STATE OF NEW YORK

4542

2023-2024 Regular Sessions

IN ASSEMBLY

February 16, 2023

Introduced by M. of A. PRETLOW -- 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 utilizing funds from the capital acquisition fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 509-a of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part DD of chapter 59 of the laws of 2022, is amended to read as follows:

§ 509-a. Capital acquisition fund. 1. The corporation may create and establish a capital acquisition fund for the purpose of financing the acquisition, construction or equipping of offices, facilities or premises of the corporation. Such capital acquisition fund shall consist of [~~(i)~~] **a.** the amounts specified pursuant to subdivision three-a of section five hundred thirty-two of this chapter; and [~~(ii)~~] **b.** contributions from the corporation's pari-mutuel wagering pools, subject to the following limitations:

[~~a.~~] **(i)** no contribution shall exceed the amount of one percent of the total pari-mutuel wagering pools for the quarter in which the contribution is made;

[~~b.~~] **(ii)** no contribution shall reduce the amount of quarterly net revenues, exclusive of surcharge revenues, to an amount less than fifty percent of such net revenues; and

[~~c.~~] **(iii)** the balance of the fund shall not exceed the lesser of one percent of total pari-mutuel wagering pools for the previous twelve months or the undepreciated value of the corporation's offices, facilities and premises.

2. a. Notwithstanding any other provision of law or regulation to the contrary, from April nineteenth, two thousand twenty-one to March thirty-first, two thousand twenty-two, twenty-three percent of the funds, not to exceed two and one-half million dollars, in the Catskill off-

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

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track betting corporation's capital acquisition fund and twenty-three percent of the funds, not to exceed four hundred forty thousand dollars, in the Capital off-track betting corporation's capital acquisition fund established pursuant to this section shall also be available to such off-track betting corporation for the purposes of statutory obligations, payroll, and expenditures necessary to accept authorized wagers.

b. Notwithstanding any other provision of law or regulation to the contrary, from April first, two thousand twenty-two to March thirty-first, two thousand twenty-three, twenty-three percent of the funds, not to exceed two and one-half million dollars, in the Catskill off-track betting corporation's capital acquisition fund established pursuant to this section, and twenty-three percent of the funds, not to exceed four hundred forty thousand dollars, in the Capital off-track betting corporation's capital acquisition fund established pursuant to this section, shall be available to such off-track betting corporations for the purposes of statutory obligations, payroll, and expenditures necessary to accept authorized wagers.

c. Prior to a corporation being able to utilize the funds authorized by paragraph b of this subdivision, the corporation must submit an expenditure plan to the gaming commission for review. Such plan shall include the corporation's outstanding liabilities, projected revenue for the upcoming year, a detailed explanation of how the funds will be used, and any other information determined necessary by the commission. Upon review, the commission will make a determination as to whether access to the funds is needed and warranted.

3. The Catskill off-track betting corporation and the Capital off-track betting corporation shall make a report to the governor, speaker of the assembly, temporary president of the senate and the commission detailing the actual use of the funds made available in the capital acquisition fund. Such report shall include, but not be limited to, any impact on employment levels since utilizing the funds, the status of any statutory obligations, an accounting of the use of such funds, and any other information as deemed necessary by the commission. Such report shall be due no later than the last day of the fiscal year in which the monies were spent.

4. Notwithstanding any other provision of law or regulation to the contrary, up to five million dollars of the funds in a capital acquisition fund, established pursuant to this section shall be available once per annum to a regional off-track betting corporation for the sole purpose of paying the salaries and benefits of employees and other expenses of such corporation; provided, however, that such regional off-track betting corporation is not utilizing its capital acquisition fund for corporate purposes as provided in section three of part II of chapter fifty-eight of the laws of two thousand twelve, and further provided, that at a time and in a manner to be determined and prescribed by the New York state gaming commission, at least five percent of such amount shall be distributed among the participating counties 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.

5. A regional off-track betting corporation that chooses to utilize its capital acquisition fund to offset expenses related to salaries and benefits for the corporation's employees and other expenses as provided in subdivision four of this section shall do so by providing written

notification to the New York state gaming commission, at least fifteen days in advance of its decision to utilize monies for corporate purposes.

§ 2. This act shall take effect immediately.