**§ 216. Disposition of racing facilities or certain assets.** 1. Any franchised corporation desiring to grant, give, devise, or sell any assets including tangible and intangible assets, racing facilities and real estate shall apply to the commission and to the franchise oversight board for approval of such disposition, provided, however, that the approval of such commission and such board shall not be necessary for the sale of property, other than real property, that is appropriately, customarily and usually sold by the association in the normal course of its business. If in the judgment of the commission and the franchise oversight board, acting individually, the public interest, convenience or necessity and the best interest of racing will be served thereby, the commission and franchise oversight board shall each enter an order granting approval of such disposition and of the terms thereof.

2. Such franchised corporation during the term of such a franchise shall not pledge, mortgage or otherwise encumber any of the racetrack facilities or properties acquired after the effective date of this subdivision without the prior written approval of the franchise oversight board.

The franchised corporation may incur indebtedness, including without limitation, the issuance of non-convertible debt securities in connection therewith, and grant liens on and security interests in assets and interests, including without limitation, the revenue streams referred to herein, except that any debt incurred or funds raised shall be used to promote racing at the franchise racetracks. The franchised corporation shall not create any lien or security interest in any asset that runs with the franchise, such as the simulcasting contract, the repayment of which would extend beyond the term of the franchise. All incurrence of debt or grant of liens or security interests other than those arising within the ordinary course of business such as materialmen's and mechanics' liens first require the approval of the franchise oversight board.

3. The state through the urban development corporation may borrow to fund racetrack capital improvements at Aqueduct racetrack, Belmont Park racetrack and Saratoga race course and borrow on behalf of the

franchised corporation pursuant to franchise oversight board approval secured against the franchised corporation's right to receive payments for racetrack capital improvements pursuant to subdivision f of section sixteen hundred twelve of the tax law, provided, however, the indenture shall restrict the use of net proceeds to capital expenditures at the racetrack and provided further that any such borrowing shall be secured only by such future stream of racetrack capital improvement payments payable to the franchised corporation. The urban development corporation shall initially borrow funds necessary for approved capital expenditures in years one through five and then at appropriate times as determined by the franchise oversight board for years six through ten, years eleven through fifteen, years sixteen through twenty and years twenty-one through twenty-five. The amount of borrowing for approved capital expenditures shall not exceed the amount that would have been paid out for facility improvements in the event the full payment pursuant to subdivision f of section sixteen hundred twelve of the tax law for that purpose was made.