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I N   S E N A T E

April 23, 2014

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Introduced by Sen. BONACIC -- (at request of the New York State Gaming Commission) -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to oversight of a franchised racing corporation and to make technical amendments thereto

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

1     Section 1. Subparagraphs (iii), (iv), (vii), (xiii) and (xvii) of  
2     paragraph a of subdivision 8 of section 212 of the racing, pari-mutuel  
3     wagering and breeding law, as added by chapter 18 of the laws of 2008,  
4     are amended to read as follows:  
5     (iii) oversee, monitor and review all significant transactions and  
6     operations of the franchised corporation authorized by this chapter;  
7     provided, however, that nothing in this section shall be deemed to  
8     reduce, diminish or impede the authority of the state [racing and wager-  
9     ing board] GAMING COMMISSION to, pursuant to article one of this chap-  
10    ter, determine and enforce compliance by the franchised corporation with  
11    terms of racing laws and regulations. Such oversight shall include, but  
12    not be limited to:  
13    (A) review and make recommendations concerning the annual operating  
14    budgets of such franchised corporation;  
15    (B) review and make recommendations concerning operating revenues and  
16    the establishment of a financial plan;  
17    (C) review and make recommendations concerning accounting, internal  
18    control systems and security procedures;  
19    (D) review such franchised corporation's revenue and expenditure  
20    [policies] POLICIES, which shall include collective bargaining agreements  
21    management and employee compensation plans, vendor contracts and capital  
22    improvement plans;  
23    (E) review such franchise corporation's compliance with the laws,  
24    rules and regulations applicable to its activities;  
25    (F) make recommendations for establishing model governance principles  
26    to improve accountability and transparency; and

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

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1 (G) receive, review, approve or disapprove capital expense plans  
2 submitted annually by the franchised corporation.

3 (iv) evaluate, review and approve the racing franchisee's selection of  
4 a vendor or vendors to contract with the franchised corporation for  
5 provision of [totalizator] TOTALISATOR services, and manage, subject to  
6 the franchised corporation's unilateral right to opt out, directly or  
7 indirectly, integration of any offered internet wagering platform. The  
8 franchise oversight board shall consider in its evaluation of any such  
9 proposed vendor their ability to reduce the [totalizator] TOTALISATOR  
10 expenses and general development and production costs of any internet  
11 wagering platform of an authorized off-track betting corporation and the  
12 state racing franchise holder.

13 (vii) review and provide any recommendations on all simulcasting  
14 contracts (buy and sell) that are also subject to prior approval of the  
15 [racing and wagering board] STATE GAMING COMMISSION;

16 (xiii) require the franchised corporation to make all records and  
17 documents pertaining to its financial practices, and other documents and  
18 records necessary to carry out its duties, INCLUDING WITHOUT LIMITATION  
19 ANY REPORTS OF INDEPENDENT BUSINESS INTEGRITY COUNSEL RETAINED PURSUANT  
20 TO SUBDIVISION FIVE OF SECTION TWO HUNDRED SIX OF THIS ARTICLE. SUCH  
21 REPORTS ARE NOT PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE SET FORTH IN  
22 SECTION FORTY-FIVE HUNDRED THREE OF THE CIVIL PRACTICE LAW AND RULES OR  
23 OTHERWISE IN RELATION TO THIS MANDATORY DISCLOSURE TO THE FRANCHISE  
24 OVERSIGHT BOARD, BUT SUCH REPORTS RETAIN SUCH PRIVILEGE IN REGARD TO  
25 OTHER PARTIES UNLESS THE FRANCHISE OVERSIGHT BOARD NEEDS TO DISCLOSE  
26 SUCH REPORTS TO PROMOTE OR ENSURE COMPLIANCE BY THE FRANCHISED CORPO-  
27 RATION WITH THE LAWS AND RULES OF THE STATE OF NEW YORK. SUCH RECORDS  
28 AND DOCUMENTS SHALL BE available to the franchise oversight board within  
29 thirty days of a written request;

30 (xvii) request and accept the assistance of any state agency, includ-  
31 ing but not limited to, the [racing and wagering board] STATE GAMING  
32 COMMISSION, the [division of the lottery] office of parks, recreation  
33 and historic preservation, the department of environmental conservation  
34 and the department of taxation and finance, in obtaining information  
35 related to the franchised corporation's compliance with the terms of the  
36 franchise agreement; and

37 S 2. This act shall take effect immediately; provided, however the  
38 amendments to section 212 of the racing, pari-mutuel wagering and breed-  
39 ing law made by section one of this act shall not affect the expiration  
40 and repeal of such section pursuant to chapter 354 of the laws of 2005  
41 and shall expire and be deemed repealed therewith.