benefit financially from the modernized casino regulations because of increased employment and training opportunities.<sup>194</sup>

However, the modernized casino regulations have been criticized for several reasons. First, the regulations fail to address issues with immigration policies that impede the flow of foreign talent to resorts and casinos in The Bahamas.<sup>195</sup> Second, although a referendum in January 2013 prohibited all locals to gamble in webshops, the modernization would allow permanent residents and work permit holders to enter casinos; hence, some critics opined that the

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<sup>188</sup> *See supra* Part III.A.

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> *See supra* Part III.C.

<sup>192</sup> *Id.*

<sup>193</sup> *See supra* Part III.B-C.

<sup>194</sup> *See supra* Part III.C.

<sup>195</sup> *See supra* Part III.D.

modernization favors foreigners.<sup>196</sup> Finally, casinos have been present in The Bahamas for almost one hundred years, but many Bahamian locals oppose the modernization based on religious beliefs or on statistics that casinos increase crime.<sup>197</sup> However, allowing wealthy permanent residents to gamble would keep gaming taxes in the country and the modernization's proposed entry levy would limit gambling to those who can truly afford it.<sup>198</sup>

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<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*