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

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:

Section 1. Short title. Sections one through six of this act shall be known and may be cited as the "New York state racing franchise accountability and transparency act of 2012".

S 2. Legislative findings. The legislature finds and declares a strong horse racing and breeding industry to be a valuable contributor to the New York state economy and a tourism generator for the entire state. The legislature further finds that The New York Racing Association, Inc. was authorized to incorporate by Chapter 18 of the Laws of 2008 to further the interests of thoroughbred racing, the public interest and the purposes of Article II of the Racing, Pari-Mutuel Wagering and Breeding Law and to further the raising and breeding and improving the breed of horses.

The structure of gaming and racing is undergoing change in New York, with the establishment of racinos, the creation of the New York state gaming commission, and first passage of a constitutional amendment on commercial casinos. Therefore, the legislature finds in order to ensure 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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industries that support and are sustained by the racing industry, exigent circumstances necessitate a temporary structural change in the organization of The New York Racing Association, Inc., in the form of a temporary board. This temporary reorganization board shall be under public control to ensure The New York Racing Association, Inc. works in the best interest of all stakeholders in horse racing including fans, owners and breeders by managing the state racing franchise with transparency and accountability. In no later than three years, the state racing franchise shall be returned to private control, remaining in the form of a not-for-profit corporation.

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

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

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

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

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

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

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

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

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

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

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

C. UPON THE EFFECTIVE DATE OF THIS PARAGRAPH, THE STRUCTURE OF THE BOARD OF THE FRANCHISED CORPORATION SHALL BE DEEMED TO BE INCORPORATED WITHIN AND MADE PART OF THE CERTIFICATE OF INCORPORATION OF THE FRANCHISED CORPORATION, AND NO AMENDMENT TO SUCH CERTIFICATE OF INCORPORATION SHALL BE NECESSARY TO GIVE EFFECT TO ANY SUCH PROVISION, AND ANY PROVISION CONTAINED WITHIN SUCH CERTIFICATE INCONSISTENT IN ANY MANNER SHALL BE SUPERSEDED BY THE PROVISIONS OF THIS SECTION. SUCH BOARD SHALL, HOWEVER, MAKE APPROPRIATE CONFORMING CHANGES TO ALL GOVERNING DOCUMENTS OF THE FRANCHISED CORPORATION INCLUDING BUT NOT LIMITED TO CORPORATE BY-LAWS. FOLLOWING SUCH CONFORMING CHANGES, AMENDMENTS TO THE BY-LAWS OF THE FRANCHISED CORPORATION SHALL ONLY BE MADE BY UNANIMOUS VOTE OF THE BOARD.

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

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

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

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

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

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