

inquiries

Poker deregulation bill is no bluff

A guy holding a 4 and 7 draws three cards in a poker game, successfully betting he'll pull an inside straight flush. Skill or luck?

Dumb luck for an unskilled player, according to experts, but that randomness does not take away from the growing view that poker is a game requiring a high level of skill to be successful. A bill before the Legislature would make Massachusetts the first state to declare poker a game of skill and remove it from the regulations surrounding games of chance.

"I come at it from a vantage as a teacher. I want to teach my students how to handle aggression and the will to win," says Harvard Law Professor Charles Nesson, an avid poker player and founder of the Global Poker Strategic Thinking Society. "Not to recognize it as a teaching instrument seems dumb to me and inconsistent with Massachusetts historical ideals."

The bill, sponsored by retiring state Rep. Brian Wallace (D-South Boston), would allow "peer to peer" games without limitations. While supporters say it will decriminalize private games and expand participation as a thought-provoking recreational activity, some see it as an opening to unregulated poker parlors around the state.

Edgar Dworsky, a former state consumer protection official and an expert on the gaming law the poker bill would amend, is unfamiliar with the measure but says it sounds like a Trojan horse for off-shore gambling and Internet poker sites to set up shop in the Bay State.

"I don't see this as allowing it, but it's the first step of a slippery slope," says Dworsky.

► BY JACK SULLIVAN

Private developers ape BRA's controversial resale fees

► BY BRUCE MOHL

THE CONTROVERSIAL RESALE fees assessed by the Boston Redevelopment Authority may be coming to a private development near you.

In the Winter 2010 issue of *CommonWealth*, we reported how the BRA collects resale fees equal to 1 percent to 4 percent of the gross sales price every time a condominium unit or house is sold at some 25 properties across the city, including Flagship Wharf in Charlestown. We called it "the BRA's never-ending money machine."

Now the concept is apparently starting to spread to private developers. A New York company called Freehold Capital Partners boasts on its website that it is helping developers of commercial buildings, condo developments, and subdivisions collect what it calls reconveyance fees — fees assessed on each subsequent sale of the property and paid to the original developer. Freehold's business initiative was first reported by the *Washington Post*.

Freehold's reconveyance fee is strikingly similar to the BRA's resale fee. The developer of a property sells it with an attachment to the deed requiring that for the next 99 years all future owners, when they sell, pay the developer 1 percent of the gross sales price.

THE FEES CAN LAST FOR 99 YEARS.

The reconveyance fees can also be aggregated and sold to investors as a long-term income stream, producing more upfront revenue for the developer, Freehold says. "The process is so powerful that it is the subject of patent filings covering reconveyance fees on a 'for profit' basis," according to Freehold's website.

Officials at Freehold did not return phone calls, but its website says that it has partnered with the owners of an estimated \$488 billion in real estate projects located in 45 states nationwide. No actual projects are listed on the website, but the company indicates it has agents scattered across the country, including in Cambridge.

Reconveyance fees may be starting to surface in Massachusetts. Bruce Miller, a real estate attorney working in the Boston office of Pierce Atwood LLC, says he recently advised a client not to purchase a property in Millis where the owner was seeking to impose a 1 percent reconveyance fee on any future sales for the next 99 years.

Miller says half of the fee would have been split between the original developer and Freehold, with a tiny portion going to a nonprofit organization in the Millis area. Miller says the fee is a nightmare for title insurers and unfair to property buyers.

"Why should some third party be a beneficiary to the appreciation on the property?" he asks.