§ 1321-e. Required capital investment. 1. The board shall establish the minimum capital investment for each unawarded gaming facility license. Such investment may include, but not be limited to, a casino area, hotel and other amenities; and provided further, that the board shall determine whether it will include the purchase or lease price of the land where the gaming facility will be located or any infrastructure designed to support the site including, but not limited to, drainage, utility support, roadways, interchanges, fill and soil or groundwater or surface water contamination issues. The board may consider private capital investment made previous to the effective date of this title, but may, in its discretion, discount a percentage of the investment made. Upon award of a gaming license by the commission, the commission shall require the applicant to deposit no less than five percent and no more than ten percent of the total investment proposed in the application into an interest-bearing account based on the liquidity of the applicant. Monies received from the applicant shall be held in escrow until the final stage of construction, as detailed in the timeline of construction submitted with the licensee's application and approved by the commission, at which time the deposit plus interest earned shall be returned to the applicant to be applied for the final stage. Should the applicant be unable to complete the gaming facility, the deposit shall be forfeited to the state. In place of a cash deposit, the commission may allow for an applicant to secure a deposit bond insuring that such percent of the proposed capital investment shall be forfeited to the state if the applicant is unable to complete the gaming facility.

2. Each applicant shall submit its proposed capital investment with its application to the board which shall include stages of construction of the gaming facility and the deadline by which the stages and overall construction and any infrastructure improvements will be completed. In awarding a license, the commission shall determine at what stage of construction a licensee shall be approved to open for gaming; provided, however, that a licensee shall not be approved to open for gaming until the commission has determined that at least the gaming area and other ancillary entertainment services and non-gaming amenities, as required by the board, have been built and are of a superior quality as set forth

in the conditions of licensure. The commission shall not approve a gaming facility to open before the completion of the permanent casino area.

3. The board shall determine a licensing fee to be paid by a licensee within thirty days after the selection of the license, provided however that no licensing fee shall be less than five hundred million dollars. The license shall set forth the conditions to be satisfied by the licensee before the gaming facility shall be opened to the public. All revenues collected from license fees from gaming facilities located within zone one shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law. All revenues collected from license fees from gaming facilities located within zone two shall be deposited to the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law. The commission shall set any renewal fee for such license based on the cost of fees associated with the evaluation of a licensee under this article which shall be deposited into the commercial gaming fund. Such renewal fee shall be exclusive of any subsequent licensing fees under this section.

4. The commission shall determine the sources and total amount of an applicant's proposed capitalization to develop, construct, maintain and operate a proposed gaming facility under this article. Upon award of a gaming license, the commission shall continue to assess the capitalization of a licensee for the duration of construction of the proposed gaming facility and the term of the license.