

S. 7744

A. 10717

S E N A T E - A S S E M B L Y

June 16, 2012

IN SENATE -- Introduced by Sens. SKELOS, BONACIC -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Pretlow) -- (at request of the Governor) -- read once and referred to the Committee on Racing and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to enacting the New York state racing franchise accountability and transparency act of 2012; to amend part A of chapter 60 of the laws of 2012 amending the racing, pari-mutuel wagering and breeding law and other laws relating to supervision and regulation of the state gaming industry, in relation to the effectiveness thereof; and to repeal certain provisions of the racing, pari-mutuel wagering and breeding law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. Sections one through six of this act shall be  
2 known and may be cited as the "New York state racing franchise account-  
3 ability and transparency act of 2012".  
4 S 2. Legislative findings. The legislature finds and declares a strong  
5 horse racing and breeding industry to be a valuable contributor to the  
6 New York state economy and a tourism generator for the entire state. The  
7 legislature further finds that The New York Racing Association, Inc. was  
8 authorized to incorporate by Chapter 18 of the Laws of 2008 to further  
9 the interests of thoroughbred racing, the public interest and the  
10 purposes of Article II of the Racing, Pari-Mutuel Wagering and Breeding  
11 Law and to further the raising and breeding and improving the breed of  
12 horses.  
13 The structure of gaming and racing is undergoing change in New York,  
14 with the establishment of racinos, the creation of the New York state  
15 gaming commission, and first passage of a constitutional amendment on  
16 commercial casinos. Therefore, the legislature finds in order to ensure  
17 the viability and continuity of horse racing, the racing industry and

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 industries that support and are sustained by the racing industry,  
2 exigent circumstances necessitate a temporary structural change in the  
3 organization of The New York Racing Association, Inc., in the form of a  
4 temporary board. This temporary reorganization board shall be under  
5 public control to ensure The New York Racing Association, Inc. works in  
6 the best interest of all stakeholders in horse racing including fans,  
7 owners and breeders by managing the state racing franchise with trans-  
8 parency and accountability. In no later than three years, the state  
9 racing franchise shall be returned to private control, remaining in the  
10 form of a not-for-profit corporation.

11 The legislature further finds that these statutory changes to be  
12 consistent with the state racing franchise agreement, appropriate,  
13 necessary and in the best interests of The New York Racing Association,  
14 Inc. and the racing industry in general.

15 S 3. The racing, pari-mutuel wagering and breeding law is amended by  
16 adding a new section 202-b to read as follows:

17 S 202-B. NO DEBT OF THE STATE. NOTHING IN THIS ARTICLE SHALL BE  
18 CONSTRUED TO ACCEPT A LIABILITY TO OR CREATE A DEBT OF THE STATE WITHIN  
19 THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION.

20 S 4. Paragraph a of subdivision 1 of section 207 of the racing, pari-  
21 mutuel wagering and breeding law is REPEALED and a new paragraph a is  
22 added to read as follows:

23 A. THE BOARD OF DIRECTORS, TO BE CALLED THE NEW YORK RACING ASSOCI-  
24 ATION REORGANIZATION BOARD, SHALL CONSIST OF SEVENTEEN MEMBERS, FIVE OF  
25 WHOM SHALL BE ELECTED BY THE PRESENT CLASS A DIRECTORS OF THE NEW YORK  
26 RACING ASSOCIATION, INC., EIGHT TO BE APPOINTED BY THE GOVERNOR, TWO TO  
27 BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE AND TWO TO BE  
28 APPOINTED BY THE SPEAKER OF THE ASSEMBLY.

29 (I) THE GOVERNOR SHALL NOMINATE A MEMBER TO SERVE AS CHAIR, SUBJECT TO  
30 CONFIRMATION BY MAJORITY VOTE OF THE BOARD OF DIRECTORS. ALL NON-EX  
31 OFFICIO MEMBERS SHALL HAVE EQUAL VOTING RIGHTS.

32 (II) IN THE EVENT OF A MEMBER VACANCY OCCURRING BY DEATH, RESIGNATION  
33 OR OTHERWISE, THE RESPECTIVE APPOINTING OFFICER OR OFFICERS SHALL  
34 APPOINT A SUCCESSOR WHO SHALL HOLD OFFICE FOR THE UNEXPIRED PORTION OF  
35 THE TERM. A VACANCY FROM THE MEMBERS APPOINTED FROM THE PRESENT BOARD OF  
36 THE NEW YORK RACING ASSOCIATION, INC., SHALL BE FILLED BY THE REMAINING  
37 SUCH MEMBERS.

38 B. IN ADDITION TO THESE VOTING MEMBERS, THE BOARD SHALL HAVE TWO EX  
39 OFFICIO MEMBERS TO ADVISE ON CRITICAL ECONOMIC AND EQUINE HEALTH  
40 CONCERNS OF THE RACING INDUSTRY, ONE APPOINTED BY THE NEW YORK THOROUGH-  
41 BRED BREEDERS INC., AND ONE APPOINTED BY THE NEW YORK THOROUGHBRED  
42 HORSEMEN'S ASSOCIATION (OR SUCH OTHER ENTITY AS IS CERTIFIED AND  
43 APPROVED PURSUANT TO SECTION TWO HUNDRED TWENTY-EIGHT OF THIS ARTICLE).

44 C. ALL DIRECTORS SHALL SERVE AT THE PLEASURE OF THEIR APPOINTING  
45 AUTHORITY.

46 D. THE BOARD, WHICH SHALL BECOME EFFECTIVE UPON APPOINTMENT OF A  
47 MAJORITY OF PUBLIC MEMBERS, SHALL TERMINATE THREE YEARS FROM ITS DATE OF  
48 CREATION. THE BOARD SHALL PROPOSE, NO LESS THAN ONE HUNDRED EIGHTY DAYS  
49 PRIOR TO ITS TERMINATION, RECOMMENDATIONS TO THE GOVERNOR AND THE STATE  
50 LEGISLATURE REPRESENTING A STATUTORY PLAN FOR THE PROSPECTIVE  
51 NOT-FOR-PROFIT GOVERNING STRUCTURE OF THE NEW YORK RACING ASSOCIATION,  
52 INC.

53 S 5. Subdivision 1 of section 207 of the racing, pari-mutuel wagering  
54 and breeding law is amended by adding a new paragraph c to read as  
55 follows:

1 C. UPON THE EFFECTIVE DATE OF THIS PARAGRAPH, THE STRUCTURE OF THE  
2 BOARD OF THE FRANCHISED CORPORATION SHALL BE DEEMED TO BE INCORPORATED  
3 WITHIN AND MADE PART OF THE CERTIFICATE OF INCORPORATION OF THE FRAN-  
4 CHISED CORPORATION, AND NO AMENDMENT TO SUCH CERTIFICATE OF INCORPO-  
5 RATION SHALL BE NECESSARY TO GIVE EFFECT TO ANY SUCH PROVISION, AND ANY  
6 PROVISION CONTAINED WITHIN SUCH CERTIFICATE INCONSISTENT IN ANY MANNER  
7 SHALL BE SUPERSEDED BY THE PROVISIONS OF THIS SECTION. SUCH BOARD  
8 SHALL, HOWEVER, MAKE APPROPRIATE CONFORMING CHANGES TO ALL GOVERNING  
9 DOCUMENTS OF THE FRANCHISED CORPORATION INCLUDING BUT NOT LIMITED TO  
10 CORPORATE BY-LAWS. FOLLOWING SUCH CONFORMING CHANGES, AMENDMENTS TO THE  
11 BY-LAWS OF THE FRANCHISED CORPORATION SHALL ONLY BE MADE BY UNANIMOUS  
12 VOTE OF THE BOARD.

13 S 6. Section 207 of the racing, pari-mutuel wagering and breeding law  
14 is amended by adding a new subdivision 5 to read as follows:

15 5. EACH VOTING MEMBER OF THE BOARD OF DIRECTORS OF THE FRANCHISED  
16 CORPORATION SHALL ANNUALLY MAKE A WRITTEN DISCLOSURE TO THE BOARD OF ANY  
17 INTEREST HELD BY THE DIRECTOR, SUCH DIRECTOR'S SPOUSE OR UNEMANCIPATED  
18 CHILD, IN ANY ENTITY UNDERTAKING BUSINESS IN THE RACING OR BREEDING  
19 INDUSTRY. SUCH INTEREST DISCLOSURE SHALL BE PROMPTLY UPDATED, IN WRIT-  
20 ING, IN THE EVENT OF ANY MATERIAL CHANGE.

21 THE BOARD SHALL ESTABLISH PARAMETERS FOR THE REPORTING AND DISCLOSURE  
22 OF SUCH DIRECTOR INTERESTS.

23 S 7. Section 14 of part A of chapter 60 of the laws of 2012 amending  
24 the racing, pari-mutuel wagering and breeding law relating to super-  
25 vision and regulation of the state gaming industry; and amending the  
26 racing, pari-mutuel wagering and breeding law, the general municipal  
27 law, the executive law and the tax law relating to the state gaming  
28 commission is amended to read as follows:

29 S 14. This act shall take effect [October 1, 2012] FEBRUARY 1, 2013;  
30 provided, however that effective immediately, the addition, amendment  
31 and/or repeal of any rules or regulations necessary for the implementa-  
32 tion of the foregoing provisions of this act on its effective date are  
33 authorized and directed to be made and completed on or before such  
34 effective date.

35 S 8. This act shall take effect immediately; provided, however, that  
36 sections four, five and six of this act shall take effect upon the  
37 appointment of a majority of public directors of the temporary reorgan-  
38 ization board of The New York Racing Association, Inc. as set forth in  
39 section four of this act, provided that the chair of the racing and  
40 wagering board or his or her successor shall notify the legislative bill  
41 drafting commission upon the occurrence in order that the commission may  
42 maintain an accurate data base of the official text of the laws of the  
43 state of New York in furtherance of effecting the provisions of section  
44 44 of the legislative law and section 70-b of the public officers law.