**§ 228. Pension plans for backstretch employees.** 1. The commission may, as a condition of racing, require all trainers and owners engaged in racing at meetings of any corporation subject to its jurisdiction to participate in a pension plan or trust established, or which may be established, by trainers and owners for the benefit of stable employees (backstretch workers) regularly employed at such meetings; if the commission finds that participation in the plan by all such owners and trainers is in the best interests of racing and further finds, based upon certification by the trustees of such plan, that at least eighty percent of such trainers and owners have agreed in writing to participate, or are, in fact, participating therein.

2. The commission shall, as a condition of racing, require any franchised corporation and every other corporation subject to its jurisdiction to withhold one percent of all purses, except that for the franchised corporation, starting on September first, two thousand seven and continuing through August thirty-first, two thousand twenty-seven, two percent of all purses shall be withheld, and, in the case of the franchised corporation, to pay such sum to the horsemen's organization or its successor that was first entitled to receive payments pursuant to this section in accordance with rules of the commission adopted effective November third, nineteen hundred eighty-three representing at least fifty-one percent of the owners and trainers using the facilities of such franchised corporation, on the condition that such horsemen's organization shall expend as much as is necessary, but not to exceed one-half of one percent of such total sum, to acquire and maintain the equipment required to establish a program at a state college within this state with an approved equine science program to test for the presence of steroids in horses, provided further that the qualified organization shall also, in an amount to be determined by its board of directors, annually include in its expenditures for benevolence programs, funds to support an organization providing services necessary to backstretch employees, and, in the case of every other corporation, to pay such one percent sum of purses to the horsemen's organization or its successor that was first entitled to receive payments pursuant to this section in accordance with rules of the commission adopted effective May twenty-third, nineteen hundred eighty-six representing at least

fifty-one percent of the owners and trainers using the facilities of such corporation.

In either case, any other horsemen's organization may apply to the commission to be approved as the qualified organization to receive payment of the one percent of all purses by submitting to the commission proof of both, that (i) it represents more than fifty-one percent of all the owners and trainers using the same facilities and (ii) the horsemen's organization previously approved as qualified by the commission does not represent fifty-one percent of all the owners and trainers using the same facilities. If the commission is satisfied that the documentation submitted with the application of any other horsemen's organization is conclusive with respect to subparagraphs (i) and (ii) of this paragraph, the commission may approve the applicant as the qualified recipient organization.

In the best interests of racing, upon receipt of such an application, the commission may direct the payments to the previously qualified horsemen's organization to continue uninterrupted, or it may direct the payments to be withheld and placed in interest-bearing accounts for a period not to exceed ninety days, during which time the commission shall review and approve or disapprove the application. Funds held in such manner shall be paid to the organization approved by the commission. In no event shall the commission accept more than one such application in any calendar year from the same horsemen's organization.

The funds authorized to be paid by the commission are to be used exclusively for the benefit of those horsemen racing in New York state through the administrative purposes of such qualified organization, benevolent activities on behalf of backstretch employees, and for the promotion of equine research.