

Florida Reaches Deal on 30-Year Gaming Compact Authorizing Retail and Mobile Sports Betting Under Exclusive Control of Seminole Indian Tribe

By: Zachery B. Roth
Technology Industry Alert
4.27.21

On Friday, April 23, 2021, Florida Governor Ron DeSantis announced a 30-year Tribal Gaming Compact with the Seminole Indian Tribe that authorizes retail and online sports betting in the state under the Tribe's exclusive control. The Compact requires the Tribe to make annual "revenue share payments" to the state consisting of up to 13.5% of "Net Wins" (i.e., the Tribe's total receipts from all wagers, minus the value of any prizes paid out or promotional credits issued), with guaranteed minimum payments of \$500 million per year for the first five years of the agreement.

Pursuant to the agreement, the Tribe will be permitted to conduct on-site sports betting at its seven casinos and online betting through servers and equipment located on tribal land. The agreement allows the Tribe to manage its own retail and/or online sports betting operations, or to retain a "management contractor" to conduct betting operations on its behalf.

In an effort to bolster the state's languishing horse race wagering industry, the Compact also requires the Tribe to partner with "any and all willing" pari-mutuel wagering operators to offer mobile sports betting through websites/applications branded with the operators' names. The agreement states that if the Tribe does not partner with at least three pari-mutuel wagering operators within three months of the Compact's effective date, the Tribe's revenue share payments to the state will increase by 2%. The agreement also states that the Tribe shall pay each participating operator roughly 60% of the "Net Wins" earned through the mobile betting website/application branded with the operator's name.

The Compact provides further that sports betting activities will be governed by rules and regulations to be promulgated by the Seminole Tribal Gaming Commission (the Commission). The Commission's rules shall, among other things, (i) limit participation to individuals aged 21 or older; (ii) establish standards for promotional credits, incentives, bonuses or other benefits designed to induce customers to participate in sports betting; and (iii) establish standards for determining and displaying betting odds.

The Compact also requires the Tribe to strengthen and maintain its efforts to curtail problem gambling. As part of this requirement, the Tribe must ensure that all advertising for its retail and online sportsbooks includes a responsible gambling message and toll-free help line for problem gamblers.

Before the Compact can take effect, it must be ratified by the Florida state legislature and approved by the U.S. Department of the Interior. The legislature is expected to consider the Compact in a special session scheduled to begin on May 17, 2021. If approved, the Compact will likely face legal challenges from anti-gambling groups, who argue that the agreement violates a 2018 constitutional amendment that requires voter approval of any statewide gaming expansions. The state is expected to argue in response that because the Tribe will receive all in-person and online wagers through servers located on tribal land, the Compact only expands gaming on sovereign Seminole land, and not statewide.

White and Williams will continue to monitor the Compact's progress and will provide updates regarding significant developments. If you have questions or would like more information, please contact Zachery B. Roth (rothz@whiteandwilliams.com; 215.864.6274) or Joshua G. Galante (galantej@whiteandwilliams.com; 212.868.4836).

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.