§ 1007. Simulcasts track to track. 1. The commission may authorize and approve one or more applications for a license by any harness racing association or corporation, or thoroughbred racing corporation as provided in section one thousand three of this article to provide for the simulcast of horse races for wagering purposes from a track operated by any association or corporation that conducts a pari-mutuel race meeting under this chapter to a receiving track operated by any association or corporation applying for such license except it shall not be applicable when a thoroughbred track in zone two simulcasts to a thoroughbred track in zone one, provided, however, that no application shall be approved by the commission:

a. that the commission determines may cause any reduction of the total number of racing events conducted on an annual or daily basis at the receiving track; and

b. without a written agreement between the receiving track or corporation applying for such license and the sending track and a letter of consent to such agreement from any racing association or corporation that operates another track within the simulcast district in which the receiving track is located, and is conducting a race meeting during the period for which simulcasting is proposed; provided, however, that such consent shall not be withheld if the receiving track is more than thirty miles from such other track. Such period shall be defined as a twenty-four hour day from midnight to midnight. For those tracks located in the city of New York or the county of Westchester or Nassau, such period shall be limited to the same time of day defined as afternoon against afternoon and evening against evening.

2. Every racing association or corporation authorized to accept wagers on simulcast racing events pursuant to subdivision one of this section shall be subject to all appropriate provisions of this chapter pursuant to the conduct of a race meeting by such association or corporation except as provided in subdivision three of this section.

3. Notwithstanding any inconsistent provisions of this chapter, the sums retained by any receiving track from the total deposits in pools

wagered on simulcast racing events as provided in subdivision one of this section shall be equal to the retained percentages applicable to the sending track.

a. Of the sums retained by the receiving track from simulcast pools the pari-mutuel tax shall be levied at the rate set forth in subdivision one of section one hundred thirty-six of this chapter.

b. Of the sums retained by the receiving track as provided in this subdivision, an amount equal to one percent of daily pools derived from bets on simulcasts of harness races shall be paid to the agriculture and New York state breeding and development fund, and an amount equal to one-half of one percent of daily pools derived from bets on simulcasts of running races shall be paid to the New York state thoroughbred breeding and development fund.

c. Of the sums retained by the receiving track as provided in this subdivision, an amount as determined through agreement between the sending and receiving tracks shall be distributed to the sending track.

d. (i) Of the sums retained by a receiving track located in Westchester County, two and one-half percent of total pools shall be used exclusively for increasing purses to be awarded at races conducted by such receiving track.

(ii) Of the sums retained by other receiving tracks while such tracks are conducting a race meeting, fifty percent of the net amounts remaining after payments required in this section and fifty percent of the net amounts derived from all simulcasting authorized by chapter two hundred eighty-one of the laws of nineteen hundred ninety-four and other such direct expenses as are necessary to provide the track-to-track program but excluding charges for depreciation, administration overhead expenses, taxes not directly related to such program and management fees shall be used exclusively for increasing purses awarded at races conducted by such receiving track. Nothing in this section shall preclude the right of a horsemen's organization representing owners and trainers at the receiving track from entering into an agreement with such receiving track to provide for an audit or other such verification

of such net amounts available for purses.

(iii) Of the sums retained by a receiving track located in Westchester county on races received from a franchised corporation, for the period commencing January first, two thousand eight and continuing through June thirtieth, two thousand twenty-seven, the amount used exclusively for purses to be awarded at races conducted by such receiving track shall be computed as follows: of the sums so retained, two and one-half percent of the total pools. Such amount shall be increased or decreased in the amount of fifty percent of the difference in total commissions determined by comparing the total commissions available after July twenty-first, nineteen hundred ninety-five to the total commissions that would have been available to such track prior to July twenty-first, nineteen hundred ninety-five.

e. If an admission fee is charged at a receiving track, such fee shall be subject to state and local admission taxes at the rate applicable to the receiving track pursuant to this chapter.

f. The payment of the state tax imposed by this section shall be made to the commissioner of taxation and finance at such regular intervals as the commissioner of taxation and finance may require, and shall be accompanied by a report, under oath, that sets forth such information as the commissioner of taxation and finance may require. A penalty of five percent and interest at the rate of one percent per month from the date the report is required to be filed to the date of payment of the tax shall be payable in case any tax imposed by this section is not paid when due. If the commissioner of taxation and finance determines that any moneys received under this paragraph were paid in error, such commissioner may cause the same to be refunded without interest out of any moneys collected thereunder, provided an application therefor is filed with such commissioner within one year from the time the erroneous payment was made. Such taxes, interest and penalties when collected, after the deduction of refunds of taxes erroneously paid, shall be paid by the commissioner of taxation and finance into the general fund of the state treasury.

g. Any harness racing or association or corporation, or thoroughbred

racing corporation authorized pursuant to this section shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of the total daily pari-mutuel pools.

3-a. Notwithstanding any inconsistent provision of this chapter, of the sums received by a sending track, a portion shall be distributed to purses in accordance with a written agreement between the racing association or corporation operating such track and the horsemen's organization representing owners and trainers at such track, as determined by the commission. In the absence of such an agreement, fifty percent of the sums received by a sending track shall be distributed to purses.

4. Any simulcasts between a sending and receiving track as provided in this section shall result in the combination of all wagers placed at the receiving track with wagers placed at the sending track so as to produce common pari-mutuel betting pools for the calculation of odds and the determination of payouts from such pool, which payout shall be the same for all winning tickets, irrespective of whether a wager is placed at a sending track or a receiving track.

5. No racing association or corporation shall transmit a simulcast signal of its events to any receiving track:

a. that is conducting a race meeting of the same type of racing during the same time that racing is being conducted at the sending track, provided, however, that the commission may establish conditions to authorize the acceptance of wagers of a sending track during a race meeting of the same type of racing as special events in the best interests of racing or as other events that the commission determines to be in the best interests of racing provided, however, that the conduct of such other events shall be subject to an agreement between the receiving track and the horsemen's organization representing owners and trainers at such track;

b. unless such signal from the sending track has been made available to all authorized receiving tracks, except when the sending track is

located within the same county as the receiving track; and

c. except for a harness track located in a harness special betting district, unless such signal from the sending track has been made available to a reasonable number of off-track betting branch offices, as authorized in accordance with section one thousand eight of this article, located in the same betting region as the receiving track. Provided, however, that for a receiving track located in Westchester county, such signal shall also be made available to a reasonable number of branch offices of the New York city off-track betting corporation; and

d. except for a harness track located in a harness special betting district, no track shall be permitted to receive a signal from a sending track unless it has made available its simulcast signal to a reasonable number of off-track betting branch offices of each off-track betting corporation authorized to accept wagers on its races under reasonable terms and conditions agreeable to the parties. Simulcast transmissions into a track located within Suffolk county shall be prohibited.