S T A T E O F N E W Y O R K

937

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DelMONTE -- 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 requiring racetracks eligible for video lottery gaming to enter into binding contracts with its horsemen's association and the appropriate breeding fund and providing for binding arbitration in negotiations between such racetracks and the representative horsemen's associations and breeding funds

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

Section 1. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 207-a to read as follows:

S 207-A. CONTRACT WITH HORSEMEN'S ASSOCIATION. 1. EVERY CORPORATION OR RACING ASSOCIATION FORMED PURSUANT TO SECTION TWO HUNDRED THREE OF THIS ARTICLE, WHICH INTENDS TO BE, IS OR INTENDS TO CONTINUE TO BE LICENSED TO OPERATE VIDEO LOTTERY GAMING PURSUANT TO SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THE TAX LAW, SHALL ENTER INTO AND REMAIN A PARTY TO A BINDING CONTRACT WITH ITS REPRESENTATIVE HORSEMEN'S ASSOCIATION AND THE APPROPRIATE BREEDING FUND, WHICH CONTRACT SHALL GOVERN THE TERMS, CONDITIONS AND FINANCIAL COMPENSATION OF THE HORSEMEN'S ASSOCIATION AND THE APPROPRIATE BREEDING FUND THAT PARTICIPATE IN RACING EVENTS CONDUCTED AT THE RACETRACK OPERATED BY THE CORPORATION OR RACING ASSOCIATION.

2. IN THE EVENT A CORPORATION OR RACING ASSOCIATION FORMED PURSUANT TO SECTION TWO HUNDRED THREE OF THIS ARTICLE AND WHICH IS LICENSED TO OPERATE VIDEO LOTTERY GAMING PURSUANT TO SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THE TAX LAW, AND THE HORSEMEN'S ASSOCIATION FOR THE RACETRACK OPERATED BY SUCH CORPORATION OR ASSOCIATION FAIL TO AGREE TO THE TERMS OF ANY CONTRACT, NECESSARY FOR THE CONTINUED LICENSURE OF SUCH RACETRACK AND TO OPERATE VIDEO LOTTERY GAMING AT SUCH RACETRACK PURSUANT TO ARTI-

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

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CLE THIRTY-FOUR OF THE TAX LAW, THE UNRESOLVED TERMS OF SUCH CONTRACT SHALL BE REFERRED NOT LESS THAN THIRTY DAYS PRIOR TO THE EXPIRATION OF THE EXISTING CONTRACT TO AN INDEPENDENT ARBITRATOR APPOINTED BY THE CHAIRMAN OF THE STATE RACING AND WAGERING BOARD FOR BINDING ARBITRATION. SUCH CHAIRMAN SHALL SUBMIT THE NAMES OF THREE ARBITRATION CANDIDATES TO THE CORPORATION OR ASSOCIATION OPERATING SUCH RACETRACK AND THE HORSEMEN'S ASSOCIATION. SUCH ARBITRATION CANDIDATES MAY BE EMPLOYEES OF THE RACING AND WAGERING BOARD. THE RACETRACK OPERATOR AND HORSEMEN'S ASSOCIATION SHALL RANK, BY PREFERENCE, THE THREE CANDIDATES AS THEIR FIRST, SECOND AND THIRD CHOICES. THE CHAIRMAN OF THE STATE RACING AND WAGERING BOARD SHALL APPOINT AS THE INDEPENDENT ARBITRATOR, THE CANDIDATE WITH THE HIGHEST COMBINED RATING FROM THE RACETRACK OPERATOR AND THE HORSEMEN'S ASSOCIATION. IF THERE SHALL BE A TIE IN THE HIGHEST COMBINED RATING OF CANDIDATES, THE CHAIRMAN OF THE STATE RACING AND WAGERING BOARD SHALL APPOINT THE INDEPENDENT ARBITRATOR FROM AMONG THE CANDIDATES WITH THE HIGHEST COMBINED RATING. ONCE A REQUEST FOR ARBITRATION HAS BEEN SUBMITTED TO THE STATE RACING AND WAGERING BOARD BY ONE OF THE PARTIES, THE CHAIRMAN OF SUCH BOARD SHALL SUBMIT NAMES OF ARBITRATOR CANDIDATES TO THE OPPOSING PARTIES WITHIN SEVEN DAYS, AND SUCH PARTIES SHALL SUBMIT THEIR RANKING WITHIN FIVE DAYS OF RECEIPT OF THE NAMES OF CANDIDATES. THE CHAIRMAN OF THE STATE RACING AND WAGERING BOARD SHALL, WITHIN FOURTEEN DAYS AFTER A REQUEST FOR ARBITRATION IS SUBMITTED, APPOINT THE INDEPENDENT ARBITRATOR, REGARDLESS OF WHETHER THE PARTIES HAVE SUBMITTED THEIR RANKINGS OF CANDIDATES. IF THE INDEPENDENT ARBITRATOR FAILS TO RESOLVE THE DISPUTED TERMS ON OR BEFORE THE EXPIRATION OF THE EXISTING CONTRACT, SUCH EXISTING CONTRACT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL THE INDEPENDENT ARBITRATOR RESOLVES ALL DISPUTED ISSUES. UNDER NO CIRCUMSTANCES SHALL AN INDEPENDENT ARBITRATOR COMPLETE THE BINDING RESOLUTION OF ALL DISPUTED TERMS MORE THAN THIRTY DAYS AFTER THE EXPIRATION OF AN EXISTING CONTRACT BETWEEN THE CORPORATION OR RACING ASSOCIATION AND THE HORSEMEN'S ASSOCIATION. THE RESOLUTION OF ALL DISPUTED TERMS MADE BY THE INDEPENDENT ARBITRATOR SHALL BE FINAL AND SHALL BE BINDING UPON ALL PARTIES. PROVIDED, THAT EITHER OF THE PARTIES MAY SEEK EXPEDITED REVIEW OF THE FINAL ORDER OF THE INDEPENDENT ARBITRATOR IN THE SUPREME COURT OF THE COUNTY WHERE THE RACETRACK IS LOCATED PURSUANT TO SECTION SEVENTY-FIVE HUNDRED ELEVEN OF THE CIVIL PRACTICE LAW AND RULES. THE JURISDICTION OF THE SUPREME COURT SHALL BE EXCLUSIVE AND ITS JUDGMENT AND DECREE SHALL BE FINAL, EXCEPT THAT APPEALS SHALL LIE TO THE APPELLATE DIVISION OF SUCH COURT AND TO THE COURT OF APPEALS, IN THE MANNER AND SUBJECT TO THE LIMITATIONS PROVIDED IN THE CIVIL PRACTICE LAW AND RULES IRRESPECTIVE OF THE NATURE OF THE DECREE OR JUDGMENT OR THE AMOUNT INVOLVED.

S 2. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 307-a to read as follows:

S 307-A. CONTRACT WITH HORSEMEN'S ASSOCIATION. 1. EVERY ASSOCIATION OR CORPORATION LICENSED TO CONDUCT HARNESS RACE MEETINGS, WHICH INTENDS TO BE, IS OR INTENDS TO CONTINUE TO BE LICENSED TO OPERATE VIDEO LOTTERY GAMING PURSUANT TO SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THE TAX LAW, SHALL ENTER INTO AND REMAIN A PARTY TO A BINDING CONTRACT WITH ITS REPRESENTATIVE HORSEMEN'S ASSOCIATION AND THE APPROPRIATE BREEDING FUND, WHICH CONTRACT SHALL GOVERN THE TERMS, CONDITIONS AND FINANCIAL COMPENSATION OF THE HORSEMEN'S ASSOCIATION AND THE APPROPRIATE BREEDING FUND THAT PARTICIPATE IN RACING EVENTS CONDUCTED AT THE RACETRACK OPERATED BY THE ASSOCIATION OR CORPORATION LICENSED TO CONDUCT HARNESS RACE MEETINGS.

2. IN THE EVENT AN ASSOCIATION OR CORPORATION LICENSED TO CONDUCT HARNESS RACE MEETINGS WHICH HOLD A LICENSE TO OPERATE VIDEO LOTTERY GAMING PURSUANT TO SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THE TAX LAW AND THE HORSEMEN'S ASSOCIATION FOR THE RACETRACK OPERATED BY SUCH ASSOCIATION OR CORPORATION FAIL TO AGREE TO THE TERMS OF ANY CONTRACT, NECESSARY FOR THE CONTINUED LICENSURE OF SUCH ASSOCIATION OR CORPORATION AND THE OPERATION OF VIDEO LOTTERY GAMING AT SUCH RACETRACK PURSUANT TO ARTICLE THIRTY-FOUR OF THE TAX LAW, THE UNRESOLVED TERMS OF SUCH CONTRACT SHALL BE REFERRED NOT LESS THAN THIRTY DAYS PRIOR TO THE EXPIRATION OF THE EXISTING CONTRACT TO AN INDEPENDENT ARBITRATOR APPOINTED BY THE CHAIRMAN OF THE STATE RACING AND WAGERING BOARD FOR BINDING ARBITRATION. SUCH CHAIRMAN SHALL SUBMIT THE NAMES OF THREE ARBITRATION CANDIDATES TO THE CORPORATION OR ASSOCIATION OPERATING SUCH RACETRACK AND THE HORSEMEN'S ASSOCIATION. SUCH ARBITRATION CANDIDATES MAY BE EMPLOYEES OF THE RACING AND WAGERING BOARD. THE RACETRACK OPERATOR AND HORSEMEN'S ASSOCIATION SHALL RANK, BY PREFERENCE, THE THREE CANDIDATES AS THEIR FIRST, SECOND AND THIRD CHOICES. THE CHAIRMAN OF THE STATE RACING AND WAGERING BOARD SHALL APPOINT AS THE INDEPENDENT ARBITRATOR, THE CANDIDATE WITH THE HIGHEST COMBINED RATING FROM THE RACETRACK OPERATOR AND THE HORSEMEN'S ASSOCIATION. IF THERE SHALL BE A TIE IN THE HIGHEST COMBINED RATING OF CANDIDATES, THE CHAIRMAN OF THE STATE RACING AND WAGERING BOARD SHALL APPOINT THE INDEPENDENT ARBITRATOR FROM AMONG THE CANDIDATES WITH THE HIGHEST COMBINED RATING. ONCE A REQUEST FOR ARBITRATION HAS BEEN SUBMITTED TO THE STATE RACING AND WAGERING BOARD BY ONE OF THE PARTIES, THE CHAIRMAN OF SUCH BOARD SHALL SUBMIT NAMES OF ARBITRATOR CANDIDATES TO THE OPPOSING PARTIES WITHIN SEVEN DAYS, AND SUCH PARTIES SHALL SUBMIT THEIR RANKING WITHIN FIVE DAYS OF RECEIPT OF THE NAMES OF CANDIDATES. THE CHAIRMAN OF THE STATE RACING AND WAGERING BOARD SHALL, WITHIN FOURTEEN DAYS AFTER A REQUEST FOR ARBITRATION IS SUBMITTED, APPOINT THE INDEPENDENT ARBITRATOR, REGARDLESS OF WHETHER THE PARTIES HAVE SUBMITTED THEIR RANKINGS OF CANDIDATES. IF THE INDEPENDENT ARBITRATOR FAILS TO RESOLVE THE DISPUTED TERMS ON OR BEFORE THE EXPIRATION OF THE EXISTING CONTRACT, SUCH EXISTING CONTRACT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL THE INDEPENDENT ARBITRATOR RESOLVES ALL DISPUTED ISSUES. UNDER NO CIRCUMSTANCES SHALL AN INDEPENDENT ARBITRATOR COMPLETE THE BINDING RESOLUTION OF ALL DISPUTED TERMS MORE THAN THIRTY DAYS AFTER THE EXPIRATION OF AN EXISTING CONTRACT BETWEEN SUCH ASSOCIATION OR CORPORATION AND THE HORSEMEN'S ASSOCIATION. THE RESOLUTION OF ALL DISPUTED TERMS MADE BY THE INDEPENDENT ARBITRATOR SHALL BE FINAL AND SHALL BE BINDING UPON ALL PARTIES. PROVIDED, THAT EITHER OF THE PARTIES MAY SEEK EXPEDITED REVIEW OF THE FINAL ORDER OF THE INDEPENDENT ARBITRATOR IN THE SUPREME COURT OF THE COUNTY WHERE THE RACETRACK IS LOCATED PURSUANT TO SECTION SEVENTY-FIVE HUNDRED ELEVEN OF THE CIVIL PRACTICE LAW AND RULES. THE JURISDICTION OF THE SUPREME COURT SHALL BE EXCLUSIVE AND ITS JUDGMENT AND DECREE SHALL BE FINAL, EXCEPT THAT APPEALS SHALL LIE TO THE APPELLATE DIVISION OF SUCH COURT AND TO THE COURT OF APPEALS, IN THE MANNER AND SUBJECT TO THE LIMITATIONS PROVIDED IN THE CIVIL PRACTICE LAW AND RULES IRRESPECTIVE OF THE NATURE OF THE DECREE OR JUDGMENT OR THE AMOUNT INVOLVED.

S 3. This act shall take effect immediately.