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

9391

I N A S S E M B L Y

(PREFILED)

January 6, 2010

Introduced by M. of A. HOOPER -- read once and referred to the Committee on Racing and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law and the tax law, in relation to combining the Nassau and New York city regional off-track betting corporations into the metropolitan off-track betting corporation 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:

Section 1. Subdivisions 6, 9 and 11 of section 501 of the racing, pari-mutuel wagering and breeding law are REPEALED and three new subdivisions 6, 9 and 11 are added to read as follows:

6. "COST OF CORPORATION'S FUNCTIONS." ALL PREDISTRIBUTION COSTS AND EXPENSES INCURRED BY THE CORPORATION IN CONNECTION WITH CARRYING OUT THE FUNCTIONS AS DESCRIBED BY THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, OPERATING EXPENSES OF THE CORPORATION, PENSION AND OTHER POST-EMPLOYMENT EXPENSES, THE COSTS OF ACQUISITION, CONSTRUCTION OR EQUIPMENT OF BRANCH OFFICES AND OTHER FACILITIES OF THE CORPORATION, A REASONABLE RESERVE FUND OF NO MORE THAN THREE PER CENTUM OF NET PRE-DISTRIBUTION REVENUE, AND INTEREST AND PRINCIPAL ON BONDS, NOTES OR OTHER OBLIGATIONS OF THE CORPORATION WHETHER ISSUED TO FINANCE THE ACQUISITION, CONSTRUCTION OR EQUIPMENT OF SUCH OFFICES, FACILITIES OR PREMISES, OR OTHERWISE.

9. "GOVERNING BODY." THE APPROPRIATE STATE OR COUNTY LEGISLATIVE BODY.

11. "ENABLING LEGISLATION." AN ACT OF THE STATE LEGISLATURE AND/OR A LOCAL LAW, ORDINANCE OR RESOLUTION SUBJECT TO A PERMISSIVE REFERENDUM PURSUANT TO THE MUNICIPAL HOME RULE LAW.

S 2. Section 502 of the racing, pari-mutuel wagering and breeding law is REPEALED and a new section 502 is added to read as follows:

S 502. ESTABLISHMENT OF REGIONAL OFF-TRACK BETTING CORPORATIONS. 1. A REGIONAL OFF-TRACK BETTING CORPORATION IS HEREBY ESTABLISHED FOR EACH REGION, EXCEPT THE NEW YORK CITY AND NASSAU COUNTY REGIONS FOR WHICH A NEW YORK CITY-NASSAU COUNTY OFF-TRACK BETTING CORPORATION (HEREINAFTER, THE "METROPOLITAN OTB") ESTABLISHED PURSUANT TO AND SUBJECT TO ARTICLE

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

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SIX OF THIS CHAPTER SHALL CONSTITUTE THE REGIONAL CORPORATION AND SUCH ARTICLE SIX SHALL GOVERN SUCH NEW YORK CITY-NASSAU COUNTY OFF-TRACK BETTING CORPORATION. EACH REGIONAL CORPORATION SHALL BE A BODY CORPORATE AND POLITIC CONSTITUTING A PUBLIC BENEFIT CORPORATION. EACH CORPORATION SHALL BE ADMINISTERED BY A BOARD OF DIRECTORS CONSISTING OF TWO MEMBERS FROM EACH PARTICIPATING COUNTY CONTAINING A CITY OF OVER ONE HUNDRED FIFTY THOUSAND IN POPULATION, ACCORDING TO THE LAST FEDERAL CENSUS, AND ONE MEMBER FROM EACH OTHER PARTICIPATING COUNTY. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE MEMBERS SHALL BE APPOINTED BY THE COUNTY GOVERNING BODY, AND MAY, AT THE DISCRETION OF SUCH GOVERNING BODY OF COUNTIES WHICH HAVE A POPULATION OF LESS THAN TWO HUNDRED THOUSAND, INCLUDE SITTING MEMBERS OF SUCH GOVERNING BODY. A MEMBER OF A GOVERNING BODY WHO IS APPOINTED A DIRECTOR AFTER JULY FIRST, NINETEEN HUNDRED NINETY SHALL NOT BE COMPENSATED BY THE REGIONAL CORPORATION; PROVIDED, HOWEVER, THAT THE MAYOR OF A CITY OF OVER ONE HUNDRED FIFTY THOUSAND THAT HAS ELECTED TO PARTICIPATE IN THE MANAGEMENT OF A CORPORATION PURSUANT TO SUBDIVISION TWO OF THIS SECTION SHALL, WITH THE APPROVAL OF THE CITY'S LEGISLATIVE BODY, APPOINT ONE OF THE MEMBERS TO WHICH THE COUNTY CONTAINING SUCH CITY IS ENTITLED. IN THE CASE OF THE CORPORATION ESTABLISHED FOR THE SUFFOLK REGION, THE BOARD OF DIRECTORS OF EACH CORPORATION SHALL CONSIST OF THREE MEMBERS APPOINTED BY THE GOVERNING BODY OF EACH COUNTY, NOT MORE THAN TWO OF WHOM SHALL BE MEMBERS OF THE SAME POLITICAL PARTY. IN THE CASE OF THE METROPOLITAN OTB, THE BOARD OF DIRECTORS SHALL CONSIST OF FIVE MEMBERS, TWO APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE, TWO APPOINTED BY THE GOVERNOR ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY AND ONE APPOINTED BY THE GOVERNOR, NOT MORE THAN THREE OF WHOM SHALL BE MEMBERS OF THE SAME PARTY. EACH DIRECTOR SHALL SERVE AT THE PLEASURE OF THE GOVERNING BODY, GOVERNOR OR MAYOR APPOINTING HIM, AS THE CASE MAY BE. THE MEMBER APPOINTED BY THE GOVERNOR SHALL BE THE CHAIR TO SERVE A TERM OF ONE YEAR.

2. A CITY WITH A POPULATION OF OVER ONE HUNDRED FIFTY THOUSAND, ACCORDING TO THE LAST FEDERAL CENSUS, MAY ELECT TO PARTICIPATE IN THE MANAGEMENT AND REVENUES OF A REGIONAL CORPORATION IF THE COUNTY IN WHICH SUCH CITY IS LOCATED HAS ELECTED TO BECOME A PARTICIPATING COUNTY. SUCH ELECTION SHALL BE BY ENABLING LEGISLATION. UPON SUCH ELECTION, SUCH CITY SHALL PARTICIPATE IN THE AMOUNT OF ANY LOANS OR CONTRIBUTIONS MADE OR TO BE MADE BY THE PARTICIPATING COUNTY CONTAINING THE CITY TO THE CORPORATION, PURSUANT TO SECTION FIVE HUNDRED SIX OF THIS ARTICLE, IN THE PROPORTION THAT SUCH CITY WILL PARTICIPATE IN NET REVENUES PAYABLE TO SUCH COUNTY OR SUCH OTHER EQUITABLE ARRANGEMENT AS SHALL BE APPROVED BY THE BOARD.

3. UPON THE PASSAGE OF ENABLING LEGISLATION BY THE GOVERNING BODY OF NOT LESS THAN THREE COUNTIES WITHIN A REGION REPRESENTING NOT LESS THAN THIRTY PERCENT OF THE POPULATION OF SUCH REGION, AS DETERMINED BY THE LAST FEDERAL CENSUS, OR IN THE CASE OF THE SUFFOLK REGION, UPON THE PASSAGE OF ENABLING LEGISLATION BY THE GOVERNING BODY OF SUFFOLK COUNTY, OR IN THE CASE OF THE METROPOLITAN REGION, UPON THE PASSAGE OF ENABLING LEGISLATION BY THE LEGISLATURE OF THE STATE OF NEW YORK, OR IN THE CASE OF THE MID-HUDSON REGION UPON THE PASSAGE OF ENABLING LEGISLATION BY THE GOVERNING BODY OF THE COUNTY OF WESTCHESTER AND OF THE GOVERNING BODY OF ONE OTHER COUNTY IN SUCH REGION, AND FOLLOWING THE APPOINTMENT OF MEMBERS OF THE BOARD OF DIRECTORS, SUCH CORPORATION SHALL FILE WITH THE SECRETARY OF STATE AND WITH THE STATE RACING AND WAGERING BOARD A CERTIFICATE SETTING FORTH:

A. THE DATE OF PASSAGE OF THE ENABLING LEGISLATION;

B. THE NAME OF THE AGENCY, WHICH SHALL BE THE NAME OF THE REGION FOLLOWED BY THE WORDS "REGIONAL OFF-TRACK BETTING CORPORATION"; AND

C. THE NAMES OF THE MEMBERS OF THE BOARD OF DIRECTORS AND THE CHAIR.

4. EACH OF THE COUNTIES OF THE REGION THAT HAVE NOT BECOME PARTICIPATING COUNTIES AT THE TIME OF FILING OF THE CERTIFICATE REQUIRED BY SUBDIVISION THREE OF THIS SECTION MAY DO SO BY ENACTING ENABLING LEGISLATION, A DULY CERTIFIED COPY OF WHICH MUST BE FILED WITH THE BOARD OF DIRECTORS, THE STATE BOARD, THE SECRETARY OF STATE AND THE COUNTY CLERK OF EACH PARTICIPATING COUNTY. IN THE EVENT THAT A COUNTY ELECTS TO PARTICIPATE AFTER JUNE FIRST, NINETEEN HUNDRED NINETY, THE EFFECTIVE DATE OF APPROVAL BY THE STATE BOARD SHALL NOT BE EARLIER THAN THE DATE THAT BRANCH OFFICES ARE ESTABLISHED AND OPERATING. IF, AT THE TIME OF SUCH ELECTION, THE STATE BOARD HAS APPROVED A PLAN OF OPERATION FOR THE CORPORATION, A COUNTY MAY NOT BECOME A PARTICIPATING COUNTY WITHOUT APPROVAL BY THE STATE BOARD OF A MODIFIED FEASIBILITY STUDY AND AMENDED PLAN OF OPERATION WHICH SHALL BE SUBMITTED BY THE CORPORATION TO THE STATE BOARD PURSUANT TO SECTION FIVE HUNDRED TWENTY-ONE OF THIS CHAPTER.

IF THE PARTICIPATING COUNTIES IN THE REGION HAVE CONTRIBUTED OR LOANED FUNDS OR OTHER CONSIDERATION TO THE CORPORATION, THE BOARD OF DIRECTORS MAY REQUIRE THAT ANY COUNTY SUBSEQUENTLY ELECTING TO BECOME A PARTICIPATING COUNTY MAKE SUCH CONTRIBUTIONS IN THE SAME PROPORTION, IF ANY, AS MAY HAVE GOVERNED SUCH CONTRIBUTIONS OR LOANS BY PARTICIPATING COUNTIES. ANY DISPUTE AS TO THE VALUE OF CONSIDERATION OR AS TO A CONTRIBUTION REQUIRED BY THE BOARD OF DIRECTORS SHALL BE RESOLVED BY THE STATE BOARD.

5. A. IF THE CERTIFICATE REQUIRED BY SUBDIVISION THREE OF THIS SECTION IS NOT FILED BY DECEMBER THIRTY-FIRST, NINETEEN HUNDRED SEVENTY-FIVE, THE CORPORATE EXISTENCE OF A CORPORATION SHALL TERMINATE, BUT OTHERWISE, EACH CORPORATION AND ITS CORPORATE EXISTENCE SHALL CONTINUE UNTIL TERMINATED BY LAW; PROVIDED, HOWEVER, THAT EXCEPT IN THE CASE OF THE METROPOLITAN OTB, NO SUCH LAW SHALL TAKE EFFECT SO LONG AS THE CORPORATION SHALL HAVE BONDS, NOTES OR OTHER OBLIGATIONS OUTSTANDING AND, IN THE INSTANCE OF THE METROPOLITAN OTB, ANY OR ALL OF SUCH BONDS, NOTES OR OTHER OBLIGATIONS OF THE NEW YORK CITY REGIONAL OFF-TRACK BETTING CORPORATION AND/OR THE NASSAU COUNTY REGIONAL OFF-TRACK BETTING CORPORATION AS SHALL BE OUTSTANDING ON THE EFFECTIVE DATE HEREOF SHALL BECOME FULL FAITH OBLIGATIONS OF SAID METROPOLITAN REGIONAL OFF-TRACK BETTING CORPORATION AND SHALL BE CONSOLIDATED, ABSORBED, MODIFIED, RE-CAPITALIZED, RE-ISSUED, REFUNDED AND/OR LIQUIDATED AS THE BOARD OF DIRECTORS OF SAID REGIONAL CORPORATION SHALL DETERMINE TO BE APPROPRIATE HEREUNDER OR IN ACCORDANCE WITH SECTION FIVE HUNDRED EIGHT AND/OR FIVE HUNDRED ELEVEN OF THIS ARTICLE. EXCEPT IN THE INSTANCE OF THE METROPOLITAN OTB, UPON TERMINATION OF THE EXISTENCE OF THE CORPORATION ALL OF ITS RIGHTS, PROPERTY, ASSETS AND FUNDS SHALL THEREUPON VEST IN AND BE POSSESSED BY THE PARTICIPATING COUNTIES IN THE SAME PROPORTION SUCH PROPERTY, ASSETS AND FUNDS MAY HAVE BEEN CONTRIBUTED BY EACH COUNTY OR ACCORDING TO THE MANNER IN WHICH THE REVENUES OF THE CORPORATION ARE DISTRIBUTED PURSUANT TO SECTION FIVE HUNDRED SIXTEEN OF THIS ARTICLE, OR ANY COMBINATION OF BOTH SUCH METHODS, AS THE STATE BOARD SHALL DETERMINE.

B. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH A OF THIS SUBDIVISION, THOSE COUNTIES COMPRISING THE CENTRAL REGION PRIOR TO JANUARY FIRST, NINETEEN HUNDRED SEVENTY-FOUR, EVEN THOUGH SUCH COUNTIES ARE INCLUDED IN OFF-TRACK BETTING REGIONS OTHER THAN THE CENTRAL REGION, SHALL HAVE UNTIL DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-TWO TO FILE THE CERTIFICATE REQUIRED BY SUBDIVISION THREE OF THIS SECTION.

6. EACH DIRECTOR SHALL CONTINUE TO SERVE UNTIL THE APPOINTMENT AND QUALIFICATION OF HIS SUCCESSOR.

7. THE DIRECTORS SHALL BE REMOVABLE FOR CAUSE BY THE STATE BOARD, UPON CHARGES AND AFTER A HEARING.

8. THE POWERS OF THE CORPORATION SHALL BE VESTED IN AND EXERCISED BY THE BOARD OF DIRECTORS AT A MEETING DULY HELD AT A TIME FIXED BY ANY BY-LAW ADOPTED BY SUCH BOARD, OR AT ANY DULY ADJOURNED MEETING OF SUCH MEETING OR AT ANY MEETING HELD UPON REASONABLE NOTICE TO ALL OF THE DIRECTORS, OR UPON WRITTEN WAIVER THEREOF, AND A MAJORITY OF THE WHOLE NUMBER OF DIRECTORS SHALL CONSTITUTE A QUORUM; PROVIDED THAT NEITHER THE BUSINESS NOR THE POWERS OF THE CORPORATION SHALL BE TRANSACTED OR EXERCISED EXCEPT PURSUANT TO THE FAVORABLE VOTE OF AT LEAST A MAJORITY OF THE DIRECTORS PRESENT AT A MEETING AT WHICH A QUORUM IS IN ATTENDANCE.

9. THE BOARD OF DIRECTORS MAY DELEGATE TO ONE OR MORE OF THE DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES OF THE CORPORATION SUCH POWERS AND DUTIES AS IT MAY DEEM PROPER.

10. A. THE DIRECTORS MAY RECEIVE A SUM OF TWO HUNDRED FIFTY DOLLARS FOR EACH DAY OR PART THEREOF SPENT IN ATTENDANCE AT MEETINGS HELD IN ACCORDANCE WITH SUBDIVISION EIGHT OF THIS SECTION, BUT NOT TO EXCEED TWENTY-FIVE HUNDRED DOLLARS DURING ANY ONE YEAR.

B. THE DIRECTORS MAY RECEIVE A SUM OF ONE HUNDRED DOLLARS FOR EACH DAY OR PART THEREOF AT MEETINGS OTHER THAN THOSE DEFINED IN SUBDIVISION EIGHT OF THIS SECTION OR OTHERWISE IN THE WORK OF THE CORPORATION; PROVIDED THAT SUCH ACTIVITIES ARE APPROVED BY THE BOARD AS A WHOLE. SUCH ADDITIONAL EXPENSES SHALL NOT EXCEED FIFTEEN HUNDRED DOLLARS IN ANY CALENDAR YEAR.

C. THE CHAIRMAN OF THE BOARD ELECTED IN ACCORDANCE WITH SUBDIVISION ONE OF THIS SECTION SHALL RECEIVE ADDITIONAL COMPENSATION OF ONE THOUSAND DOLLARS PER YEAR TO COVER THOSE EXPENSES AND ACTIVITIES ASSOCIATED WITH SUCH OFFICE.

D. IN ADDITION, THE DIRECTORS SHALL BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

E. ANY EXPENSES INCURRED BY A DIRECTOR IN EXCESS OF THOSE AUTHORIZED BY PARAGRAPH D OF THIS SUBDIVISION SHALL BE THE RESPONSIBILITY OF THE APPOINTING POLITICAL SUBDIVISION, PAYABLE ON VOUCHERS CERTIFIED OR APPROVED BY THE CHIEF FISCAL OFFICER OF SUCH POLITICAL SUBDIVISION AS IS PROVIDED BY LAW.

11. THE DIRECTORS MAY ENGAGE IN OUTSIDE EMPLOYMENT OR IN A PROFESSION OR BUSINESS UNLESS OTHERWISE PROHIBITED FROM DOING SO BY VIRTUE OF HOLDING ANOTHER PUBLIC OFFICE SUBJECT TO THE PROVISIONS OF ARTICLE EIGHTEEN OF THE GENERAL MUNICIPAL LAW. FOR THE PURPOSES OF SUCH ARTICLE EIGHTEEN, THE CORPORATION SHALL BE A "MUNICIPALITY" AND A DIRECTOR SHALL BE A "MUNICIPAL OFFICER."

12. THE BOARD OF DIRECTORS SHALL HOLD AN ANNUAL MEETING.

13. THE FISCAL YEAR OF THE CORPORATION SHALL BE THE CALENDAR YEAR.

14. A GENERAL MANAGER, WHO SHALL BE THE CHIEF EXECUTIVE OFFICER OF THE CORPORATION, SHALL BE IN CHARGE OF THE ADMINISTRATION OF ITS AFFAIRS. HE OR SHE SHALL PERFORM HIS OR HER DUTIES AS CHIEF EXECUTIVE OFFICER, TOGETHER WITH ANY OTHER DUTIES ASSIGNED TO HIM OR HER BY THE CORPORATION, UNDER ITS DIRECT SUPERVISION AND CONTROL AND SHALL GIVE FULL TIME TO SUCH DUTIES.

15. ANY PERSON PROHIBITED BY ANY LAW OR RULE FROM ACCEPTING COMPENSATION DESCRIBED IN SUBDIVISION TEN OF THIS SECTION SHALL NONETHELESS BE PERMITTED TO SERVE AS A DIRECTOR PROVIDED SAID PERSON WAIVES HIS COMPENSATION.

16. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS CHAPTER OR ANY OTHER LAW, ANY DIRECTOR, ADMINISTRATOR, OR OTHER EMPLOYEE OF A CORPORATION MAY BE ISSUED AND HOLD ANY LICENSE ISSUED BY THE STATE BOARD.

S 3. Paragraphs b and c of subdivision 11 of section 503 of the racing, pari-mutuel wagering and breeding law, are amended to read as follows:

b. [No rule or regulation promulgated by a corporation pursuant to the provisions of this subdivision shall be effective until a copy thereof is filed with the clerk of each participating county;

c. Any violation of any rule or regulation, filed with the county clerk of each county in which such corporation operates and designated by the letter "R" by resolution of the board of directors of the corporation, shall be a violation and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one thousand dollars, or by both such imprisonment and fine. All such fines collected shall be payable to the county comptroller in the county in which the violation occurred and shall be paid by him into the general fund of such county. Any such rule shall be effective, notwithstanding that any act or omission made an offense or punishable thereby may be a crime or violation or punishable under any other provision of law] EXCEPT IN THE CASE OF THE METROPOLITAN OTB WHICH SHALL FILE WITH THE SECRETARY OF STATE, NO RULE OR REGULATION PROMULGATED BY A CORPORATION PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION SHALL BE EFFECTIVE UNTIL A COPY THEREOF IS FILED WITH THE CLERK OF EACH PARTICIPATING COUNTY;

C. ANY VIOLATION OF ANY RULE OR REGULATION, FILED WITH THE SECRETARY OF STATE OR THE COUNTY CLERK OF EACH COUNTY IN WHICH SUCH CORPORATION OPERATES AND DESIGNATED BY THE LETTER "R" BY RESOLUTION OF THE BOARD OF DIRECTORS OF THE CORPORATION, SHALL BE A VIOLATION AND SHALL BE PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN THREE MONTHS, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY BOTH SUCH IMPRISONMENT AND FINE. ALL SUCH FINES COLLECTED SHALL BE PAYABLE TO THE COUNTY COMPTROLLER IN THE COUNTY IN WHICH THE VIOLATION OCCURRED AND SHALL BE PAID BY HIM INTO THE GENERAL FUND OF SUCH COUNTY. ANY SUCH RULE SHALL BE EFFECTIVE, NOTWITHSTANDING THAT ANY ACT OR OMISSION MADE AN OFFENSE OR PUNISHABLE THEREBY MAY BE A CRIME OR VIOLATION OR PUNISHABLE UNDER ANY OTHER PROVISION OF LAW;

S 4. Subdivision 5 of section 505 of the racing, pari-mutuel wagering and breeding law is REPEALED and a new subdivision 5 is added to read as follows:

5. A. CONTRACTS MAY BE ENTERED INTO BY A PARTICIPATING COUNTY AND THE CORPORATION CONTAINING UNDERTAKINGS BY A PARTICIPATING COUNTY (I) TO ACQUIRE OR LEASE REAL OR PERSONAL PROPERTY AND AUTHORIZE THE USE OR OCCUPANCY OF SAME BY THE CORPORATION, OR (II) TO AUTHORIZE THE CORPORATION TO USE OR OCCUPY REAL OR PERSONAL PROPERTY THEN OWNED BY OR UNDER LEASE TO A PARTICIPATING COUNTY, OR (III) TO PERFORM ANY OTHER ACTS ON THE PART OF SUCH COUNTY AUTHORIZED BY SUBDIVISIONS ONE, TWO AND THREE OF THIS SECTION, PROVIDED THE ACTS OF SUCH COUNTY CALLED FOR BY SUCH UNDERTAKINGS ARE IN CONFORMITY WITH THE PROVISIONS OF, AND WITHIN THE POWERS GRANTED TO THE COUNTY BY, SUCH SUBDIVISIONS ONE, TWO AND THREE OF THIS SECTION. THE MAKING OF ANY SUCH CONTRACT SHALL BE AUTHORIZED, ON BEHALF OF THE COUNTY, BY THE GOVERNING BODY OR THE COUNTY EXECUTIVE, OR BY BOTH, AS THE CASE MAY BE, IN THE SAME MANNER AS THE ACT OR ACTS OF THE COUNTY CALLED FOR BY THE UNDERTAKING OR UNDERTAKINGS IN SUCH CONTRACT ARE REQUIRED TO BE AUTHORIZED UNDER THE APPLICABLE PROVISIONS OF SUCH SUBDIVISIONS ONE, TWO AND THREE OF THIS SECTION.

B. THE METROPOLITAN OTB SHALL LOCATE ITS HEADQUARTERS AND A FULL SERVICE, HIGH QUALITY OFF-TRACK GAMING AND VIDEO LOTTERY GAMING, SIMULCAST TELE-THEATER AND PARKING LOT/GARAGE AT THE PRIME LOCATION KNOWN AS THE TIME EQUITIES BUILDING LOCATED AT 70 WEST SUNRISE HIGHWAY IN THE INCORPORATED VILLAGE OF FREEPORT, NEW YORK, INCLUDING A FULL SERVICE RESTAURANT AND OTHER DINING, LOUNGE AND ENTERTAINMENT FACILITIES. IN FURTHERANCE OF THE LOCATION OF SUCH HEADQUARTERS AND GAMING FACILITY AS AFORESAID, THE METROPOLITAN OTB SHALL ENTER INTO SUCH CAPITAL LEASE WITH THE INCORPORATED VILLAGE OF FREEPORT AS SHALL ENSURE THAT SAID REGIONAL OTB WILL AT ITS EXPENSE EFFECT ANY AND ALL SUCH RENOVATIONS AND UPGRADES TO SAID OFF-TRACK BETTING FACILITY AS SHALL BE NECESSARY AND CONVENIENT FOR IT TO BE OPERATED AS SUCH HEADQUARTERS AND FULL SERVICE OFF-TRACK BETTING FACILITY TO BE LICENSED HEREUNDER AND TO BE CERTIFIED TO BE IN COMPLIANCE WITH ALL STATE AND LOCAL FIRE AND SAFETY CODES SUCH THAT THE DIVISION IS AFFORDED ADEQUATE SPACE, INFRASTRUCTURE AND AMENITIES CONSISTENT WITH THE HIGHEST INDUSTRY STANDARDS FOR SUCH HEADQUARTERS AND FULL SERVICE, HIGH QUALITY OFF-TRACK GAMING AND VIDEO LOTTERY GAMING AND SIMULCAST TELE-THEATER FACILITIES AND OPERATIONS AS ARE FOUND IN OTHER STATES, CITIES AND REGIONS, INCLUDING:

(I) SUPERIOR CONSUMER AMENITIES AND CONVENIENCES TO ENCOURAGE AND ATTRACT THE PATRONAGE OF TOURISTS AND OTHER VISITORS FROM ACROSS THE REGION, STATE AND NATION; AND

(II) ADEQUATE MOTOR VEHICLE PARKING FACILITIES TO SATISFY EMPLOYEE AND PATRON REQUIREMENTS.

C. ANY SUCH CONTRACT BETWEEN A COUNTY OR OTHER POLITICAL SUBDIVISION AND THE CORPORATION MAY BE PLEDGED BY THE CORPORATION TO SECURE ITS BONDS OR NOTES AND MAY NOT BE MODIFIED THEREAFTER EXCEPT AS PROVIDED BY THE TERMS OF THE PLEDGE.

S 5. Subdivision 1 of section 507 of the racing, pari-mutuel wagering and breeding law is REPEALED and a new subdivision 1 is added to read as follows:

1. EACH CORPORATION SHALL LET CONTRACTS FOR CONSTRUCTION OR ANY OTHER WORK, INCLUDING THE FURNISHING OF MATERIALS OR SUPPLIES INCIDENT THERETO, AND CONTRACTS FOR THE PURCHASE OR PROCUREMENT OF EQUIPMENT, MATERIALS OR SUPPLIES: (I) IN THE MANNER PROVIDED BY LAW WITH RESPECT TO THE LETTING OF SUCH CONTRACTS BY COUNTIES EXCEPT THAT WHERE THE ESTIMATED EXPENSE OF A CONTRACT DOES NOT EXCEED FIFTEEN THOUSAND DOLLARS, SUCH CONTRACT MAY BE ENTERED INTO WITHOUT PUBLIC LETTING, PROVIDED, HOWEVER, THAT WHERE THE CORPORATION DETERMINES WITH RESPECT TO ANY CONTRACT THAT IT WOULD NOT BE IN THE PUBLIC INTEREST TO COMPLY WITH THIS SECTION AND THE GOVERNING BODY OF EACH COUNTY, BY RESOLUTION, RULE OR REGULATION ADOPTED BY THE VOTE OF TWO-THIRDS OF THE WHOLE NUMBER OF VOTES AUTHORIZED TO BE CAST BY ALL OF THE MEMBERS OF SUCH BODY, CONCURS IN SUCH DETERMINATION, THEN IT MAY ENTER INTO SUCH CONTRACT WITHOUT PUBLIC LETTING AS AUTHORIZED BY SAID RESOLUTION, RULES AND REGULATIONS; (II) IN CONJUNCTION WITH ONE OR MORE REGIONAL OFF-TRACK BETTING CORPORATIONS PURSUANT TO THIS SECTION; OR (III) IN THE MANNER PROVIDED IN THIS CHAPTER IF IN CONJUNCTION WITH THE METROPOLITAN OTB.

S 6. Subdivision 2 of section 516 of the racing, pari-mutuel wagering and breeding law is REPEALED and a new subdivision 2 is added to read as follows:

2. AFTER PAYMENT OF ALL OF THE COSTS OF THE CORPORATION'S FUNCTIONS, NET REVENUE REMAINING TO THE CORPORATION SHALL BE DIVIDED, QUARTERLY, NOT MORE THAN THIRTY DAYS AFTER THE CLOSE OF THE CALENDAR QUARTER, AMONG THE PARTICIPATING COUNTIES IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:

A. EXCEPT IN THE CASE OF THE METROPOLITAN OTB, FIFTY PERCENT OF SUCH REVENUE DISTRIBUTED AMONG THE PARTICIPATING COUNTIES ON THE BASIS OF THE PROPORTION OF THE TOTAL OFF-TRACK PARI-MUTUEL WAGERING ACCEPTED BY THE CORPORATION DURING THE PREVIOUS CALENDAR QUARTER THAT ORIGINATED IN THE BRANCH OFFICES LOCATED IN EACH PARTICIPATING COUNTY;

B. EXCEPT IN THE CASE OF THE METROPOLITAN OTB, FIFTY PERCENT OF SUCH REVENUE ON THE BASIS OF POPULATION, AS DEFINED AS THE TOTAL POPULATION IN EACH PARTICIPATING COUNTY SHOWN BY THE LATEST PRECEDING DECENNIAL FEDERAL CENSUS COMPLETED AND PUBLISHED AS A FINAL POPULATION COUNT BY THE UNITED STATES BUREAU OF THE CENSUS PRECEDING THE COMMENCEMENT OF THE CALENDAR YEAR IN WHICH SUCH DISTRIBUTION IS TO BE MADE; AND

C. A PARTICIPATING COUNTY CONTAINING A CITY ELECTING TO PARTICIPATE IN THE MANAGEMENT AND REVENUES OF A CORPORATION UNDER SUBDIVISION TWO OF SECTION FIVE HUNDRED TWO OF THIS ARTICLE SHALL DISTRIBUTE REVENUE RECEIVED UNDER PARAGRAPHS A AND B OF THIS SUBDIVISION TO SUCH CITY ACCORDING TO THE PROPORTION SUCH CITY'S POPULATION BEARS TO THE COUNTY'S POPULATION.

D. IN THE CASE OF THE METROPOLITAN OTB, SUCH REVENUE SHALL BE DISTRIBUTED AMONG THE STATE AND THE COUNTY OF NASSAU ON THE BASIS OF THE PROPORTION OF THE TOTAL OFF-TRACK PARI-MUTUEL WAGERING ACCEPTED BY THE CORPORATION DURING THE PREVIOUS CALENDAR QUARTER THAT ORIGINATED IN THE BRANCH OFFICES LOCATED IN NEW YORK CITY AND NASSAU COUNTY, RESPECTIVELY.

S 7. Paragraphs b and c of subdivision 1 of section 519 of the racing, pari-mutuel wagering and breeding law, are amended to read as follows:

b. [Nassau: Nassau county;

c. New York city] METROPOLITAN: [the five counties comprising the city of New York] KINGS, QUEENS, RICHMOND, BRONX, NEW YORK AND NASSAU COUNTIES;

S 8. The opening paragraph of subdivision 1 of section 527 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

The disposition of the retained commission from pools resulting from regular, multiple or exotic bets, as the case may be, whether placed on races run within a region or outside a region, conducted by racing corporations, harness racing associations or corporations, quarter horse racing associations or corporations or races run outside the state shall, AFTER THE REGIONAL OFF-TRACK BETTING CORPORATION'S EXPENSES FOR DEBT SERVICE, SALARIES, WAGES, INSURANCE, RENT, REAL PROPERTY TAXES, EMPLOYEE POST-RETIREMENT FUND CONTRIBUTIONS AND A CAPITAL RESERVE CONTRIBUTION OF THREE PER CENTUM IS DEDUCTED THEREFROM AND RETAINED BY SUCH CORPORATION, be governed by the tables in paragraphs a and b of this subdivision. The rate denominated "state tax" shall represent the rate of a reasonable tax imposed upon the retained commission for the privilege of conducting off-track pari-mutuel betting, which tax is hereby levied and shall be payable in the manner set forth in this section. Each off-track betting corporation shall pay to the racing and wagering board as a regulatory fee, which fee is hereby levied, fifty hundredths of one percent of the total daily pools of such corporation. Each corporation shall also pay twenty per centum of the breaks derived from bets on harness races and fifty per centum of the breaks derived from bets on all other races to the agriculture and New York State horse breeding and development fund and to the thoroughbred breeding and development fund, the total of such payments to be apportioned fifty per centum to each such fund. For the purposes of this section, the [New York city,] METROPOLITAN Suffolk, [Nassau,] and the Catskill regions shall constitute a single region and any thoroughbred track located

within the Capital District region shall be deemed to be within such single region. A "regional meeting" shall refer to either harness or thoroughbred meetings, or both, except that a franchised corporation shall not be a regional track for the purpose of receiving distributions from bets on thoroughbred races conducted by a thoroughbred track in the Catskill region conducting a mixed meeting. With the exception of a harness racing association or corporation first licensed to conduct pari-mutuel wagering at a track located in Tioga county after January first, two thousand five, racing corporations first licensed to conduct pari-mutuel racing after January first, nineteen hundred eighty-six or a harness racing association or corporation first licensed to conduct pari-mutuel wagering at a track located in Genesee County after January first, two thousand five, and quarter horse tracks shall not be "regional tracks"; if there is more than one harness track within a region, such tracks shall evenly divide payments made pursuant to the tables in paragraphs a and b of this subdivision when neither track is running. In the event a track elects to reduce its retained percentage from any or all of its pari-mutuel pools, the payments to the track holding the race and the regional track required by paragraphs a and b of this subdivision shall be reduced in proportion to such reduction. Nothing in this section shall be construed to authorize the conduct of off-track betting contrary to the provisions of section five hundred twenty-three of this article.

S 9. Article 6 of the racing, pari-mutuel wagering and breeding law is REPEALED.

S 10. Subdivision a of section 1617-a of the tax law, as amended by section 2 of part O-1 of chapter 57 of the laws of 2009, is amended to read as follows:

a. The division of the lottery is hereby authorized to license, pursuant to rules and regulations to be promulgated by the division of the lottery, the operation of video lottery gaming at Aqueduct, BELMONT, Monticello, Yonkers, Finger Lakes, and Vernon Downs racetracks, or at any other racetrack licensed pursuant to article three of the racing, pari-mutuel wagering and breeding law that are located in a county or counties in which video lottery gaming has been authorized pursuant to local law, excluding the licensed racetrack commonly referred to in article three of the racing, pari-mutuel wagering and breeding law as the "New York state exposition" held in Onondaga county and the [racetracks] RACETRACK of the non-profit racing association known as [Belmont Park racetrack and] the Saratoga thoroughbred racetrack. Such rules and regulations shall provide, as a condition of licensure, that racetracks to be licensed are certified to be in compliance with all state and local fire and safety codes, that the division is afforded adequate space, infrastructure, and amenities consistent with industry standards for such video gaming operations as found at racetracks in other states, that racetrack employees involved in the operation of video lottery gaming pursuant to this section are licensed by the racing and wagering board, and such other terms and conditions of licensure as the division may establish. Notwithstanding any inconsistent provision of law, video lottery gaming at a racetrack pursuant to this section shall be deemed an approved activity for such racetrack under the relevant city, county, town, or village land use or zoning ordinances, rules, or regulations. No entity licensed by the division operating video lottery gaming pursuant to this section may house such gaming activity in a structure deemed or approved by the division as "temporary" for a duration of longer than eighteen-months. Nothing in this section shall prohibit the division

from licensing an entity to operate video lottery gaming at an existing racetrack as authorized in this subdivision whether or not a different entity is licensed to conduct horse racing and pari-mutuel wagering at such racetrack pursuant to article two or three of the racing, pari-mutuel wagering and breeding law.

The division, in consultation with the racing and wagering board, shall establish standards for approval of the temporary and permanent physical layout and construction of any facility or building devoted to a video lottery gaming operation. In reviewing such application for the construction or reconstruction of facilities related or devoted to the operation or housing of video lottery gaming operations, the division, in consultation with the racing and wagering board, shall ensure that such facility:

(1) possesses superior consumer amenities and conveniences to encourage and attract the patronage of tourists and other visitors from across the region, state, and nation.

(2) has adequate motor vehicle parking facilities to satisfy patron requirements.

(3) has a physical layout and location that facilitates access to and from the horse racing track portion of such facility to encourage patronage of live horse racing events that are conducted at such track.

S 11. Except when the context and purpose indicates otherwise, references in any chapter of law or in any regulation of a state agency or in any state agency form or contract to "New York City OTB" or "Nassau County OTB" shall refer to the "Metropolitan OTB".

S 12. This act shall take effect immediately, provided, however, that the amendments to subdivision a of section 1617-a of the tax law made by section ten of this act shall not affect the expiration and reversion of such section pursuant to section 4 of part C of chapter 383 of the laws of 2001 and shall be deemed to expire therewith.