CHAPTER 47-A OF THE CONSOLIDATED LAWS

RACING, PARI-MUTUEL WAGERING AND BREEDING LAW

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ARTICLE 1

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§ 100. Legislative intent. The legislature finds and determines that the gaming industries constitute a vital sector of New York state's overall economy. The legislature also finds and determines that responsive, effective, innovative, state gaming regulation is necessary to operate in a global, evolving and increasingly competitive market place. The legislature additionally finds and determines that this legislation is necessary to modernize and transform the present state gaming agencies into a new integrated state gaming commission.

The continued growth of the gaming industry will contribute to economic development and job creation in this state. Therefore, it is essential to maintain the public confidence and trust in the credibility and integrity of legalized gaming activities. To ensure such public confidence and trust, this article provides that the regulation of such gaming is to be conducted in the most efficient, transparent and effective manner possible. By consolidating various regulatory functions into a single oversight body with broad powers, this article ensures strict state regulation of all corporations, associations and persons engaged in gaming activity. Further, by consolidating regulatory functions into a single oversight body, this article will increase efficiency, reduce costs and eliminate any unnecessary redundancies in regulation. The improved regulatory structure established by this article will ensure, so far as practicable, the exclusion of unsuitable persons or entities from participating in any legalized gaming activity within this state. The goal of this article is that all gaming activity conducted in this state will be of the highest integrity, credibility and quality and that the best interests of the public, both gaming and non-gaming, will be served. Additionally, during the term of appointment or employment, every member, officer and employee of the commission shall be held to the highest ethical standards and avoid any conflict of interest or appearance thereof. Finally, it is determined by the legislature that the public interest is best served by those persons or entities engaged in gaming activity paying the cost of regulating such activity through reasonable regulatory fees.

§ 101. Definitions. As used in this chapter, the following terms shall have the following meanings, unless the context requires otherwise:

1. "Public officer" shall mean every elected state and local officer and every other state and local officer, as defined in section two of the public officers law, whose duties relate to pari-mutuel racing

activities or the taxation thereof, who is required to devote all or substantially all of his or her time to the duties of his or her office for which he or she receives compensation or if employed on a part-time or other basis receives compensation in excess of twelve thousand dollars per annum, a member or officer of the state legislature, a member, director or officer of the state gaming commission, or any regional off-track betting corporation, or a member of a local legislative body.

2. "Public employee" shall mean every person employed by the state or any municipality or other political subdivision thereof or by a local legislative body, other than a public officer defined in subdivision one of this section, who is required to devote all or substantially all of his or her time to the duties of his or her employment for which he or she receives compensation, or if employed on a part-time basis receives compensation in excess of twelve thousand dollars per annum, or an employee of the state legislature or an employee of the state gaming commission.

3. "Party officer" shall mean the following members or officers of any political party:

(a) a member of a national committee;

(b) a chairman, vice-chairman, secretary, treasurer or counsel of a state committee, or member of the executive committee of a state committee;

(c) a county leader, chairman, vice-chairman, counsel, secretary or treasurer of a county committee.

4. "Local legislative body" shall mean the legislative body of a county; the council, common council or board of aldermen and the board of estimate, the board of estimate and apportionment or board of estimate and contract, if there be one, of a city; the town board of a town and the village board of a village.

5. "Gaming activity" shall mean the conduct of any form of legalized gaming, including, but not limited to, Class III gaming under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., pari-mutuel wagering,

both on-track and off-track, bingo and charitable games of chance and the state lottery for education.

6. "Commission" or "state gaming commission" shall mean the New York state gaming commission created pursuant to section one hundred two of this article.

§ 102. New York state gaming commission. 1. There is hereby created within the executive department the New York state gaming commission. The commission shall consist of seven members appointed by the governor by and with the advice and consent of the senate. Of the seven members, one shall be appointed upon the recommendation of the temporary president of the senate and one shall be appointed upon the recommendation of the speaker of the assembly. All members shall continue in office until their successors have been appointed and qualified.

2. Members of the commission shall each possess no less than five years of responsible administrative experience in public or business administration and have any one or more of the following qualifications:

(a) significant service as a certified public accountant experienced in accounting and auditing,

(b) a comprehensive knowledge of corporate finance and securities,

(c) professional experience in gaming or racing regulatory administration or gaming or racing industry management,

(d) significant experience in the fields of criminal investigation, law enforcement, or law, or

(e) significant experience in the prevention or treatment of problem gambling.

3. A member shall be designated as chair of the commission by the governor to serve in such capacity at the pleasure of the governor or until his or her term as commission member expires, whichever first occurs. The members shall be appointed for terms of five years; provided, however, that initial appointments to the commission shall be for terms as follows:

(a) one member appointed by the governor shall serve for a one year term, one member appointed by the governor shall serve for a two year term, one member appointed by the governor shall serve for a three year term, one member appointed by the governor shall serve for a four year term, one member appointed by the governor shall serve for a five year term; and

(b) each of the members appointed by the governor upon the recommendation of the temporary president of the senate and upon the recommendation of the speaker of the assembly shall serve for a four year term.

4. The members shall, when performing the work of the commission, be compensated at a rate of three hundred dollars per day, together with an allowance for actual and necessary expenses incurred in the discharge of their duties.

5. The members of the commission shall not hold any other public office or public employment for which they shall receive compensation, other than necessary travel or other expenses incurred in the performance of the duties of such office or employment. Members may engage in private employment or in a profession or business, provided, however, such employment does not interfere or conflict with the performance or proper discharge of his or her duties.

6. Each member of the commission shall be a resident of the state of New York. No member of the legislature or person holding any elective or appointive office in the federal, state or local government shall be eligible to serve as a member of the commission.

7. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him or her a copy of the charges against them, and an opportunity of being heard in person or by counsel in their own defense, upon not less than ten days' notice. If such member shall be removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his or her findings thereon, together with a complete record of the proceeding.

§ 103. Organization and divisions. 1. The commission shall establish a plan of organization and may incur expenses within the limits of funds available to it. An executive director shall be appointed by the governor, with the advice and consent of the senate, who shall serve at his or her pleasure. The executive director shall be responsible for the conduct of the administrative affairs of the commission.

2. The commission shall establish and supervise four divisions to respectively carry out responsibilities relating to the regulation and enforcement of the following: lottery, charitable gaming, gaming, and horse racing and pari-mutuel wagering. Each such division shall be supervised by a division director, each to serve in such capacity at the pleasure of the governor.

(a) Division of lottery. The division of lottery shall be responsible to operate and administer the state lottery for education, as prescribed by article thirty-four of the tax law, excepting responsibilities for video lottery gaming. Notwithstanding the foregoing, the division shall retain the responsibility for all aspects of promotional activities related to video lottery gaming.

(b) Charitable gaming. The division of charitable gaming shall be responsible for the supervision and administration of the games of chance licensing law, bingo licensing law and bingo control law as prescribed by articles nine-A and fourteen-H of the general municipal law and nineteen-B of the executive law.

(c) Gaming. The division of gaming shall be responsible for the appropriate administration, regulation or oversight of Indian gaming as defined by tribal-state compacts in effect pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, et seq., and operation and administration of video lottery gaming, as prescribed by article thirty-four of the tax law.

(d) Horse racing and pari-mutuel wagering. The division of horse racing and pari-mutuel wagering shall be responsible for the supervision, regulation and administration of all horse racing and pari-mutuel wagering activities, as prescribed by articles two through eleven of this chapter.

§ 104. Powers and duties of the commission. The commission shall have the authority and responsibility:

1. To have general jurisdiction over all gaming activities within the state and over the corporations, associations and persons engaged therein.

2. To hear and decide promptly and in reasonable order all license, registration, certificate and permit applications, and causes affecting the granting, suspension, revocation or renewal thereof, of corporations, associations or persons engaged or seeking to engage in gaming activity.

3. To test or cause to have tested and approve surveillance systems, games of chance, gaming devices and lottery games.

4. To monitor any corporation, association or person engaged in gaming activity for compliance with this chapter.

5. To, at any time, examine the books, papers, records and accounts of any corporation, association or person engaged in gaming activity pursuant to a license, registration, franchise, certificate or permit issued by the commission.

6. To conduct investigations and hearings pertaining to violations of this chapter. Each member of the commission and such officers, employees or agents of the commission as may be designated by the commission for such purpose shall have the power to administer oaths and examine witnesses.

7. Each member of the commission, and such officers, employees or agents of the commission as may be designated by the commission for such purpose, shall have the power to administer oaths and examine witnesses, and may issue subpoenas to compel attendance of witnesses, and the production of all relevant and material reports, books, papers,

documents, correspondence and other evidence.

8. To collect all license and registration fees imposed by state law, or rules or regulations promulgated thereunder, and any payments from an Indian nation or tribe under the terms of a tribal-state compact that is in effect pursuant to the federal Indian gaming regulatory act, 25 U.S.C. § 2701, et seq.

9. To levy and collect civil penalties and fines for any violation of this chapter.

10. To be present through its employees and agents during the operation of any race track, gaming facility, charitable gaming organization, simulcasting facility or video lottery gaming facility for the purpose of certifying the revenue thereof, receiving complaints from the public relating to the conduct of gaming and simulcast wagering activities, examining records of revenues and procedures, and conducting periodic reviews of operations and facilities for purposes of evaluating any current or suggested provision of law, rule or regulation.

11. To ensure compliance with tribal-state gaming compacts that are in effect pursuant to the federal Indian gaming regulatory act, 25 U.S.C. § 2701, et seq.

12. To refer to a law enforcement agency of competent jurisdiction any evidence of a violation of law.

13. To cause background investigations to be conducted on any applicant for a license, registration, certificate, permit or approval.

14. To access the criminal history records of the division of criminal justice services, pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law, in connection with executing the responsibilities of the commission relating to the regulation, oversight, licensing, permitting or certification, including fingerprinting, criminal history record checks and background investigations, of persons applying to engage in gaming activities. At

the request of the commission, the division of criminal justice services shall submit a fingerprint card, along with the subject's processing fee, to the federal bureau of investigation for the purpose of conducting a criminal history search and returning a report thereon. The commission shall also be entitled to request and receive, pursuant to a written memorandum of understanding filed with the department of state, any information in the possession of the state attorney general relating to the investigation of organized crime, gaming offenses, other revenue crimes or tax evasion. Provided however, the attorney general may withhold any information that (a) would identify a confidential source or disclose confidential information relating to a criminal investigation, (b) would interfere with law enforcement investigations or judicial proceedings, (c) reveal criminal investigative techniques or procedures, that, if disclosed, could endanger the life or safety of any person, or (d) constitutes records received from other state, local or federal agencies that the attorney general is prohibited by law, regulation or agreement from disclosing.

15. (a) The commission shall have the power to appoint such deputies, secretary, officers, representatives and counsel as the commission may deem necessary, who shall be designated to be in the exempt class of civil service. Any newly hired employees who are not designated to be in the exempt class of civil service pursuant to this subdivision and who are not subject to the transfer provisions set forth in section one hundred eighteen of this article shall be considered for purposes of article fourteen of the civil service law to be public employees in the civil service of the state, and shall be assigned to the appropriate collective bargaining unit. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to were such titles created prior to the establishment of the commission.

(b) It shall be the duty of the secretary to keep a full and faithful record of the proceedings of the commission, preserve at the general office of the commission all books, maps, documents and papers entrusted to his or her care, prepare for service such papers and notices as may be required by the commission, and perform such other duties as the commission may prescribe.

16. To operate, or immediately appoint or contract with an independent third party to operate, any video lottery gaming facility subject to licensure by the commission on an interim basis in the event that the licensed operator or operators of such facility discontinues operations due to financial, regulatory or any other circumstances, including, but not limited to, license revocation, relinquishment or expiration, and the commission determines, after notice and an opportunity for hearing, that it would further the public interest to continue such operations. Such operation shall be on a temporary basis, not to exceed one hundred eighty days, until such time as a permanent operator is licensed and authorized to operate such facility.

17. To retain and employ private consultants and agencies on a contract basis for rendering technical or other assistance and advice for the performance of its duties.

18. To annually report to the governor, the speaker of the assembly and the temporary president of the senate, its proceedings for the preceding calendar year and any suggestions and recommendations as it shall deem desirable.

19. To promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

20. The commission shall serve as a host racing commission and an off-track betting commission for purposes of 15 U.S.C. 3001, et seq.

* 21. Prior to transporting into this state any gambling devices for the purpose of exhibition or marketing, an officer of the manufacturer or distributor of the gambling devices shall file with the gaming commission a statement affirmed under penalty of perjury that such gambling devices are being transported into this state in a sealed container and possessed solely for the purpose of exhibition or marketing. Such statement shall specify the number of devices, types of devices, the dates upon which such devices are to be so transported and possessed within the state, which period shall not exceed two weeks, and the identity of the person or persons who will have custody and control

of the devices while in this state. Such statement shall further specify that the gambling devices will thereafter be transported in a sealed container to a jurisdiction outside of this state for purposes that are lawful in such outside jurisdiction. The commission may determine the form, content and manner of filing of such statement and shall be authorized to promulgate any rules and regulations necessary to carry out the purposes of this subdivision.

* NB There are 2 sb 21's

* 21. The commission shall promptly make available for public inspection and copying via electronic connection to the commission's website a copy of any report received from the New York state board of elections pursuant to article fourteen of the election law.

* NB There are 2 sb 21's

22. The commission shall annually conduct an evaluation of video lottery gaming to consider the various competitive factors impacting such industry and shall consider administrative changes that may be necessary to ensure a competitive industry and preserve its primary function of raising revenue for public education.

23. To register and regulate interactive fantasy sports in New York state.

24. To regulate sports wagering in New York state.

§ 105. Quorum. A majority of the duly appointed members of the commission shall constitute a quorum and not less than a majority of such quorum may transact any business, perform any duty or exercise any power of the commission.

§ 106. Salary and expenses. 1. The commission shall fix the compensation for its officers and employees within the amounts appropriated therefor.

2. The members, officers and employees of the commission shall be

reimbursed for all actual and necessary traveling and other expenses and disbursements incurred or made by them in the discharge of their official duties.

§ 107. Conflicts prohibited. 1. No person shall be appointed to or employed by the commission if, during the period commencing three years prior to appointment or employment, such person held any direct or indirect interest in, or employment by, any corporation, association or person engaged in gaming activity within the state. Prior to appointment or employment, each member, officer or employee of the commission shall swear or affirm that he or she possesses no interest in any corporation or association holding a franchise, license, registration, certificate or permit issued by the commission. Thereafter, no member or officer of the commission shall hold any direct interest in or be employed by any applicant for or by any corporation, association or person holding a license, registration, franchise, certificate or permit issued by the commission for a period of four years commencing on the date his or her membership with the commission terminates. Further, no employee of the commission may acquire any direct or indirect interest in, or accept employment with, any applicant for or any person holding a license, registration, franchise, certificate or permit issued by the commission for a period of two years commencing at the termination of employment with the commission. The commission may, by resolution adopted by unanimous vote at a properly noticed public meeting, waive for good cause the pre-employment restrictions enumerated in this subdivision for a prospective employee whose duties and responsibilities are primarily on racetrack grounds. Such adopted resolution shall state the reasons for waiving the pre-employment conditions for the prospective employee, including a finding that there were no other qualified candidates with the desired experience for the specified position.

2. No member, officer, official or employee of the commission shall participate as an owner of a horse or otherwise as a contestant in any horse race at a race meeting which is under the jurisdiction or supervision of the commission, or have any pecuniary interest, direct or indirect, in the purse, prize, premium or stake contested for at any

such horse race or in the operations of any licensee of the commission or state racing franchisee. Participation as an owner of a horse or otherwise as a contestant in any such horse race by a member, officer, other official or employee of the commission in violation of this prohibition shall terminate the term of his or her office as a member, or his or her services as an officer or official or employee of the commission.

3. No member, officer or employee of the commission shall wager upon gaming or horse racing activity conducted within the state.

4. No individual employed by an off-track betting corporation or race track licensed pursuant to this chapter as a pari-mutuel clerk, cashier or seller shall be permitted to wager upon gaming activity during any period of a day on which such person is employed in such capacity.

5. No public officer or party officer shall hold any racing or video lottery gaming license from the commission.

6. The following public employees are prohibited from holding any license from the commission:

(a) an employee of the commission; any director or employee of a regional off-track betting corporation employed in a management, confidential or supervisory capacity for purposes of their position with off-track betting; or

(b) an employee of the state legislature; provided, however, that an employee of the state legislature whose duties in such position do not relate to gaming activities shall not be subject to the prohibitions of this section if he or she held a license from the former state racing and wagering board while employed by the state legislature prior to July first, nineteen hundred eighty; or

(c) an employee of any local legislative body whose duties involve gaming activities; or

(d) an employee of any state or local board, agency, authority or other state or local governmental body, the duties of which relate to gaming activities or the taxation thereof.

7. No public officer, public employee or party officer shall:

(a) own or hold, directly or indirectly, any proprietary interest, stock or obligation of any firm, association or corporation (i) which is licensed by the commission to conduct video lottery gaming or horse racing activities, or (ii) which conducts its occupation, trade, or business at a racetrack at which pari-mutuel race meets are conducted or facility where video lottery gaming activity is conducted whether or not a license is required, or (iii) which owns or leases to any enfranchised or licensed association or corporation a racetrack at which pari-mutuel racing is conducted or facility where video lottery gaming activity is conducted, or (iv) which participates in the management of any franchise holder or licensee conducting video lottery gaming or horse racing activities; or

(b) hold any office or employment with any firm, association or corporation specified in paragraph (a) of this subdivision, except as provided in subdivision eight of this section; or

(c) sell, or be a member of a firm, or own ten per centum or more of the stock of any corporation, which sells any goods or services to any firm, association or corporation specified in paragraph (a) of this subdivision. For purposes of this subdivision, a direct or indirect interest shall not include an interest in a mutual fund or any other diversified investments over which the recipient does not know the identity of the primary source of income.

8. The provisions of paragraph (b) of subdivision seven of this section shall not apply to a public employee other than an employee of the commission, a police officer or a peace officer employed by a sheriff's office, district attorney's office or other state or local law enforcement agency, or those employees classified as management confidential employees pursuant to section two hundred fourteen of the civil service law who are employed by a state or local law enforcement agency or regional off-track betting corporation; provided, however, that employment of employees of a political subdivision may be prohibited by ordinance, resolution or local law adopted by the local legislative body or other governing board of such political subdivision.

9. The commission shall have the power to refuse to grant or to revoke

or suspend a license of any person, association or corporation that aids or knowingly permits or conspires to permit any public officer, public employee or party officer to acquire or retain any interest prohibited by this section and shall have the power to exclude from the grounds of any racing association any such person, association or corporation.

10. Notwithstanding any other provision of law, and in addition to any other cause of removal provided by law, an intentional violation of this section shall be cause for removal from public office, public employment or party office. In any such case, such public officer, public employee or party officer violating this section shall be removed from office by the appropriate authority having the power of removal or at the suit of the attorney general. Further, such public officer, public employee or party officer shall be liable for a civil penalty of not more than ten thousand dollars.

§ 108. Certain restrictions on wagering. 1. No corporation, association or person which holds a license, registration, franchise, certificate or permit issued by the commission shall directly extend credit for any wager under this chapter.

2. No corporation, association or person that holds a license, registration, franchise, certificate or permit issued by the commission shall permit any person who is actually or apparently under eighteen years of age to bet on gaming activity, as defined in subdivision five of section one hundred one of this article.

§ 109. Supplementary regulatory powers of the commission. Notwithstanding any inconsistent provision of law, the commission through its rules and regulations or in allotting dates for racing, simulcasting or in licensing race meetings at which pari-mutuel betting is permitted shall be authorized to:

1. permit racing at which pari-mutuel betting is conducted on any or all dates from the first day of January through the thirty-first day of

December, inclusive of Sundays but exclusive of December twenty-fifth and Easter Sunday; and

2. fix minimum and maximum charges for admission at any race meeting.

§ 109-a. Separate board for facility siting. The commission shall establish a separate board to be known as the New York gaming facility location board to perform designated functions under article thirteen of this chapter, the following provisions shall apply to the board:

1. The commission shall select five members and name the chair of the board. Each member of the board shall be a resident of the state of New York. No member of the legislature or person holding any elective or appointive office in federal, state or local government shall be eligible to serve as a member of the board.

2. A majority of members of the board shall be appointed within one hundred eighty days of the date that title two-A of this article shall become law.

3. Qualifications of members. Members of the board shall each possess no less than ten years of responsible experience in fiscal matters and shall have any one or more of the following qualifications:
(a) significant service as an accountant economist, or financial analyst experienced in finance or economics;
(b) significant service in an academic field relating to finance or economics;
(c) significant service and knowledge of the commercial real estate industry; or
(d) significant service as an executive with fiduciary responsibilities in charge of a large organization or foundation.

4. No member of the board:
(a) may have a close familial or business relationship to a person that holds a license under this chapter;
(b) may have any direct or indirect financial interest, ownership, or

management, including holding any stocks, bonds, or other similar financial interests in any gaming activities, including horse racing, lottery or gambling;

(c) may receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities, including horse racing, lottery or gambling;

(d) may have a beneficial interest in any contract for the manufacture or sale of gaming devices, the conduct of any gaming activity, or the provision of any independent consulting services in connection with any establishment licensed under this chapter.

5. Board members are entitled to actual and necessary expenses incurred in the discharge of their duties but may not receive compensation for their service on the board.

6. (a) The commission shall provide staff to the board.

(b) The board may contract with a consultant to assist in the analysis of applications submitted for gaming facility licenses.

(c) The board may contract with attorneys, accountants, auditors and financial and other experts to render necessary services.

(d) All other state agencies shall cooperate with and assist the board in the fulfillment of its duties under this article and may render such services to the board within their respective functions as the board may reasonably request.

7. Utilizing the powers and duties prescribed for it by article thirteen of this chapter, the board shall select, through a competitive process consistent with provisions of article thirteen of this chapter, not more than seven gaming facility license applicants. Such selectees shall be authorized to receive a gaming facility license, if found suitable by the commission. The board may select another applicant for authorization to be licensed as a gaming facility if a previous selectee fails to meet licensing thresholds, is revoked or surrenders a license opportunity.

§ 109-b. Rebates. 1. For the purposes of this section, "rebate" shall mean a portion of pari-mutuel wagers, otherwise payable to an entity conducting pari-mutuel betting, that is paid to holders of pari-mutuel wagering tickets and that reduces the amount otherwise payable to such entity, including, but not limited to, refunds to holders of pari-mutuel wagering tickets of any portion or percentage of the full face value of a pari-mutuel wager, paying a bonus on a winning pari-mutuel ticket, awards of merchandise, services such as meals, parking, admission, seating and programs, free or reduced cost pari-mutuel wagers, monetary awards, or any other benefit that the state gaming commission deems appropriate to reward horse racing patrons for their patronage at race meetings.

2. The state gaming commission, upon application of an entity authorized to conduct pari-mutuel betting, may approve the payment of rebates by such entity for a rebate program, subject to the following requirements:

a. the applicant discloses the extent of the rebate program. Such disclosure shall include a listing of the monetary value of all rebates paid to bettors during the previous calendar year, and the terms and conditions governing the award of rebates to bettors;

b. the applicant provides assurances that the values of the rebates are determined solely by (i) attendance at one or more race meetings, (ii) the amount wagered by a bettor, (iii) the amount payable to the entity on each wager, or (iv) how frequently a bettor wagers;

c. the entity maintains records of all wagers subject to a rebate, for a period of not less than three years; and

d. the applicant demonstrates that such rebates are in the best interests of horse racing.

§ 110. Statement of stockholders to be filed. Every corporation or association authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall file with the commission a statement giving the names and addresses of all its stockholders and shall likewise file revised statements giving such names and addresses from time to time as changes occur.

§ 111. Compulsive gambling assistance. 1. (a) The commission shall cooperate with the commissioner of addiction services and supports to ensure the posting of signs and listing of information on the internet designed to assist compulsive gamblers pursuant to the provisions of subdivision (h) of section 19.09 of the mental hygiene law. Such postings shall include information explaining how an individual may add his or her name to the list of self-excluded persons. Signs shall be posted at a reasonable distance from each entrance, exit and automated teller machine in the facility.

(b) The commission shall cooperate with the commissioner of addiction services and supports to ensure that all advertisements for gaming activity clearly and conspicuously state a problem gambling hotline number.

(c) The commission shall make available on its website information and technical support which includes, but is not limited to, guidelines for any association, corporations licensed or enfranchised pursuant to this chapter on advertising restrictions.

2. (a) The commission shall promulgate rules and regulations pursuant to which people may voluntarily exclude themselves from entering the premises of an association or corporation licensed or enfranchised by the commission pursuant to this chapter. In promulgating such rules and regulations the commission shall ensure, to the extent practicable, that there is consistency in the process followed under each division in which an individual may voluntarily exclude themselves. Such rules and regulations shall provide that:

(i) an association or corporation licensed or enfranchised pursuant to this chapter maintain an updated list of all persons who have requested exclusion pursuant to this section and shall submit such list to the commission no less than every five days;

(ii) an association or corporation licensed or enfranchised pursuant to this chapter shall not offer coupons, market its services, or send advertisements to or otherwise solicit the patronage of, a self-excluded person; and

(iii) no employee or agent of an association or corporation licensed or enfranchised pursuant to this chapter shall divulge any name of a self-excluded person, other than to authorized surveillance, security or other personnel whose duties and functions require access to such information, the division, the commission or their duly authorized representatives.

(b) An association or corporation licensed or enfranchised pursuant to this chapter shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of a self-excluded person's engaging in gaming activity while on the list of self-excluded persons; provided that nothing contained in this paragraph shall limit the liability of any such association, corporation, or facility for any other acts or omissions under any other statutory law or under the common law.

(c) No voluntary order or request to exclude persons from entering the premises of any such association, corporation, or facility may be rescinded, canceled, or declared null and void until seven days after a request has been received by such association, corporation, or facility to cancel such order or request.

3. The commission shall promulgate rules and regulations under which a person with an account authorized pursuant to section one thousand twelve of this chapter may voluntarily place limits on the amounts of his or her wagers or potential wagers on a daily or weekly basis. No order from a person to remove any limit placed on account wagers shall be effective until seven days after it has been received by the entity conducting account wagering.

§ 112. Pari-mutuel operations; filing of tax forms and other statistics. The commission and the commissioner of taxation and finance shall approve all systems used for data processing and communications in the operation of pari-mutuel betting and, in its discretion, the commission may establish, by regulation, uniform protocols to be employed for the merging of wagers deposited with one pari-mutuel operator with the wagers deposited with another pari-mutuel operator.

§ 113. Filing of pari-mutuel tax returns or reports by electronic means. Every corporation or association authorized by this chapter to conduct pari-mutuel betting on horse races shall file in a timely manner pari-mutuel tax returns or other reports relating to such activity in such form and by such means, including electronic means, as may be prescribed by the commission or the commissioner of taxation and finance, as the case may be in accordance with the provisions of this chapter.

§ 114. Practice and procedure. The provisions of article twenty-seven of the tax law, except sections one thousand eighty-five and one thousand ninety-seven, shall apply to the provisions of this chapter in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this chapter and had expressly referred to the admission taxes, pari-mutuel revenue taxes, the franchise fee on a franchised corporation and unpaid money due on account of pari-mutuel tickets not presented, administered by the commissioner of taxation and finance, under this chapter, with such modifications as may be necessary in order to adapt the language of such provisions to such taxes, fee and unpaid money due, except to the extent that any provision of such article is either inconsistent with a provision of this chapter or is not relevant to this chapter.

§ 115. Regulatory fees. 1. Payment of the regulatory fees imposed by this chapter shall be made to the commission by each entity required to make such payments on the last business day of each month and shall cover the fees due for the period from the sixteenth day of the preceding month through the fifteenth day of the current month, provided however that all such payments required to be made on March thirty-first shall include all fees due and accruing through the last full week of racing of the current year or as otherwise determined by the commission and shall be accompanied by a report under oath, showing such information as the commission 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 the payment of the fee shall be payable in case any fee imposed by this chapter is not paid when due. If the commission determines that any regulatory fees received by it under this chapter were paid in error, the commission may cause the same to be refunded without interest out of any monies collected thereunder, provided an application therefor is filed with the commission within one year from the time the erroneous payment is made.

2. The commission or its duly authorized representatives shall have the power to examine or cause to be examined the books and records of each entity required to pay the regulatory fee imposed by this chapter for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due are being paid. If in the opinion of the commission, after such examination, any such report is incorrect, the commission is authorized to issue an assessment fixing the correct amount of such fee. Such assessments may be issued within three years from the filing of any report. Any such assessment shall be final and conclusive unless an application for a hearing is filed by the reporting entity within thirty days of the assessment. The action of the commission in making such final assessment shall be reviewable in the supreme court in the manner provided by and subject to the provisions of article seventy-eight of the civil practice law and rules.

3. The commission shall submit to the director of the budget an annual plan that details the amount of money the commission deems necessary to maintain the operations, compliance and enforcement of the provisions of this chapter. Contingent upon approval of the director of the budget, the commission shall pay into an account, to be known as the racing regulation account, under the joint custody of the comptroller and the commission, the total amount of the regulatory fees collected pursuant to this chapter. With the approval of the director of the budget, monies to be utilized to maintain the operations necessary to implement the provisions of this chapter shall be paid out of such account on the audit and warrant of the comptroller on vouchers certified and approved

by the director of the budget or his duly designated official.

§ 115-a. Fee for the start of a horse in New York state pari-mutuel races. 1. In order to provide supplemental funding to support the operations of the commission, a fee in the amount of ten dollars shall be assessed and paid upon every horse entered in a pari-mutuel race in New York state that actually starts in the race. Beginning January first, two thousand twenty-seven, an amount as determined by the commission to support the standardbred total carbon dioxide on-track drug testing program outlined in section nine hundred two-a of this chapter shall be added to such fee upon every standardbred horse entered in a pari-mutuel race in New York state that actually starts in the race. Such fee shall be refunded to the owner or credited to the owner's account in the event the horse does not actually start in the race. The commission shall, as a condition of racing, require any corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat, to require that each owner racing a horse shall have placed on deposit at the time of entry with the horsemen's bookkeeper or similar office of such corporation the required fee in the amount of ten dollars per horse entered in a pari-mutuel race. Unless refunded or credited, the total fee amount collected during the preceding month by the horsemen's bookkeeper or similar office of such corporation shall be paid to the commission on the first business day of each month. Payment shall be accompanied by a report, under oath, showing such information as the commission 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 the payment of the fee, shall be payable in case any fee imposed by this subdivision is not paid when due. If the commission determines that any fees received by it under this subdivision were paid in error, the commission may cause the same to be refunded without interest out of any monies collected hereunder, provided an application therefor is filed with the commission within one year from the time the erroneous payment is made.

2. The commission or its duly authorized representatives shall have the power to examine or cause to be examined the books and records of

such corporations required to pay over the fee imposed by this section for the purpose of examining and checking the same and ascertaining whether the proper amount or amounts due are being paid. If in the opinion of the commission, after such examination, any such report is incorrect, the commission is authorized to issue an assessment fixing the correct amount of such fee. Such assessments may be issued within three years from the filing of any report. Any such assessment shall be final and conclusive unless an application for a hearing is filed by the reporting entity within thirty days of the assessment. The action of the commission in making such final assessment shall be reviewable in the supreme court in the manner provided by and subject to the provisions of article seventy-eight of the civil practice law and rules.

3. The commission shall pay into the racing regulation account, under the joint custody of the comptroller and the commission, the total amount of the fees collected pursuant to this section. With the approval of the director of the budget, monies to be utilized to pay the costs and expenses of the operations of the commission shall be paid out of such account on the audit and warrant of the comptroller on vouchers, certified and approved by the director of the budget or his or her duly designated official.

§ 115-b. Market origin credits. 1. Notwithstanding any other provision of law to the contrary, any racing associations and corporations, franchised corporations, and off-track betting corporations that makes a payment of the regulatory fees imposed by this chapter may reduce such payment by an amount equal to the market origin credit allocated to such racing association or corporation, franchised corporation, or off-track betting corporation by the commission. The commission shall allocate credits in an amount equal to eighty-two and six-tenths percent of the amount received from the market origin fee paid pursuant to subdivision six of section one thousand twelve-a of this chapter for the period from the sixteenth day of the preceding month through the fifteenth day of the current month. The commission shall notify participants of allocations on or before the twentieth day of the current month.

2. The commission shall allocate credits to racing associations and corporations, franchised corporations, and off-track betting corporations in the following amounts:

a. Thirty-six and seven-tenths percent of the amount received from the market origin fee paid pursuant to subdivision six of section one thousand twelve-a of this chapter to regional off-track betting corporations. Allocations to individual regional off-track betting corporations shall be made based on a ratio where the numerator is the regional corporation's total in-state handle for the previous calendar year as calculated by the commission and the denominator is the total in-state handle of all the regional off-track betting corporations for the previous calendar year as calculated by the commission;

b. Forty-five and nine-tenths percent of the amount received from the market origin fee paid pursuant to subdivision six of section one thousand twelve-a of this chapter to the racing associations and corporations and franchised corporations. Allocations to individual racing associations and corporations and franchised corporations shall be made as follows:

(i) Sixty percent to thoroughbred racing associations and franchised corporations. Five-sixths shall be allocated to a franchised corporation and one-sixth shall be allocated to a thoroughbred racing association.

(ii) Forty percent to harness racing associations and corporations. Allocations to individual harness racing associations and corporations shall be made based on a ratio where the numerator is the association's or corporation's total in-state handle on live racing for the previous calendar year as calculated by the commission and the denominator is the total in-state on live handle for all harness racing associations and corporations for the previous calendar year as calculated by the commission.

3. As a condition for any racing association or corporation or franchised corporation to claim any market origin credits allocated to it, such racing association or corporation or franchised corporation must make payments for moneys otherwise to be used to pay the regulatory fee as follows:

(i) Payment of an amount equal to forty percent of the allocated credits into an account used solely for the purpose of enhancing purses at such racing association or corporation or franchised corporation. Such payment shall be made within five days from receipt of notification of an allocation by the commission of an allocation of market origin credits;

(ii) Payment of an amount equal to twenty percent of the allocated credits to the state's breeding funds. Sixty percent of the payments to the breeding funds shall be allocated to the New York state thoroughbred breeding and development fund corporation established pursuant to section two hundred fifty-two of this chapter, and forty percent to the agriculture and New York state horse breeding development fund established pursuant to section three hundred thirty of this chapter. Such payment shall be made within five days from receipt of notification of an allocation by the commission of an allocation of market origin credits.

4. The commission shall promulgate any rules and regulations necessary for the administration of the market origin credit.

§ 116. Penalties. Notwithstanding any inconsistent provision of law, any person or entity that violates any provision of this chapter, or any rule, regulation or order promulgated thereto, or the terms and conditions of any license, permit or approval issued thereunder, shall be liable to a civil penalty of not more than twenty-five thousand dollars for each violation, and an additional civil penalty of not more than twenty-five thousand dollars for each day during which such violation continues. Any civil penalty may be assessed by the commission following a hearing or opportunity to be heard.

§ 117. Transfer of functions. All of the functions and powers possessed by and the obligations and duties of the former racing and wagering board and its predecessors and the division of the lottery and its predecessors are hereby transferred to the commission.

§ 118. Transfer of employees. 1. Upon the transfer of functions, powers, duties and obligations to the commission pursuant to this article, provision shall be made for the transfer of all employees from the former division of the lottery and former racing and wagering board into the commission. Employees so transferred shall be transferred without further examination or qualification to the same or similar titles, shall remain in the same collective bargaining units and shall retain their respective civil service classifications, status and rights pursuant to their collective bargaining units and collective bargaining agreements.

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to his or her transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees other than management or confidential persons as defined in article fourteen of the civil service law serving positions in newly created titles shall be assigned to the appropriate bargaining unit. Nothing contained herein shall be construed to affect:

(a) the rights of employees pursuant to a collective bargaining agreement;

(b) the representational relationships among employee organizations or the bargaining relationships between the state and an employee organization; or

(c) existing law with respect to an application to the public employment relations board, provided, however, that the merger of such negotiating units of employees shall be effected only with the consent of the recognized and certified representative of such units and of the department of law.

§ 119. Transfer of records. All books, papers, records and property of the former division of the lottery and former racing and wagering board and its predecessors with respect to the functions, powers, duties and obligations transferred by this article are to be delivered to the appropriate successor offices within the commission, at such place and time, and in such manner as the chair of the commission may require.

§ 120. Continuity of authority. For the purpose of succession to all functions, powers, duties and obligations of the former division of the lottery and former racing and wagering board transferred to and assumed by the commission, such commission shall be deemed to and held to constitute the continuation of such functions, powers, duties and obligations, and not a different agency or authority.

§ 121. Completion of unfinished business. Any business or other matter undertaken or commenced by the former division of the lottery and the former racing and wagering board pertaining to or connected with the functions, powers, duties and obligations transferred and assigned to the state gaming commission and pending on the effective date of this article shall be conducted and completed by the appropriate successor offices within the commission in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the former division of the lottery and former racing and wagering board.

§ 122. Continuation of rules and regulations. All rules, regulations, acts, orders, determinations, and decisions of the former division of the lottery and former racing and wagering board in force at the time of such transfer and assumption, shall continue in force and effect as rules, regulations, acts, orders, determinations and decisions of the commission until duly modified or abrogated by such commission.

§ 123. Terms occurring in laws, contracts and other documents. Unless the context shall otherwise require, whenever the "racing and wagering board" or "board", "state racing commission", "state harness racing commission", "state quarter horse racing commission", or "division of the lottery" are referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties transferred and assigned to the commission, such reference or designation shall be deemed to refer to the "state gaming commission".

§ 124. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by reason of the transfer or assignment of functions, powers, obligations and duties from the former division of the lottery and former racing and wagering board to the commission.

§ 125. Pending actions or proceedings. No action or proceeding pending at the time that this article shall take effect relating to the functions, powers and duties of the former division of the lottery and former racing and wagering board transferred pursuant to this article, brought by or against the former division of the lottery or former racing and wagering board, or the officers thereof, shall be affected by the transfer or assignment of functions, powers, obligations and duties from the former division of the lottery and former racing and wagering board to the commission, but the same may be prosecuted or defended in the name of the commission. In all such actions and proceedings, the commission, upon application to the court, shall be substituted as a party.

§ 126. Transfer of appropriations heretofore made. Subject to the approval of the director of the budget, any and all appropriations and reappropriations heretofore made to the former division of the lottery and former racing and wagering board for the functions and purposes transferred by this article to the commission to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, are hereby transferred to and made available for use and expenditure by the commission for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the chair of the commission or his or her designee on audit and warrant of the comptroller. Payments for liabilities for expenses of personal services, maintenance and operation heretofore incurred by and for liabilities incurred and to be incurred in completing the affairs of the former division of the lottery and former racing and wagering board with respect to the powers, duties and functions transferred herein, shall also be made on vouchers or certificates approved by the chair of the commission or his or her designee on audit and warrant of the comptroller.

§ 127. Transfer of assets and liabilities. All assets and liabilities of the former division of the lottery and former racing and wagering board are hereby transferred to and assumed by the commission.

§ 128. Promulgation of rules and regulations. Notwithstanding any inconsistent provision of the state administrative procedure act, the commission shall be authorized to promulgate regulations on an emergency basis to ensure the implementation of this article.

§ 129. Construction of other laws or provisions. Unless the context shall require otherwise, the terms "division of the lottery", "state quarter horse racing commission", "state racing commission", "state harness racing commission", "state racing and wagering board" or "board" wherever occurring in any of the provisions of this chapter or of any other law, or, in any official books, records, instruments, rules or papers, shall hereafter mean and refer to the state gaming commission created by section one hundred two of this article. The provisions of article three of this chapter shall be inapplicable to article two of this chapter; and the provisions of such article two shall be inapplicable to such article three, except that section two hundred thirty-one of such article two shall apply to such article three.

§ 130. The office of gaming inspector general. The duties and responsibilities of the former office of the gaming inspector general are transferred to and encompassed by the office of the state inspector general as expressly referenced in article four-A of the executive law.

§ 131. Gaming inspector general; functions and duties. The gaming inspector general shall have the following duties and responsibilities:

1. receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in the commission;

2. determine with respect to such allegations whether disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, state or local agency is warranted, and to assist in such investigations;

3. prepare and release to the public written reports of such investigations, as appropriate and to the extent permitted by law, subject to redaction to protect the confidentiality of witnesses. The release of all or portions of such reports may be deferred to protect the confidentiality of ongoing investigations;

4. review and examine periodically the policies and procedures of the commission with regard to the prevention and detection of corruption, fraud, criminal activity, conflicts of interest or abuse;

5. recommend remedial action to prevent or eliminate corruption, fraud, criminal activity, conflicts of interest or abuse in the commission;

6. establish programs for training commission officers and employees in regard to the prevention and elimination of corruption, fraud, criminal activity, conflicts of interest or abuse in the commission; and

7. make an annual report to the governor, the comptroller and the legislature concerning its work during the preceding year. Such report shall include but not be limited to the number of cases investigated,

and the number of complaints received. Such initial report shall be due no later than the first day of April two thousand twenty-two, and then by the first day of April each year thereafter. Such report shall be made public and published on the website of the office of the state inspector general and on the website of the commission.

§ 132. Powers. The gaming inspector general shall have the power to:

1. subpoena and enforce the attendance of witnesses;

2. administer oaths or affirmations and examine witnesses under oath;

3. require the production of any books and papers deemed relevant or material to any investigation, examination or review;

4. notwithstanding any law to the contrary, examine and copy or remove documents or records of any kind prepared, maintained or held by the commission;

5. require any commission officer or employee to answer questions concerning any matter related to the performance of his or her official duties. No statement or other evidence derived therefrom may be used against such officer or employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of any officer or employee to answer questions shall be cause for removal from office or employment or other appropriate penalty;

6. monitor the implementation by the commission of any recommendations made by the state inspector general; and

7. perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of the office.

§ 133. Responsibilities of the commission and its officers and employees. 1. Every commission officer or employee shall report promptly to the gaming inspector general any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another state officer or employee relating to his or her office or employment, or by a person having business dealings with the commission relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty under this article. Any officer or employee who acts pursuant to this subdivision by reporting to the gaming inspector general or other appropriate law enforcement official improper governmental action as defined in section seventy-five-b of the civil service law shall not be subject to dismissal, discipline or other adverse personnel action.

2. The commission chair shall advise the governor within ninety days of the issuance of a report by the gaming inspector general as to the remedial action that the commission has taken in response to any recommendation for such action contained in such report.

§ 134. Transfer of employees. Upon the transfer of functions, powers, duties and obligations to the office of the state inspector general pursuant to this article, provision shall be made for the transfer of all gaming inspector general employees from within the gaming commission into the office of the state inspector general. Any employees transferred shall be transferred in accordance with the provisions of section seventy of the civil service law. Employees so transferred shall be transferred without further examination or qualification to the same or similar titles, shall remain in the same collective bargaining units and shall retain their respective civil service classifications, status and rights pursuant to their collective bargaining units and collective bargaining agreements.

§ 135. Transfer of records. All books, papers, records and property of the gaming inspector general within the gaming commission with respect to the functions, powers, duties and obligations transferred by section one hundred thirty of this article, are to be delivered to the appropriate successor offices within the office of the state inspector general, at such place and time, and in such manner as the office of the state inspector general may require.

§ 136. Pari-mutuel wagering tax. 1. Notwithstanding any law to the contrary, the excise tax imposed on any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering shall be seven-tenths of one percent (0.7%) of all money wagered through such association or corporation.

2. Beginning with state fiscal year two thousand twenty-six, the aggregate amount of the pari-mutuel wagering tax paid by a harness track pursuant to subdivision one of this section in a state fiscal year shall not exceed the pari-mutuel wagering tax attributable to live racing handle paid by such harness track in state fiscal year two thousand twenty-four.

3. All pari-mutuel wagering taxes shall be collected and remitted in the same manner as such taxes were collected and remitted prior to the enactment of this section.

4. Breaks are not permitted, unless required by another jurisdiction pursuant to section nine hundred five of this chapter. All distributions to the holders of winning tickets shall be calculated to the nearest penny.

5. Notwithstanding subdivision four of this section, a racetrack may round to the nearest nickel for bets made at the facility only if such breaks are directed to the retired and rescued thoroughbred horse aftercare fund pursuant to section two hundred nine-n of the tax law if the bet was made on a thoroughbred race, and to the retired and rescued standardbred horse aftercare fund pursuant to section two hundred nine-o of the tax law if the bet was made on a harness race.

ARTICLE II

THOROUGHBRED RACING AND BREEDING

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§ 201. Incorporation. (a) General requirements. Any number of persons may become a corporation for the purpose of conducting racing at one or more thoroughbred racetracks, conducting pari-mutuel wagering and furthering the raising and breeding and improving the breed of horses, with all the general powers of corporations created under the laws of this state, by making, signing, acknowledging and filing a certificate which shall contain:

1. The name of the proposed corporation.

2. The objects for which it is to be formed, including a statement as to whether it is proposed to exercise the particular powers conferred by section two hundred three of this article, and specifying whether it is proposed to conduct running or steeplechase race meetings.

3. The amount and description of the capital stock, if applicable.

4. The number of shares of which the capital stock, if applicable, shall consist, each of which shall not be less than five nor more than one hundred dollars.

5. The location of its principal business office.

6. Its duration, which shall be for a franchised corporation, coterminous with the term of the franchise.

7. The number of its directors.

8. The names and post-office addresses of the directors or incorporators, as applicable, for the first year.

9. The post-office addresses of the subscribers and a statement of the number of shares of stock which each agrees to take in the corporation, if applicable.

10. The name of the county in which it proposes to conduct running or

steeplechase race meetings.

(b) Approval. No certificate of incorporation under this section wherein the right to conduct running or steeplechase race meetings is claimed, shall hereafter be filed without the approval of the commission, indorsed thereon or annexed thereto, stating that, in its opinion, the purposes of this article and the public interest will be promoted by such incorporation, and that such incorporation will be conducive to the interests of legitimate racing; nor shall any certificate amending the said certificate of incorporation in any particular or any certificate of merger affecting said corporation be filed without the approval of the commission, indorsed thereon or annexed thereto stating that, in its opinion, the purposes of this article and the public interest will be promoted by such amendment or by such merger and that such amendment or such merger will be conducive to the interests of legitimate racing.

§ 202. Restriction upon commencement of business. No business corporation organized under the provisions of this article shall engage in the prosecution or management of its business until the whole of its capital stock shall have been subscribed, nor until it shall have filed in the offices where certificates of incorporation were filed, a further certificate stating that the whole of its capital stock has been in good faith subscribed, executed and acknowledged by its president or vice-president and treasurer or secretary, and verified by them to the effect that the statements contained in it are true.

Notwithstanding the foregoing, corporations organized pursuant to section two hundred one of the not-for-profit corporation law as charitable corporations as defined in paragraph (a) of section one hundred two (Definitions) of the not-for-profit corporation law shall not engage in the prosecution or management of its business until its certificate of incorporation has been accepted for filing by the secretary of state and such confirmation of filing has been filed with the commission and the franchise oversight board.

§ 202-a. Liability of the directors of a franchised corporation. The directors of a franchised corporation, and any person or persons acting on their behalf, while acting within the scope of their authority, shall be exempt from any personal liability resulting from carrying out any of the powers expressly given in this chapter, except for acts of malfeasance or gross negligence.

§ 202-b. No debt of the state. Nothing in this article shall be construed to accept a liability to or create a debt of the state within the meaning of any constitutional or statutory provision.

§ 203. Right to hold race meetings and races. Any corporation formed under the provisions of this article, if so claimed in its certificate of organization, and if it shall comply with all the provisions of this article, and any other corporation entitled to the benefits and privileges of this article as hereinafter provided, shall have the power and the right to hold one or more running race meetings in each year, and to hold, maintain and conduct running races at such meetings. At such running race meetings the corporation, or the owners of horses engaged in such races, or others who are not participants in the race, may contribute purses, prizes, premiums or stakes to be contested for, but no person or persons other than the owner or owners of a horse or horses contesting in a race shall have any pecuniary interest in a purse, prize, premium or stake contested for in such race, or be entitled to or receive any portion thereof after such race is finished, and the whole of such purse, prize, premium or stake shall be allotted in accordance with the terms and conditions of such race. Races conducted by a franchised corporation shall be permitted only between sunrise and sunset. A track first licensed after January first, nineteen hundred ninety, shall not conduct the simulcasting of thoroughbred races within district one, in accordance with article ten of this chapter on days that a franchised corporation is not conducting a race meeting. In no event shall thoroughbred races conducted by a track first licensed after January first, nineteen hundred ninety be conducted after eight o'clock post meridian.

§ 204. Certificate of payment of stock. Except as provided in this article, no business corporation hereafter organized under this article or heretofore organized in pursuance of law for any purpose authorized by this article, shall have any of the powers conferred by section two hundred three of this article until such corporation shall have filed in the office or offices where its certificate of incorporation was filed, a further certificate stating that its capital stock has been fully paid in cash, and if claiming the right to conduct running race meetings, that, except as may be authorized by the commission, it actually maintains a racetrack of not less than five-eighths of one mile in length or circumference, the location of which shall be specified in such certificate. Such certificate shall be executed and acknowledged by such corporation's president or vice-president and such corporation's treasurer or secretary, and verified by them to the effect that the statements contained in such certificate are true. In the case of racing courses to be used for running races or steeplechases, a license from the commission must also be obtained in the manner hereinafter provided, and such license be filed with such certificate.

§ 205. License for running races and steeplechase meetings. Any non-franchised corporation desiring to obtain the benefits of the provisions of section two hundred three of this article, if proposing to conduct a race course or race meeting for running races or steeplechases, may annually apply to the commission for a license to conduct running races and race meetings or steeplechases and steeplechase meetings, as the case may be. If, in the judgment of such commission the public interest, convenience or necessity will be served thereby and a proper case for the issuance of such license is shown consistent with the purposes of this article and the best interest of racing generally, the commission may grant such license, for a term within the calendar year, which shall specify the dates and period of time during which, and the place where, the licensee may operate. The fee for such license shall be one hundred dollars for each racing day, payable upon issuance of license. In considering an application for a license under this section, the commission may give consideration to the number of licenses already granted and to the location of the tracks previously licensed. Every such license shall contain a condition that all running races or race meetings conducted thereunder shall be subject to such reasonable rules and regulations from time to time prescribed by the commission, designated as the "rules of racing". Before promulgating such rules of racing or modifying or abrogating any of them, the commission shall give the jockey club, a corporation organized under the laws of the state of New York, an opportunity to submit recommendations relative to such rules for running races and race meetings, and to the national steeplechase and hunt association, a corporation organized under the laws of the state of New York, an opportunity to submit recommendations relative to such rules for steeplechases and steeplechase meetings, and the commission may adopt, to the extent that it deems appropriate, any rules so submitted by either of such corporations or by any other nationally recognized association or corporation that has for its purpose the improvement of the breed.

§ 206. Franchise for running races and steeplechase meetings. 1. The franchised corporation referred to in this chapter shall be a not-for-profit corporation to be known as The New York Racing Association, Inc. To the extent that the provisions of the not-for-profit corporation law do not conflict with the provisions of this article, the not-for-profit corporation law shall apply to the franchised corporation and the franchised corporation shall be a type C corporation pursuant to the not-for-profit corporation law. If an applicable provision of this article relates to a matter embraced in a provision of the not-for-profit corporation law but is not in conflict therewith, both provisions shall apply. The franchised corporation shall perform its functions under a franchise agreement which, notwithstanding the provisions of section one hundred twelve of the state finance law, shall not be subject to the approval required by such section, and such other agreements as may be necessary and appropriate and shall exercise its powers through a board of directors established under section two hundred seven of this article. The franchise confers the right and responsibility to manage and operate all functions at the franchise racetracks including but not limited to and subject to appropriate racing laws and regulations the hiring and management of racing secretaries, stewards, race officials, backstretch employees and other equine and racing related functions, establishing the purses, the stakes program and owner's relations, maintenance of the franchise racetracks and associated facilities, the selection of vendors for food, beverage and other concessions and such other activities approved by the franchise oversight board. The franchised corporation, in its discretion, may permit utilization of the state racing franchise lands for business purposes unrelated to racing, provided however that upon written notice from the franchise oversight board with respect to any such activity, the franchised corporation shall cease such utilization within thirty days in order to allow the franchise oversight board approved development or alternative uses approved by the franchise oversight board. All franchise rights or interests in assets of the state racing franchise including but not limited to leasehold interests shall be limited to the term of the franchise. Upon expiration, termination or ending of the franchise by any other means provided by law, all franchise rights or interest granted to or held by the franchised corporation shall cease and revert to the state.

Notwithstanding any provisions of law to the contrary the franchised corporation shall not conduct, manage or otherwise operate video lottery gaming activities on the lands of the state racing franchise.

2. The franchised corporation shall, upon acceptance of the franchise, franchise agreements and all enumerated conditions, be granted a franchise for a period of not more than twenty-five years, ending no later than December thirty-first, two thousand thirty-three.

3. Upon acceptance of the franchise, the franchisee's corporate duration shall be made coterminous with the expiration, revocation or relinquishment of such franchise. Such length of duration shall be deemed to be incorporated within and made part of the certificate of incorporation of the franchised corporation and no amendment to such certificate to incorporate any such provision shall be necessary to give effect to any such provision and that any provision contained within

such certificate inconsistent in any manner with the provisions contained within this section shall be null and void and cease to be of effect and shall be superseded by the provisions of this section. The dissolution provisions of articles ten and eleven of the not-for-profit corporation law shall apply upon the expiration, revocation or relinquishment of such franchise.

4. The franchised corporation shall not commence operation until by-laws and a corporate governance code of conduct are adopted by its board of directors. Such by-laws and code shall ensure the franchised corporation is operated in an efficient and transparent manner, with the highest degree of integrity and is fully accountable to the people of the state of New York.

5. The franchised corporation shall comply with all applicable laws and regulations and retain an independent business integrity counsel, who, among other things, will act as an independent source to help ensure the integrity of the franchised corporation, its officers and employees, and its operations.

6. The franchised corporation shall honor and be bound by all collective bargaining agreements to which the previous franchise holder was a party for their remaining term.

The franchised corporation shall, upon the request of an off-track betting corporation, purchase simulcasting rights jointly with the off-track betting corporation so that the off-track betting corporation pays the same price for the purchased simulcasting rights that the franchised corporation pays. To the extent permitted by law, the franchised corporation shall also share simulcasting pricing information in the market with off-track betting corporations;

7. The franchised corporation shall conduct public meetings in cooperation with local advisory boards established pursuant to section two hundred twelve of this article within one hundred eighty days following the effective date of this section on or near the racetrack facilities of Aqueduct, Belmont and Saratoga. Thereafter, public

meetings shall be held no less than twice yearly in cooperation with the local advisory boards established pursuant to section two hundred twelve of the racing, pari-mutuel wagering and breeding law, in order to solicit the concerns of the community surrounding the respective racing operations.

*** § 207. Board of directors of a franchised corporation.** 1. a. The board of directors, to be called the New York racing association reorganization board, shall consist of seventeen members, five of whom shall be elected by the present class A directors of The New York Racing Association, Inc., eight to be appointed by the governor, two to be appointed by the temporary president of the senate and two to be appointed by the speaker of the assembly.

(i) The governor shall nominate a member to serve as chair, subject to confirmation by majority vote of the board of directors. All non-ex officio members shall have equal voting rights.

(ii) In the event of a member vacancy occurring by death, resignation or otherwise, the respective appointing officer or officers shall appoint a successor who shall hold office for the unexpired portion of the term. A vacancy from the members appointed from the present board of The New York Racing Association, Inc., shall be filled by the remaining such members.

* b. The franchised corporation shall establish a compensation committee to fix salary guidelines, such guidelines to be consistent with an operation of other first class thoroughbred racing operations in the United States; a finance committee, to review annual operating and capital budgets for each of the three racetracks; a nominating committee, to nominate any new directors to be designated by the franchised corporation to replace its existing directors; and an executive committee. Each of the compensation, finance, nominating and executive committees shall include at least one of the directors appointed by the governor, and the executive committee shall include at least one of the directors appointed by the temporary president of the senate and at least one of the directors appointed by the speaker of the assembly.

* NB There are 2 par b's

* b. In addition to these voting members, the board shall have two ex officio members to advise on critical economic and equine health concerns of the racing industry, one appointed by the New York Thoroughbred Breeders Inc., and one appointed by the New York thoroughbred horsemen's association (or such other entity as is certified and approved pursuant to section two hundred twenty-eight of this article).

* NB There are 2 par b's

* c. All directors shall serve at the pleasure of their appointing authority.

* NB There are 2 par c's

* c. Upon the effective date of this paragraph, the structure of the board of the franchised corporation shall be deemed to be incorporated within and made part of the certificate of incorporation of the franchised corporation, and no amendment to such certificate of incorporation shall be necessary to give effect to any such provision, and any provision contained within such certificate inconsistent in any manner shall be superseded by the provisions of this section. Such board shall, however, make appropriate conforming changes to all governing documents of the franchised corporation including but not limited to corporate by-laws. Following such conforming changes, amendments to the by-laws of the franchised corporation shall only be made by unanimous vote of the board.

* NB There are 2 par c's

d. The board, which shall become effective upon appointment of a majority of public members, shall terminate five years from its date of creation.

2. Members of the board of directors shall serve without compensation for their services, but publicly appointed members of the board shall be entitled to reimbursement from the franchised corporation for actual and necessary expenses incurred in the performance of their official duties.

3. Members of the board of directors, except as otherwise provided by law, may engage in private employment, or in a profession or business, however no member shall have any direct or indirect economic interest in

any video lottery gaming facility, excluding incidental benefits based on purses or awards won in the ordinary conduct of racing operations, or any direct or indirect interest in any development undertaken at the racetracks of the state racing franchise.

4. The affirmative vote of a majority of members of the board of directors shall be necessary for the transaction of any business or the exercise of any power or function of the franchised corporation. The franchised corporation may delegate on an annual basis to one or more of its members, or its officers, agents or employees, such powers and duties as it may deem proper.

5. Each voting member of the board of directors of the franchised corporation shall annually make a written disclosure to the board of any interest held by the director, such director's spouse or unemancipated child, in any entity undertaking business in the racing or breeding industry. Such interest disclosure shall be promptly updated, in writing, in the event of any material change.

The board shall establish parameters for the reporting and disclosure of such director interests.

* NB Effective until the appointment of a majority of the state franchise oversight board members

* § 207. Board of directors of a franchised corporation. 1. a. The board of directors, to be called the New York racing association board, shall consist of seventeen members who shall have equal voting rights: two appointed by the governor, two appointed by the temporary president of the senate and two appointed by the speaker of the assembly; eight appointed by the executive committee of the New York racing association reorganization board of directors constituted pursuant to chapter four hundred fifty-seven of the laws of two thousand twelve, which shall continue to exist until such time as the appointments required hereunder are made. The New York racing association will include knowledge of the marketplace and communities in which the New York racing association operates as a factor in board selection; one who shall be the president and chief executive officer of the franchised corporation, ex officio and without term limitation; one appointed by the New York Thoroughbred

Breeders, Inc.; and one appointed by the New York thoroughbred horsemen's association representing at least fifty-one percent of the horsemen using the facilities of the franchised corporation. The New York racing association board may include additional ex officio, non-voting members as appointed pursuant to a majority vote of the board. All public appointed members of the board shall be a resident of New York state.

(i) The governor shall nominate a member to serve as chair for an initial term of three years, who shall serve at the pleasure of the governor, subject to confirmation by majority vote of the board. Thereafter, the board shall elect its chair, who shall serve at the pleasure of the board, from among its members.

(ii) The term of voting membership on the New York racing association board shall be three years. Individual appointees shall be limited to serving as a voting member the lesser of three terms or nine years. Notwithstanding the foregoing, the initial term of one member appointed by each of the governor, temporary president of the senate, and speaker of the assembly, the member appointed by the New York thoroughbred horsemen's association, and the member appointed by the New York Thoroughbred Breeders, Inc. shall expire March thirty-first, two thousand eighteen; the initial term of the remaining members appointed by each of the governor, temporary president of the senate, and speaker of the assembly and two members appointed by the New York racing association reorganization board shall expire on March thirty-first, two thousand nineteen; the initial term of three members appointed by the New York racing association reorganization board shall expire on March thirty-first, two thousand twenty-one, and the initial term of three members appointed by the New York racing association reorganization board shall expire on March thirty-first, two thousand twenty-three. The eight initial members appointed by the New York racing association reorganization board shall hold appointment as a voting member for the greater of three terms or nine years.

(iii) In the event of a member vacancy occurring by death, resignation or otherwise, the respective appointing authority shall appoint a successor who shall hold office for the unexpired portion of the term. In the case of vacancies among members appointed by the executive committee of the New York racing association reorganization board of directors constituted pursuant to chapter four hundred fifty-seven of the laws of two thousand twelve, appointments thereafter shall be made by the executive committee of the New York racing association board as constituted by the chapter of the laws of two thousand seventeen that amended this section.

(iv) Beginning January first, two thousand twenty-six, one member appointed by the governor, one member appointed by the temporary president of the senate, one member appointed by the speaker of the assembly, and four members appointed by the executive committee of the New York racing association board of directors shall satisfy at least one of the following requirements at the time of appointment or reappointment: (1) over the three years prior, owned or trained horses with a cumulative average of fifteen starts at New York race tracks per year, (2) be a breeder of record registered with the thoroughbred breeding and development fund, (3) be a managing partner in a New York state-based ownership syndicate licensed with the commission, or (4) have a cogent interest in the racing and breeding industry in the state. The provisions of this subparagraph shall not impact any members serving as of January first, two thousand twenty-six.

(v) Beginning January first, two thousand twenty-six, all non-publicly appointed members must hold a license pursuant to section two hundred twenty of this article.

b. The franchised corporation shall establish a compensation committee to fix salary guidelines, such guidelines to be consistent with an operation of other first class thoroughbred racing operations in the United States; a finance and audit committee, to review annual operating and capital budgets for each of the three racetracks; a nominating and governance committee, to nominate any new directors to be designated by the franchised corporation to replace its existing directors and be responsible for all issues affecting the governance of the franchised corporation; an equine safety committee to review industry best practices to improve the safety of horse racing of the three racetracks; a racing committee to address all issues related to racing operations; and an executive committee. Each of the compensation, finance, nominating and executive committees shall include at least one public member from among the directors appointed by the governor.

c. Upon the effective date of this paragraph, the structure of the New York racing association board shall be deemed to be incorporated within and made part of the certificate of incorporation of the franchised corporation, and no amendment to such certificate of incorporation shall be necessary to give effect to any such provision, and any provision contained within such certificate inconsistent in any manner shall be superseded by the provisions of this section. Such board shall, however, make appropriate conforming changes to all governing documents of the franchised corporation including but not limited to corporate by-laws. Following such conforming changes, amendments to the by-laws of the franchised corporation shall be made only by unanimous vote of the board.

2. Members of the New York racing association board shall serve without compensation for their services, but shall be entitled to reimbursement from the franchised corporation for actual and necessary expenses incurred in the performance of their duties for the board.

3. Members of the New York racing association board, except as otherwise provided by law, may engage in private employment, or in a profession or business, however no member shall have any direct or indirect economic interest in any video lottery gaming facility, excluding incidental benefits based on purses or awards won in the ordinary conduct of racing operations, or any direct or indirect interest in any development undertaken at the racetracks of the state racing franchise including real estate development parcels as defined in the franchise agreement.

4. The affirmative vote of a majority of members of the New York racing association board shall be necessary for the transaction of any business or the exercise of any power or function of the franchised corporation. The franchised corporation may delegate on an annual basis to one or more of its members, or its officers, agents or employees, such powers and duties as it may deem proper.

5. Each voting member of the New York racing association board of the

franchised corporation shall annually make a written disclosure to such board of any interest held by the director, such director's spouse or unemancipated child, in any entity undertaking business in the racing or breeding industry. Such interest disclosure shall be promptly updated, in writing, in the event of any material change.

The New York racing association board shall establish parameters for the reporting and disclosure of such director interests.

6. Each voting member of the New York racing association board appointed by the executive committee of the New York racing association reorganization board of directors shall seek a racetrack management license issued by the gaming commission, any fees for which shall be waived by the commission. No voting member of the board required by the foregoing to seek a racetrack management license may vote on any board matter until such license is issued.

7. For purposes of section two hundred twelve of this article, the establishment of The New York Racing Association, Inc. board of directors under this section shall not constitute the assumption of the franchise by a successor entity.

8. The franchise corporation shall not have any direct or indirect ownership, control, influence, or investment, in any franchise oversight board approved development or such alternative use as may be approved by the franchise oversight board conducted on the real estate development parcels as defined in the franchise agreement.

* NB Effective upon the appointment of a majority of the state franchise oversight board members

§ 208. Conditions of franchise award. 1. In consideration of the franchise and in accordance with its franchise agreement, the franchised corporation shall remit to the state, each year, no later than April fifth, a franchise fee payment. The franchise fee shall be calculated and equal to the lesser of paragraph (a) or (b) of this subdivision as follows: (a) adjusted net income, including all sources of audited generally accepted accounting principles net income as of December thirty-first (i) plus the amount of depreciation and amortization for such year as set forth on the statement of cash flows (ii) less the amount received by the franchised corporation for capital expenditures and (iii) less principal payments made for the repayment of debt; or (b) operating cash which is defined as cash available on December thirty-first (i) which excludes all restricted cash accounts, segregated accounts as per audited financial statements and cash on hand needed to fund the on-track pari-mutuel operations through the vault, (ii) less ninety days of operating expenses pursuant to generally accepted accounting principles which shall be an average calculated by dividing the current year's annual budget by the number of days in such year and multiplying that number by ninety.

2. As a condition of franchise acceptance, the franchised corporation and its predecessor shall irrevocably relinquish any present or future rights that it might have, or might claim, with respect to thoroughbred racing facilities and associated assets located in Queens county, Saratoga county and jointly located in Nassau and Queens counties whereat running races, steeplechases or race meetings and pari-mutuel betting on the outcome of the same have been conducted, including (a) all the land underlying the racetracks, (b) all improvements thereon and all physical assets thereon, and (c) all assets associated with the franchise and the operation of the racetracks, including, without limitation all rights to intellectual property and simulcasting now existing or hereafter created, and any and all franchise rights or interests in such assets including but not limited to leasehold improvements and interests. The franchised corporation shall take all appropriate action on the date of substantial consummation, as defined by the federal bankruptcy code, of the confirmed chapter eleven plan of reorganization of the non-profit racing association known as The New York Racing Association, Inc. in the pending bankruptcy case in the Southern District of New York to ensure that the People of the State of New York are vested with unencumbered ownership in the real estate for the three racetracks, including all improvements thereon.

3. As a condition of franchise acceptance, the franchised corporation

shall make application with the commission for live thoroughbred racing dates at thoroughbred racing facilities located in Queens county, Saratoga county and jointly located in Nassau and Queens counties in a manner substantially similar to the racing dates presently undertaken.

4. As a condition of franchise acceptance, the franchised corporation shall agree that it will conduct running races, steeplechases and race meetings in accordance with the provisions thereof and that all running races, steeplechases or race meetings conducted thereunder shall be subject to such reasonable rules and regulations from time to time prescribed by the gaming commission.

4-a. As a condition of franchise acceptance, the franchised corporation shall enter into a franchise agreement that shall require such franchised corporation to use its best efforts to satisfy performance standards, measured every four years by the franchise oversight board. Such performance standards shall relate to racing dates, New York bred horse races, horse stalls, jockey and equine safety, state concentrated animal feeding operation, backstretch conditions, the Saratoga training facility, handle and attendance, purses, expenses of the franchised corporation, and the communities surrounding Aqueduct racetrack, Belmont Park racetrack and the Saratoga race course. As a condition of franchise acceptance, the franchised corporation shall continue to lease for nominal consideration the ballfield property near the Aqueduct racetrack that includes lots 62, 118, 119, 127, 133, 135, 136 and 138 of block 11535; lots 73, 110 and 113 of block 11536; lots 5, 9, 10, 12, 14 and 110 of block 11551; and lot 204 of block 11562 in Queens County, as a ballfield for the appropriate community organization, and convey the parcel near the Aqueduct racetrack that includes lot 1 of blocks 11558 and 11560 in Queens county to the New York city public school construction authority should such authority desire and commit to purchase such parcel at fair market value.

5. A franchise may be revoked and cancelled by the commission only for the reasons and in the manner prescribed under the provisions of sections two hundred twelve and two hundred forty-four of this article.

The action of the commission in revoking a franchise shall be reviewable in the supreme court in the manner provided by and subject to the provisions of article seventy-eight of the civil practice law and rules.

6. (a) All contracts entered into by the franchised corporation for the procurement of goods or services shall be pursuant to a competitive bidding purchasing policy approved by the franchise oversight board.

(b) In its review of the contracts pursuant to this section in any contract in excess of one hundred thousand dollars, the franchise oversight board may review the character and fitness of the entity or its principals entering into contracts with a franchised corporation and provided further the oversight board may require such information as it deems necessary including the power to subpoena such books, records, and other pertinent information related to the contracts from the contractor or vendor of any contract.

7. Notwithstanding the provisions of section seven of the general business law, or any other inconsistent provision of general, special or local law, the commission shall specify annually the dates on which, and the hour of the first post time for days during which, such franchised corporation may operate at the places and for the full number of days specified in its franchise.

8. The commission shall permit the franchised corporation to conduct pari-mutuel betting in the manner and subject to the conditions prescribed by this chapter, at the racetracks described in such racing franchise for the duration of such racing franchise.

9. (a) The franchised corporation shall maintain a separate account for all funds held on deposit in trust by the corporation for individual horsemen's accounts. Purse funds shall be paid by the corporation as required to meet its purse payment obligations. Funds held in horsemen's accounts shall only be released or applied as requested and directed by the individual horseman. Through calendar year two thousand twenty-seven the New York Jockey Injury Compensation Fund, Inc. may use up to two million dollars from the account established pursuant to this subdivision to pay the annual costs required by section two hundred

twenty-one of this article.

(b) Unless otherwise permitted by written agreement with the horsemen's organization recognized pursuant to section two hundred twenty-eight of this article the franchised corporation shall fund purses in an amount (on an annual basis and not a per-race basis) in excess of that required by this chapter, so as to reduce the purse cushion at the end of each calendar year by the amount set forth below:

Year	Reduction of Purse Cushion for Calendar Year	Maximum Purse Cushion at Year End Not to Exceed
2008	$0	$20.0 million
2009	$1.0 million	$19.0 million
2010	$1.0 million	$18.0 million
2011	$2.0 million	$16.0 million
2012	$2.0 million	$14.0 million
2013	$3.0 million	$11.0 million
2014	$3.0 million	$8.0 million
2015	$2.0 million	$6.0 million

Thereafter the maximum purse cushion at year end shall not exceed $6.0 million.

(c) The franchised corporation shall establish and maintain a separate account for funds to be held on deposit in trust by the franchised corporation for the horsemen's organization recognized pursuant to section two hundred twenty-eight of this article. Starting in two thousand eighteen and annually thereafter, funds from the account established pursuant to this subdivision shall be deposited in the separate account established under this paragraph in an amount to be agreed upon by the franchised corporation and the horsemen's organization recognized pursuant to section two hundred twenty-eight of this article. Funds held in this account shall be used by such recognized horsemen's organization solely as collateral to secure workers' compensation insurance coverage, including through the New York Jockey Injury Compensation Fund, Inc. Such coverage shall include high deductible programs and forms of self-insurance.

(d) In the event the horsemen's organization recognized pursuant to section two hundred twenty-eight of this article determines that the funds are no longer needed as collateral to secure workers' compensation insurance coverage, then, upon agreement by the franchised corporation and such appropriately recognized horsemen's organization, funds in the separate account established under paragraph (c) of this subdivision shall be returned to the account established pursuant to paragraph (a) of this subdivision.

(e) The account shall be subject to annual audit by a certified public accountant approved and paid by the appropriately recognized horsemen's organization.

* 10. It is incumbent upon the franchised corporation to ensure the health and safety of its equine participants. To accomplish that goal, the franchised corporation shall, by September first, two thousand twenty-five, make a one-time contribution of two million dollars to the Harry M. Zweig memorial fund, established under section seven hundred one of this chapter, for the sole purpose of off-setting the cost of purchasing screening and imaging equipment for the research project as specified in subdivision seven of section seven hundred four of this chapter. The Harry M. Zweig memorial fund shall hold such money in an escrow account until such time as it is necessary to purchase the equipment required to conduct the research. The money in the escrow account shall not be used for any purposes other than purchasing equipment to be used for such research.

* NB Repealed September 1, 2028

§ 209. Examination of the books and accounts by the state comptroller. Notwithstanding any other provision of this article, the state comptroller may from time to time examine the books and accounts of such franchised corporation, including its receipts, disbursements, contracts, leases, loans, investments and any other matters relating to its financial operations, including the franchised corporation's calculation of the franchise fee payment pursuant to the provisions of subdivision one of section two hundred eight of this article and report the results of each audit to the governor, the legislature, the attorney general, the franchise oversight board and the commission.

§ 210. Franchise termination. Upon receiving notification, in accordance with the provisions of section two hundred ten-a of this article, from any franchised corporation that it intends to relinquish such franchise prior to the expiration date of such franchise, or that such franchised corporation intends to end its corporate existence prior to such expiration date, or upon the revocation of such franchise or exclusive right to operate and maintain such franchise, the franchise oversight board shall take such action as is necessary to assure the continuation of the racing and pari-mutuel activities at the racing facilities operated pursuant to the franchise agreement.

§ 210-a. Relinquishment of franchise. 1. No franchised corporation shall relinquish a franchise granted to it pursuant to section two hundred six of this article at any time within the term of any such franchise without giving separate written notification of its intention to effect relinquishment by certified mail return receipt requested to the franchise oversight board and the commission not less than one hundred eighty days prior to the date such franchised corporation proposes to be the effective date of relinquishment.

2. Such a franchised corporation shall not present a certificate of dissolution of its corporate existence under article ten of the not-for-profit corporation law to the department of state with the consent required by law attached thereto for a period of at least one hundred eighty days following the date that the association elected to dissolve its corporate status in the manner authorized by the provisions of such article.

3. Such a franchised corporation also shall not present a petition for judicial dissolution of its corporate existence to a court pursuant to the provisions of article eleven of the not-for-profit corporation law for a period of at least one hundred eighty days following the date that action was completed under section eleven hundred two of the not-for-profit corporation law authorizing the presentation of such petition and the franchised corporation agrees to name the franchise oversight board in the petition for the purpose of enabling the franchise oversight board to receive a copy of any order to show cause made by a court under the provisions of section eleven hundred four of

the not-for-profit corporation law.

4. If the franchised corporation voluntarily relinquishes its franchise prior to expiration, or voluntarily declines to continue conducting race meetings and pari-mutuel betting on the races run at such race meetings as required by its franchises unless such declination is the result of strikes, acts of God, or other unavoidable causes not under the control of such franchised corporation, or voluntarily affects corporate dissolution in the manner provided for by article ten or eleven of the not-for-profit corporation law and other applicable provisions of law, or if such franchise is revoked by the board, then, notwithstanding any other provision of law to the contrary, the franchised corporation shall transfer to the franchise oversight board at the time of such relinquishment, declination, revocation or dissolution all right, title and interest held by such franchised corporation in all such facilities and associated assets, and all capital improvements made to the real property and such facilities.

§ 211. Fair association, when entitled to privileges. Any state, county or other fair association shall be entitled to the privileges conferred by section two hundred four of this article upon filing in the offices wherein its certificate of incorporation is filed, a certificate that sets forth its intention to avail itself of such privileges; and any such state, county or other fair association shall not be required to obtain any license or file any other certificate. State, county and other fair associations entitled to conduct trotting races may also conduct running races in connection therewith, and the provisions of this article requiring a racetrack to be of specified dimensions shall not apply to such association; but no running races shall be conducted for more than five days on any track or grounds, unless the license of the commission therefor is first obtained.

*** § 212. Franchise oversight board.** 1. There is hereby created a franchise oversight board which shall consist of five members. Of the five members, three shall be appointed by the governor, one shall be appointed by the temporary president of the senate and one shall be appointed by the speaker of the assembly. Of the initially appointed board, one member appointed by the governor shall serve for a one year term, one member appointed by the governor shall serve for a two year term, and one member appointed by the governor shall serve for a three year term. The members appointed by the temporary president of the senate and the speaker of the assembly shall serve for a four year term. All successors shall serve for a term of four years. All members shall continue in office until their successors have been appointed and qualified. The governor shall designate the chair from among the sitting members who shall serve as such at the pleasure of the governor.

2. The members shall serve without compensation for their services as members, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties. The state shall save harmless and indemnify members of the board and any officer, employee, agent or other person or persons pursuant to section seventeen of the public officers law against any claim, demand, suit or judgment arising by reason of any act or omission to act by such member, officer, employee, agent or person occurring in the discharge of his or her duties and within the scope of his or her service on behalf of the franchise oversight board.

3. Such members, except as otherwise provided by law, may engage in private or public employment, or in a profession or business. The board, its members, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public officers law. No former trustee or officer of a non-profit racing association known as The New York Racing Association, Inc. or its predecessor, no current director or officer of a franchised corporation or any individual registered with the New York commission on public integrity shall be appointed as members to the board nor shall any member of the board have any direct or indirect interest in any racehorse, thoroughbred racing or pari-mutuel wagering business, video lottery terminal facility or any development at any racing facility.

4. Notwithstanding any inconsistent provisions of law, general,

special or local, no officer or employee of the state or of any civil division thereof shall be deemed to have forfeited or shall forfeit their office or employment by reason of their acceptance of membership on the board created by this section.

5. The affirmative vote of three members shall be necessary for the transaction of any business or the exercise of any power or function of the franchise oversight board except as otherwise provided here in this article.

6. Within thirty days following the appointment of the members of the franchise oversight board, the members of the oversight board shall establish a local advisory board for each racing operation comprising the following members to meet at least twice yearly:

a. The local advisory board for the Saratoga racetrack facility shall comprise fifteen members and include five designees from each of the following: the board of supervisors, the mayor of the city of Saratoga and the franchised corporation.

b. (i) The local advisory board for the Aqueduct racetrack facility shall comprise of fifteen members, nine of whom shall be designees of New York City Queens Community Board Ten, three designees of the franchised corporation and three designees of the video lottery gaming operator. At substantial completion of the Belmont project, as determined by the gaming commission, this board shall be dissolved.

(ii) (A) Notwithstanding subparagraph (i) of this paragraph, within thirty days after the substantial completion of the Belmont project, as determined by the gaming commission, an Aqueduct Redevelopment Community Advisory Board shall be formed to assess all bids made in response to the request for proposals on developing the Aqueduct property and is required to hold a public hearing and adopt and submit a written recommendation on each bid to the franchise oversight board within sixty days of receiving such bid. The adoption of such recommendation shall be by a public vote which results in approval by a majority of the appointed members present during the presence of a quorum. The board recommendation shall be in writing via a form provided by the franchise oversight board and shall include a description of the application, the time and place of the public hearing on the application, the time and place of the meeting at which the recommendation was adopted and the vote by which the recommendation was adopted. The community board may include in its submission the reasons for the vote and any conditions attached to its vote.

(B) The Aqueduct Redevelopment Community Advisory Board shall consist of six members, one to be appointed by the governor, one to be appointed by the mayor of the city of New York, one to be appointed by the senator representing the senate district where the Aqueduct property is located, one to be appointed by the assemblymember representing the assembly district where the Aqueduct property is located, one to be appointed by the city councilmember representing the district where the Aqueduct property is located, and one to be appointed by the borough president where the Aqueduct property is located.

c. The local advisory board for the Belmont racetrack facility shall comprise fifteen members, to be appointed as follows:

(i) five members from Nassau county to be appointed by the Nassau county executive. Four of such members must reside in the hamlet of Elmont;

(ii) two members from the town of Hempstead to be appointed by the supervisor of the town of Hempstead. Both members must reside in the hamlet of Elmont;

(iii) two members to be appointed by the mayor of the village of Floral Park, subject to village board approval;

(iv) one member to be appointed by the mayor of the village of South Floral Park, subject to village board approval;

(v) three members to be appointed by the New York Racing Association, Inc.; and

(vi) two members to be appointed by the New York City Queens Community Board 13.

The members of the local advisory boards shall serve for a period of two years. In the event of a vacancy occurring during a term of appointment by reason of death, resignation, disqualification or otherwise such vacancy shall be filled for the unexpired term in the same manner as the original appointment. The members of the local advisory board shall serve without compensation, except that each member shall be allowed the necessary and actual expenses incurred in the performance of his or her duties pursuant to this section.

7. The Saratoga local advisory boards in cooperation with the state historic preservation office and the franchise oversight board shall compile a complete, updated historic resources inventory identifying all buildings and landscape features and their current condition at the Saratoga Racecourse. The local advisory board may, at its discretion, in the performance of its responsibilities, seek advice from groups or individuals with relevant expertise.

All buildings and landscaped features of historic, architectural or cultural significance at the Saratoga Racecourse may be advanced by the local advisory board for consideration for inclusion in the National and State Registers of Historic Places and in local historic districts.

8. a. The duties and responsibilities of the franchise oversight board shall include, but not be limited to, the following:

(i) represent the interests of the state in all real estate development proposed for Aqueduct racetrack or real estate development at Belmont Park racetrack. Any such real estate development shall only be undertaken pursuant to a competitive process approved by the board, after consultation with the applicable local advisory boards and consideration of local zoning and planning regulation, and in a manner that will not adversely impact any historic structure that is included in or eligible for inclusion in the National or the State Register of Historic Places, be consistent with any plan approved for such community, and shall be subject to unanimous approval of the franchise oversight board and all statutory and regulatory requirements; provided, however, that, subject to approval of the franchise oversight board and subject to all statutory and regulatory requirements, the franchised corporation shall have full powers and rights to develop, redevelop, refurbish, renovate or make such other improvements, capital expenditures or otherwise, to the racetracks and the fixtures and improvements thereon consistent with projects specifically identified in the franchised corporation's approved track facility improvement plan.

The franchise oversight board shall be guided by the goals of ensuring the continuation of high quality thoroughbred racing at the thoroughbred racing facilities located within the state, raising revenue for or in aid or support of education in this state from video lottery gaming at facilities of the state racing franchise, and maximizing revenue for governments from pari-mutuel wagering on racing at facilities of the state racing franchise. In consideration of capital expenditure approval, the board shall ensure adequate funds are dedicated for maintenance and repair of existing structures at Saratoga racetrack and Belmont Park racetrack and for the improvement of onsite backstretch personnel housing and quality of life.

(ii) monitor and enforce compliance with definitive documents that comprise the franchise agreement between the franchised corporation and the state of New York governing the franchised corporation's operation of thoroughbred racing and pari-mutuel wagering at the racetracks. The franchise agreement shall contain objective performance standards that shall allow contract review in a manner consistent with this chapter. The franchise oversight board shall notify the franchised corporation authorized by this chapter in writing of any material breach of the performance standards or repeated non-material breaches which the franchise oversight board may determine collectively constitute a material breach of the performance standards. Prior to taking any action against such franchised corporation, the franchise oversight board shall provide the franchised corporation with the reasonable opportunity to cure any material breach of the performance standards or repeated non-material breaches which the franchise oversight board may determine collectively constitute a material breach of the performance standards. Upon a written finding of a material breach of the performance standards or repeated non-material breaches which the franchise oversight board may determine collectively constitute a material breach of the performance standards, the franchise oversight board may recommend that the franchise agreement be terminated. The franchise oversight board shall refer such recommendation to the commission for a hearing conducted pursuant to section two hundred forty-five of this article for a determination of whether to terminate the franchise agreement with the franchised corporation;

(iii) oversee, monitor and review all significant transactions and operations of the franchised corporation authorized by this chapter; provided, however, that nothing in this section shall be deemed to reduce, diminish or impede the authority of the commission to, pursuant to article one of this chapter, determine and enforce compliance by the franchised corporation with terms of racing laws and regulations. Such oversight shall include, but not be limited to:

(A) review and make recommendations concerning the annual operating budgets of such franchised corporation;

(B) review and make recommendations concerning operating revenues and the establishment of a financial plan;

(C) review and make recommendations concerning accounting, internal control systems and security procedures;

(D) review such franchised corporation's revenue and expenditure policies which shall include collective bargaining agreements management and employee compensation plans, vendor contracts and capital improvement plans;

(E) review such franchise corporation's compliance with the laws, rules and regulations applicable to its activities;

(F) make recommendations for establishing model governance principles to improve accountability and transparency; and

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

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

(v) facilitate discussions and voluntary agreements between the franchised corporation and off-track betting corporations to streamline operations, decrease operating costs and maximize opportunities pertaining to costs and revenues, and encourage an exchange of views and experiences from the franchised corporation and the off-track betting corporations to improve the racing product in New York and to realize efficiencies;

(vi) review and approve all purchasing policies pursuant to paragraph (a) of subdivision six of section two hundred eight of this article;

(vii) review and provide any recommendations on all simulcasting contracts (buy and sell) that are also subject to prior approval of the commission;

(viii) act on behalf of the People of the State of New York to enter into any real property transactions in furtherance of the purposes and intent of this statute, including, without limitation, one or more ground leases, for one dollar in consideration annually, for each of Aqueduct racetrack, Belmont Park and Saratoga racecourse to the franchised corporation, for a term that will extend until the racing franchise expires, is revoked, terminated or ends by any other means provided by law. Such leases shall be executed contemporaneously with the conveyance of the racetracks by the franchised corporation's predecessor to the state;

(ix) enter into on behalf of the state as licensor, a long term license agreement with the franchised corporation for the use of the simulcast signal and associated intellectual property rights, for consideration of one dollar annually and for a term that will extend until the racing franchise expires, is revoked, terminated or ends by any other means provided by law. Such license agreement shall be executed contemporaneously with the conveyance of the franchised corporation's assets associated with the franchise agreement.

(x) conduct running races or steeplechases at racing facilities and conduct pari-mutuel betting on the outcome of the same when necessary to assure the continuation of the racing and pari-mutuel betting activities at such racing facilities (A) in the event that the racing and/or pari-mutuel betting franchises of the franchised corporation authorized by this chapter then holding such franchises have either been terminated in the manner provided by law or have been relinquished by such corporation, or such corporation declines to continue conducting race meetings and pari-mutuel betting on the outcome of the same as required by such franchises unless such declination is the result of strikes, acts of God, or other unavoidable causes not under the control of such corporation, or the corporate existence of such corporation has been dissolved in the manner provided by law prior to the end of the term of any such franchise and (B) until such time as a new franchise is granted;

(xi) on behalf of the People of the State of New York, and, acting in such capacity as lessor of the racing facilities and real estate, be responsible for payment of all property taxes related to such racing facilities and real estate;

(xii) report annually to the governor and the legislature, beginning no later than December thirty-first, two thousand eight, stating its findings and recommendations to implement policy and legislative changes necessary to encourage the continuation of high quality thoroughbred racing in New York state and to protect the legitimate interests of the state and the thoroughbred racing industry;

(xiii) require the franchised corporation to make all records and documents pertaining to its financial practices, and other documents and records necessary to carry out its duties, available to the franchise oversight board within thirty days of a written request;

(xiv) examine or cause to be examined by a third party, the books, papers, records and accounts of the franchised corporation;

(xv) sue and be sued;

(xvi) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article;

(xvii) request and accept the assistance of any state agency, including but not limited to, the commission, office of parks, recreation and historic preservation, the department of environmental conservation and the department of taxation and finance, in obtaining information related to the franchised corporation's compliance with the terms of the franchise agreement;

(xviii) when the franchise oversight board determines the financial position of the franchised corporation has deviated materially from the franchised corporation's financial plan, or other such related documents provided to the franchise oversight board, and such deviation is not mitigated by the franchised corporation within one hundred eighty days of the franchise oversight board providing notice of such determination to the franchised corporation, or when the implementation of such plan would, in the opinion of the franchise oversight board, pose a significant risk to the liquidity of the franchised corporation, in any order or combination:

(A) hire, at the expense of the franchised corporation, an independent financial adviser to evaluate the financial position of the franchised corporation and report on such to the franchise oversight board; and

(B) require the franchised corporation to submit for the franchise oversight board's approval a corrective action plan addressing any concerns identified as risks by the franchise oversight board.

(xix) when the franchise oversight board finds the franchised corporation has experienced two consecutive years of material losses due to circumstances within the control of the franchised corporation, as determined by the franchise oversight board, and when the franchised corporation has failed to address concerns identified by the franchise oversight board pursuant to subparagraph (xviii) of this paragraph, the board may by unanimous vote request the director of the budget to impound and escrow racing support payments accruing to the benefit of the franchised corporation pursuant to paragraphs three and four of subdivision f of section sixteen hundred twelve of the tax law. The director of the budget shall release such impounded and escrowed racing support payments upon notice from the franchise oversight board that the franchised corporation has achieved the goals of a new corrective action plan approved by the board.

The director of the budget shall, upon warrant of the franchise oversight board, approve the use of withheld racing support payments necessary to satisfy financial instruments used to fund board-approved capital investments, as approved by the franchise oversight board.

(xx) do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this article.

b. Notwithstanding any other provision of this article, the franchised corporation shall be entitled to make capital expenditures, except those capital expenditures for the Saratoga Racecourse that may, on the advice of the New York state historic preservation office, adversely impact any historic structure that is included in or is eligible for inclusion in the national or state register of historic places, to the physical plant of the racetracks, grandstand, backstretch, parking and public areas set forth in the New York Racing Association's capital expenditure plan ("capital plan") filed with the racing and wagering board in two thousand seven. Any material modification to the capital plan as determined by the franchise oversight board and each future capital investment plan for the tracks, grandstand, backstretch, parking and public areas of the racetracks operated by the franchised corporation involving the expenditure of more than five million dollars in the aggregate shall require the prior approval of the franchise oversight board. Within five years from the date of commencement of the video lottery terminal operations at Aqueduct, and every five years thereafter, the franchised corporation shall submit to the oversight board a capital plan for the five-year period commencing on January first of the following year. Such plans shall contain both the intended object of expenditure and the proposed sources of financing. The franchised corporation shall report to the franchise oversight board within ninety days following the end of each fiscal year as to the amount spent pursuant to the capital plan.

* NB Repealed 30 days following the assumption of the franchise by a successor entity.

§ 213. Project labor agreements. 1. For the purposes of this section, "project labor agreement" shall mean a pre-hire collective bargaining agreement between a contractor and the labor organization, including an organization composed of more than one labor union, determined by the franchise oversight board as representing the largest number of employees likely to work on the project, establishing the labor organization as the collective bargaining representative for all persons who will perform work on the project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform project work.

2. Notwithstanding the provisions of any general, special, or local law to the contrary, in regard to the video gaming terminal facility or related development at a thoroughbred racing facility:

(a) The franchise oversight board may require a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement during and for the work involved with such project when such requirement is part of the franchise oversight board's request for proposals for the project and when the franchise oversight board determines that the record supporting the decision to enter into such an agreement establishes that the interests underlying the competitive bidding laws are best met by requiring a project labor agreement including: obtaining the best work at the lowest possible price; preventing favoritism, fraud and corruption; the impact of delay; the possibility of cost savings; and any local history of labor unrest.

(b) Any contract to which the franchise oversight board is a party, and any contract entered into by a third party acting in place of, on behalf of and for the benefit of the franchise oversight board pursuant to any lease, permit or other agreement between such third party and the franchise oversight board, for the construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement, of a project undertaken pursuant to this chapter, shall be subject to all of the provisions of article eight of the labor law, including the enforcement of prevailing wage requirements by the fiscal officer as defined in paragraph e of subdivision five of section two hundred twenty of the labor law to the same extent as a contract of the state, and shall be deemed public work for purposes of such article.

(c) Every contract entered into by the franchise oversight board for a project shall contain a provision that the contractor shall furnish a labor and material bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of any contracts for a project undertaken pursuant to this section and a performance bond for the faithful performance of the project, which shall conform to the provisions of section one hundred three-f of the general municipal law, and that a copy of such performance and payment bonds shall be kept by the franchise oversight board and shall be open to public inspection.

(d) For the purposes of article fifteen-A of the executive law, any person entering into a contract for a project authorized pursuant to this section shall be deemed a state agency as that term is defined in such article and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article.

(e) Whenever the franchise oversight board enters into a contract, subcontract, lease, grant, bond, covenant or other agreement for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement with respect to each project undertaken pursuant to this chapter, the franchise oversight board shall consider the financial and organizational capacity of contractors and subcontractors in relation to the magnitude of work they may perform, the record of performance of contractors and subcontractors on previous work, the record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and the commitment of contractors to work with minority and women owned business enterprises pursuant to article fifteen-A of the executive law through joint ventures or subcontractor relationships.

(f) The franchise oversight board shall further require, on any contract for construction in excess of three million dollars with respect to any contract for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement that each contractor and subcontractor shall participate in apprentice training programs in the trades of work it employs that have been approved by the department of labor for not less than three years. The franchise oversight board shall further require that each contractor and subcontractor shall have graduated at least one apprentice in the last three years and shall have at least one apprentice currently enrolled in such training program. Additionally it must be demonstrated that the program has made significant efforts to attract and retain minority apprentices, as determined by affirmative action goals established for such programs by the department of labor.

(g) Whenever the franchise oversight board enters into a contract under which employees are employed to perform building service work, as that term is defined in section two hundred thirty of the labor law, such work shall be subject to article nine of the labor law to the same extent as building services work performed pursuant to a contract with a public agency.

(h) All developers of and entities having an operational interest in any hotel or video lottery terminal facility at a thoroughbred racing facility in which the state has a proprietary interest or is otherwise acting as a market participant must have entered into an agreement with the labor organization(s) that is/are actively engaged in representing and attempting to represent hotel service, food and beverage, housekeeping, and gaming employees in New York city and the surrounding areas and, where applicable, the Saratoga area that is valid and enforceable under 29 U.S.C. section 185(a) and that prohibits any strikes, picketing or other economic interference with the hotel or video lottery terminal facility and ensures that any operations at the hotel or video lottery terminal facilities involving the use of hotel or video lottery terminal employees that are conducted by contractors, subcontractors, licensees, assignees, tenants or subtenants, shall be done under contracts enforceable under 29 U.S.C. section 185(a) containing the same provisions as specified above.

§ 214. Acquisition of racing facilities. Any franchised corporation desiring to acquire racing facilities, including real estate, or the capital stock of one or more racing associations shall apply to the franchise oversight board for approval of such acquisition. If in the judgment of such board the public interest, convenience or necessity and the best interest of racing generally will be served thereby, such board shall enter an order granting approval of such acquisition and of the terms thereof.

§ 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.

§ 217. Revocation of licenses. If any corporation to which a license shall be granted shall fail or refuse to comply with the provisions of this chapter, or with the terms and conditions of its license, or if for any other reason the continuance of such license shall not be deemed conducive to the interests of legitimate racing, the commission, upon its own initiative or upon complaint of the jockey club, in the case of race courses to be used for running races, or upon the complaint of the national steeplechase and hunt association in the case of race courses to be used for steeplechases, shall have the power to cancel and revoke such license. Written notice of such complaint shall be given to such corporation by the commission within five days after receiving such complaint, or after determining to take action, which notice shall specify a time and place of hearing thereon. If the commission cancels and revokes such license, then all powers exercised under section two hundred three of this article by the corporation to which such license was granted shall cease and determine.

§ 218. Stewards at race meetings. There shall be three stewards to supervise each running race meeting conducted pursuant to sections two hundred five and two hundred six of this article. One of such stewards shall be the official steward of the commission, one shall be appointed by the jockey club or by the national steeplechase and hunt association as may be appropriate, and one shall be appointed by the corporation conducting such race meeting. Such stewards shall exercise such powers and perform such duties at each race meeting as may be prescribed by the rules of the commission. During the absence or inability to act of an official steward of the commission, or in the event of the failure or inability to appoint either of the other two stewards, the powers and duties of such steward shall be exercised and performed by a person designated by the commission for that purpose.

§ 219. Advertising or promotional material. Notwithstanding any other provision of law, rule or regulation nothing herein shall be deemed to authorize the stewards or the commission to promulgate any rule or regulation that would prohibit a jockey from wearing any advertising or promotional material on his or her clothing. The wearing of such advertising or promotional material shall be permitted only when the owner of a horse for whom such jockey is riding provides the jockey with prior written authorization. Notwithstanding the foregoing, when a corporation, company or any other entity sponsors a race or race day at any franchised corporation or any racing association or corporation, such racing association may prohibit a jockey from wearing advertising material that represents a competitor of such sponsoring corporation, company or other entity.

§ 220. Licenses for participants and employees at race meetings. * 1. For the purpose of maintaining a proper control over race meetings conducted pursuant to sections two hundred five and two hundred six of this article, the commission shall license owners, which term shall be deemed to include part-owners and lessees, trainers, assistant trainers and jockeys, jockey agents, stable employees, non-publicly appointed members of the board of a franchised corporation, and such other persons as the commission may by rule prescribe at running races and at steeplechases, provided, however, that no such license shall be required for seasonal employees hired solely to work for no longer than six weeks during the summer meet at Saratoga racetrack, and any such other times as race dates historically assigned to Belmont Park are conducted at the Saratoga racetrack in two thousand twenty-four, two thousand twenty-five and two thousand twenty-six as approved in writing by the commission. In the event that a proposed licensee is other than a natural person, the commission shall require by regulation disclosure of the names and addresses of all owners of an interest in such entity. The commission may retain, employ or appoint such officers, employees and agents, as it may deem necessary to receive, examine and make recommendations, for the consideration of the commission, in respect of applications for such licenses; prescribe their duties in connection therewith, and fix their compensation therefor within the limitations prescribed by law. Each applicant for a license shall pay to the commission an annual license fee as follows: owner's license, if a renewal, fifty dollars, and if an original application, one hundred dollars; trainer's license, thirty dollars; assistant trainer's license, thirty dollars; jockey's license, fifty dollars; jockey agent's license, twenty dollars; and stable employee's license, five dollars. Each applicant may apply for a two-year or three-year license by payment to the commission of the appropriate multiple of the annual fee. The commission may by rule fix the license fees to be paid by other persons required to be licensed by the rules of the commission, not to exceed thirty dollars per category. The application for the license shall be in writing in such form as the commission may prescribe, and contain such information as the commission may require. The commission shall henceforth cause all applicants for licenses to be photographed and fingerprinted and may issue identification cards to licensees. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. A fee equal to the actual cost of issuance shall be charged for the initial issuance of such identification cards. Each such license unless revoked for cause shall be for the period of no more than one, two or three years, determined by rule of the commission, expiring on the applicant's birth date. Licenses of non-publicly appointed members of the board of a franchised corporation shall be issued without fee and remain in effect for the duration of their board service. Licenses current on the effective date of this provision shall not be reduced in duration by this provision. An applicant who applies for a license that, if issued, would take effect less than six months prior to the applicant's birth date may, by payment of a fifty percent higher fee, receive a license which shall not expire until the applicant's second succeeding birth date. All receipts of the commission derived from the operation of this section shall be paid by it into the state treasury on or before the tenth day of each month. All officials connected with the actual conduct of racing shall be subject to approval by the commission.

* NB Effective until December 31, 2026

* 1. For the purpose of maintaining a proper control over race meetings conducted pursuant to sections two hundred five and two hundred six of this article, the commission shall license owners, which term shall be deemed to include part-owners and lessees, trainers, assistant trainers and jockeys, jockey agents, stable employees, non-publicly appointed members of the board of a franchised corporation, and such other persons as the commission may by rule prescribe at running races and at steeplechases, provided, however, that no such license shall be required for seasonal employees hired solely to work for no longer than six weeks during the summer meet at Saratoga racetrack. In the event that a proposed licensee is other than a natural person, the commission shall require by regulation disclosure of the names and addresses of all owners of an interest in such entity. The commission may retain, employ or appoint such officers, employees and agents, as it may deem necessary to receive, examine and make recommendations, for the consideration of the commission, in respect of applications for such licenses; prescribe their duties in connection therewith, and fix their compensation therefor within the limitations prescribed by law. Each applicant for a license shall pay to the commission an annual license fee as follows: owner's license, if a renewal, fifty dollars, and if an original application, one hundred dollars; trainer's license, thirty dollars; assistant trainer's license, thirty dollars; jockey's license, fifty dollars; jockey agent's license, twenty dollars; and stable employee's license, five dollars. Each applicant may apply for a two-year or three-year license by payment to the commission of the appropriate multiple of the annual fee. The commission may by rule fix the license fees to be paid by other persons required to be licensed by the rules of the commission, not to exceed thirty dollars per category. The application for the license shall be in writing in such form as the commission may prescribe, and contain such information as the commission may require. The commission shall henceforth cause all applicants for licenses to be photographed and fingerprinted and may issue identification cards to licensees. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal

history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check. A fee equal to the actual cost of issuance shall be charged for the initial issuance of such identification cards. Each such license unless revoked for cause shall be for the period of no more than one, two or three years, determined by rule of the commission, expiring on the applicant's birth date. Licenses of non-publicly appointed members of the board of a franchised corporation shall be issued without fee and remain in effect for the duration of their board service. Licenses current on the effective date of this provision shall not be reduced in duration by this provision. An applicant who applies for a license that, if issued, would take effect less than six months prior to the applicant's birth date may, by payment of a fifty percent higher fee, receive a license which shall not expire until the applicant's second succeeding birth date. All receipts of the commission derived from the operation of this section shall be paid by it into the state treasury on or before the tenth day of each month. All officials connected with the actual conduct of racing shall be subject to approval by the commission.

* NB Effective December 31, 2026

2. If the commission finds that the financial responsibility, experience, character and general fitness of the applicant are such that the participation of such person will be consistent with the public interest, convenience or necessity and with the best interests of racing generally in conformity with the purposes of this article, the commission shall thereupon grant a license. If the commission finds that the applicant fails to meet any of said conditions, it shall not grant such license and it shall notify the applicant of the denial.

The commission may refuse to issue or renew a license, or may suspend or revoke a license issued pursuant to this section, if the commission finds that the applicant, or any person who is a partner, agent, employee or associate of the applicant, has been convicted of a crime in any jurisdiction, or is or has been associating or consorting with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction or jurisdictions or is consorting or associating with or has consorted or associated with bookmakers, touts, or persons of similar pursuits, or has himself or herself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding, or otherwise, or has violated or attempted to violate any law with respect to racing in any jurisdiction or any rule, regulation or order of the commission, or shall have violated any rule of racing which shall have been approved or adopted by the commission, or has been guilty of or engaged in similar, related or like practices.

3. No license shall be revoked unless such revocation is by commission determination upon a meeting of the commission. Prior to revocation or suspension of license a licensee shall be entitled to a hearing on notice except that summary suspension where emergency action is required in accordance with subdivision three of section four hundred one of the state administrative procedure act may be ordered. In the conduct of such hearing the commission shall not be bound by technical rules of evidence but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission, shall be permanently preserved and shall constitute the record of the commission in such case. Such hearing may be presided over by the chair of the commission or by any member or by an officer of the commission designated by the chair in writing to act as hearing officer and such person or persons may issue subpoenas for witnesses and administer oaths to witnesses. The hearing officer, at the conclusion of the hearing shall make findings that, if concurred in by a majority of the commission, shall become the findings of the commission. The action of the commission in refusing, suspending or in revoking a license shall be reviewable in the supreme court in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

4. Within one year from the date of payment and upon the audit of the state comptroller, monies may be refunded for any fee paid pursuant to this section for which no license is issued or refund that portion of the payment that is in excess of the amount prescribed by this section.

§ 220-a. Corporations continued. Corporations heretofore formed under chapter five hundred seventy of the laws of eighteen hundred ninety-five, chapter four hundred forty of the laws of nineteen hundred twenty-six, or under article twenty of the membership corporations law, are hereby continued without change of corporate status, power or obligation, under the provisions of this article.

§ 221. New York Jockey Injury Compensation Fund, Inc. 1. There is created a not-for-profit corporation to be known as The New York Jockey Injury Compensation Fund, Inc. and referred to in this section as "the fund". To the extent that the provisions of the not-for-profit corporation law do not conflict with the provisions of this article, or the plan of operation of the fund hereunder, the not-for-profit corporation law shall apply to the fund and the fund shall be a type C corporation pursuant to the not-for-profit corporation law. If an applicable provision of this article or the plan of operation of the fund hereunder relates to a matter embraced in a provision of the not-for-profit corporation law but is not in conflict therewith, both provisions shall apply. The fund shall perform its functions under the plan of operation established and approved under this section and shall exercise its powers through a board of directors established under this section.

2. a. The board of directors shall consist of seven members, six of whom are to be selected from the general membership of the fund in a manner and for terms to be prescribed by the initial fund board. For the purposes of establishing and organizing the fund, at least one hundred fifty days prior to the date that this article shall take effect, the boards of directors of the horsemen's organizations representing at least fifty-one percent of the horsemen utilizing the facilities of any racing corporation, shall designate six members who shall serve as the initial board of directors of the fund. The seventh member shall be elected every two years on the second Tuesday of June, or as designated by the fund, pursuant to paragraph b of this subdivision by a vote of jockeys and apprentice jockeys duly licensed pursuant to this article or

article four of this chapter. The members of the board shall elect annually from the members a chairperson and a vice-chairperson who shall act as chairperson in the absence of the chairperson. Each member of the board of directors shall have equal voting rights with the others.

b. (i) The election of the seventh board member shall be conducted by an election administrator selected by the fund no later than November fifteenth of the year preceding the election. The fund shall inform the commission of its selection thereof. The fund shall enter into a contract with the election administrator at least one hundred twenty days prior to the date of the election. The fund shall be responsible for costs associated with the contract with the election administrator.

(ii) The election administrator may be the individual, organization, or corporation under contract with the fund to provide management services as of November fifteenth of the year preceding the election. The election administrator shall devise and provide nominating petitions to candidates, shall validate such petitions upon submittal by verifying the eligibility of the jockeys and apprentice jockeys to sign such petitions, and shall be responsible for the printing, dissemination, validation, and tabulation of ballots for such election. The commission shall provide a list of all duly licensed jockeys and apprentice jockeys to the fund for purposes of validating nominating petitions and ballots. The election administrator shall report the results of the election to the commission, which shall then certify the election of the seventh board member.

(iii) Any individual seeking election pursuant to this subdivision shall provide a nominating petition containing the signatures of no fewer than ten duly licensed jockeys or apprentice jockeys eligible to sign such petition. To be eligible to sign such petition, a jockey or apprentice jockey shall possess a valid jockey's license as of March first in the year of the election. Such petitions may be signed by eligible jockeys or apprentice jockeys beginning April first of an election year and shall be returned to the election administrator for validation no later than the first Monday of May of an election year. If a jockey's license expires between March second and the first Monday of May and has not been renewed by the latter date, the election administrator shall invalidate such jockey's signature on the nominating petition so submitted.

(iv) To be eligible to vote in the election, jockeys and apprentice jockeys must possess a valid jockey's license at least thirty days prior to the date of the election. If such jockey's license expires during the thirty days preceding the election and such license has not been renewed as of the date of the election, such jockey shall not be eligible to vote.

(v) If, following an election of the seventh board member, such member is unable to discharge his or her duties as a board member or is otherwise unable to complete his or her term, the fund's chairperson shall offer the seventh board member's position to the candidate who received the highest total number of votes following that received by the elected board member during the election. If such candidate declines to accept such position, the chairperson shall offer the position to each remaining candidate in descending order of the total number of votes received by each such candidate during the election until a candidate has accepted the position. If none of the remaining candidates has accepted the position, the chairperson may appoint an interim member to the position for such time as intervenes until a new seventh board member is elected.

3. Members of the board of directors shall serve without compensation for their services, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

4. Members of the board of directors, except as otherwise provided by law, may engage in private employment, or in a profession or business.

5. The affirmative vote of four members of the board of directors shall be necessary for the transaction of any business or the exercise of any power or function of the fund. The fund may delegate to one or more of its members, or its officers, agents or employees, such powers and duties as it may deem proper.

6. (a) The fund shall secure workers' compensation insurance coverage on a blanket basis for the benefit of all jockeys, apprentice jockeys

and exercise persons licensed pursuant to this article or article four of this chapter who are employees under section two of the workers' compensation law, and may elect, with the approval of the commission, to secure workers' compensation insurance for employees of licensed trainers or owners. In the event the fund elects, with the approval of the commission, to secure workers' compensation insurance for employees of licensed trainers or owners, the fund may discontinue to secure workers' compensation insurance for employees of licensed trainers or owners only upon prior approval of the commission.

(b) The fund may elect, with the approval of the commission, to secure workers' compensation insurance coverage through a form of self-insurance, provided that the fund has met the requirements of the workers' compensation board, including, without limitation, subdivision three of section fifty of the workers' compensation law.

7. In order to pay the costs of the insurance required by this section and by the workers' compensation law and to carry out its other powers and duties and to pay for any of its liabilities under section fourteen-a of the workers' compensation law, the New York Jockey Injury Compensation Fund, Inc. shall ascertain the total funding necessary and establish the sums that are to be paid by all owners and trainers licensed or required to be licensed under section two hundred twenty of this article, to obtain the total funding amount required annually. In order to provide that any sum required to be paid by an owner or trainer is equitable, the fund shall establish payment schedules that reflect such factors as are appropriate, including where applicable, the geographic location of the racing corporation at which the owner or trainer participates, the duration of such participation, the amount of any purse earnings, the number of horses involved, or such other factors as the fund shall determine to be fair, equitable and in the best interests of racing. In no event shall the amount deducted from an owner's share of purses exceed two percent; provided, however, through calendar year two thousand twenty-seven, the New York Jockey Injury Compensation Fund, Inc. may use up to two million dollars from the account established pursuant to subdivision nine of section two hundred eight of this article to pay the annual costs required by this section and the funds from such account shall not count against the two percent

of purses deducted from an owner's share of purses. The amount deducted from an owner's share of purses shall not exceed one percent after April first, two thousand twenty-seven. In the cases of multiple ownerships and limited racing appearances, the fund shall equitably adjust the sum required.

The commission shall, as a condition of racing, require any racing corporation or any quarterhorse racing association or corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat, to require that each trainer using the facilities of such association or corporation and each owner racing a horse shall place or have placed on deposit with the horsemen's bookkeeper of such racing association or corporation, an amount to be established and paid in a manner to be determined by the fund.

Should the fund determine that the amount that has been collected in the manner prescribed is inadequate to pay the annual costs required by this section, it shall notify the commission of the deficiency and the amount of the additional sum or sums necessary to be paid by each owner and/or trainer in order to cover such deficiency. The commission shall, as an additional condition of racing, direct any racing corporation or any quarterhorse racing association or corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat, to require each trainer and owner to place such additional sum or sums on deposit with the respective horsemen's bookkeeper.

All amounts collected by a horsemen's bookkeeper pursuant to this section shall be transferred to the fund created under this section and shall be used by the fund to purchase workers' compensation insurance for jockeys, apprentice jockeys and exercise persons licensed pursuant to this article or article four of this chapter who are employees under section two of the workers' compensation law, and at the election of the fund, with the approval of the commission, to secure workers' compensation insurance for employees of licensed trainers or owners to pay for any of its liabilities under section fourteen-a of the workers' compensation law and to administer the workers' compensation program for such jockeys, apprentice jockeys and exercise persons and, if approved by the commission, employees of licensed trainers or owners required by this section and the workers' compensation law.

In the event the fund elects, with the approval of the commission, to secure workers' compensation insurance for employees of licensed trainers or owners, the fund may elect to have the sum required to be paid by an owner or trainer pursuant to this section be subject to an examination of workers' compensation claims attributable under the fund to each such owner or trainer, including the frequency and severity of accidents and injuries.

8. a. The fund shall submit to the commission a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the fund. Such amendments, if any, relating to the assessment of the costs of insurance for the subsequent year, other than deficiency assessments, shall be submitted to the commission no later than November fifteenth of each year. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commission, and shall be published by the fund upon such approval in one or more trade publications likely to be obtained by owners and trainers.

b. If the fund fails to submit a suitable plan of operation within one hundred eighty days following the effective date of this section or if at any time thereafter the fund fails to submit suitable amendments to the plan, the commission shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this article. Such rules shall continue in force until modified by the commission or superseded by a plan submitted by the fund and approved by the commission.

c. The plan of operation shall constitute the by-laws of the fund and shall, in addition to requirements enumerated elsewhere in this article:

(i) establish procedures for handling the assets of the fund;

(ii) establish regular places and times for meetings of the board of directors;

(iii) establish procedures for records to be kept of all financial

transactions of the fund, its agents and the board of directors;
(iv) establish a formula for determining the appropriate amount of the assessments under this section;
(v) establish the rules and procedures to govern the conduct of an election held pursuant to paragraph b of subdivision two of this section; and
(vi) contain such additional provisions as the commission or fund may deem necessary or proper for the execution of the powers and duties of the fund.

9. The fund shall be subject to examination and regulation by the commission. The fund shall submit to the commission not later than May first of each year, a financial report for the preceding calendar year in a form approved by the commission and a report of its activities during the preceding calendar year.

10. The fund shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

11. The fund shall purchase such insurance as necessary to protect any director, officer, agent or other representative from liability.

12. For purposes of this section, the term "employees of licensed trainers or owners" shall have the same meaning as subdivision twenty-four of section two of the workers' compensation law.

13. a. There is created a racing safety committee to review the risk management report submitted to the commission by the fund on or about September thirtieth, two thousand sixteen and to make non-binding recommendations for the implementation of the safety proposals and initiatives set forth in such report. Such committee shall consist of seven members, each to serve a term of three years, with one member each appointed by:
(i) the fund;
(ii) the commission;
(iii) the franchised corporation;

(iv) the racing association or corporation licensed pursuant to this article or article four of this chapter to operate the racing and training facilities at Finger Lakes racetrack;

(v) the horsemen's organization representing at least fifty-one percent of the owners and trainers using the facilities of the franchised corporation;

(vi) the horsemen's organization representing at least fifty-one percent of the owners and trainers using the facilities of the Finger Lakes racetrack; and

(vii) the Jockeys' Guild.

The member of the racing safety committee appointed by the fund shall serve as chairperson and the member of the racing safety committee appointed by the commission shall serve as vice-chairperson. Members of the racing safety committee shall have equal voting rights.

b. The racing safety committee shall meet within ninety days following the effective date of this subdivision to review and discuss the implementation of the recommendations contained in the risk management report submitted to the commission by the fund on or about September thirtieth, two thousand sixteen. The racing safety committee shall meet on or after July first, two thousand seventeen, and at least annually thereafter, to review the workers' compensation loss information and the status of safety-related findings and recommendations and to develop an annual strategic plan to address identified safety issues.

c. The members appointed pursuant to subparagraph (iii) and (iv) of paragraph a of this subdivision, in consultation with the other members of the racing safety committee, shall:

(i) Within one hundred eighty days following the effective date of this subdivision, for each track, develop safety rules for training activities to be documented and communicated, in both English and Spanish, to jockeys, apprentice jockeys, and exercise persons licensed pursuant to this article or article four of this chapter who are employees under section two of the workers' compensation law, and at the election of the fund, with the approval of the commission, employees of licensed trainers or owners. Such safety rules shall include, but not be limited to, proper usage of personal protective equipment, required response to loose horses, prohibition of cell phone use while mounted on a horse, general requirements for jogging, galloping, breezing, ponying a horse, and starting gate safety protocols. Refresher training related to such safety rules shall be required at the start of each meet.

(ii) Prior to the start of each meet, following the effective date of this subdivision, meet with trainers or their representatives to discuss and address identified safety issues.

(iii) Within one hundred eighty days following the effective date of this subdivision, for each track, develop a written, documented emergency response plan to address response protocols to on-track accidents and incidents, which, at a minimum, shall include detailed information regarding roles and responsibilities for individuals who are responsible for track-related accidents and incidents, including, but not limited to, outriders, emergency medical technicians/paramedics, ambulance drivers, security, and veterinary staff and clockers.

(iv) Within two hundred ten days following the effective date of this subdivision, communicate the emergency response plan to all on-track personnel as part of new hire orientation and job assignment.

(v) Within two hundred ten days following the effective date of this subdivision, and at least once annually thereafter, for each track, conduct a mock emergency response drill for on-track accidents prior to the opening of each race meet. Such emergency response drill shall be filmed and used for education and training purposes for personnel, including in new hire orientation, and to assess the performance of individuals involved in the emergency response.

(vi) Within one hundred eighty days following the effective date of this subdivision, upgrade the current level of emergency medical responders from emergency medical technicians to paramedics.

14. The fund and the commission shall have such power as is necessary to implement the provisions of this section.

§ 221-a. Health insurance for jockeys. 1. a. A franchised corporation shall, as a condition of racing, establish a program to administer the purchase of health insurance for eligible jockeys.

Such program shall be funded through the deposit of one and one-half percent of the gross purse enhancement amount from video lottery gaming at a thoroughbred track pursuant to paragraph two of subdivision b and paragraph one of subdivision f of section sixteen hundred twelve of the tax law. The franchised corporation shall establish a segregated account for the receipt of these monies and these monies shall remain separate from any other funds. Any corporation or association licensed pursuant to this article shall pay into such account any amount due within ten days of the receipt of revenue pursuant to section sixteen hundred twelve of the tax law.

b. Any portion of such funding to the account, outlined in paragraph a of this subdivision, unused during a calendar year, less an amount sufficient to cover anticipated premium liabilities over the next sixty days, shall be either (i) returned on a pro rata basis in accordance with the amounts originally contributed to be used for the purpose of enhancing purses at such tracks, (ii) deposited into the account established in paragraph c of this section, or (iii) distributed via a combination of both purposes outlined in subparagraphs (i) and (ii) of this paragraph. The distribution of such unused funding described in this paragraph shall be determined and agreed upon by the franchised corporation and the jockey's organization that represents at least fifty-one percent of eligible jockeys. Provided, however, if a corporation or association licensed pursuant to this article provides an alternative source of funding for this program, an amount equal to this alternative funding, but not in excess of the amount originally contributed during the year from the gross purse enhancement amount from video lottery gaming attributable to such corporation or association, shall be returned to the corporation or association and used for the purpose of enhancing purses at such track. Provided, further, any such alternative source of funding must be approved by the commission.

c. An additional segregated account may be established with such monies as a reserve fund for the payment of premiums not yet paid. The amount paid into such fund during any calendar year, if any, shall be determined upon the agreement between the franchised corporation and the jockey's organization that represents at least fifty-one percent of eligible active jockeys outlined in paragraph b of this subdivision. If, after the establishment of such fund, a determination and agreement is made between the franchised corporation and the jockey's organization that represents at least fifty-one percent of eligible jockeys that such fund is no longer needed, the monies remaining in such fund shall be returned on a pro rata basis in accordance with the amounts originally contributed and shall be used for the purposes of enhancing purses at such tracks.

2. The franchised corporation shall enter into a memorandum of understanding with the jockey's organization that represents at least fifty-one percent of eligible active jockeys establishing a plan of operation for the program, provided that such memorandum of understanding shall be approved by the commission upon a determination that such memorandum of understanding meets the statutory requirements of this section and is in the best interest of racing and shall include, but not be limited to, the following conditions:

a. health insurance policies must be purchased on an American health benefit exchange established pursuant to 42 U.S.C. § 18031(b) by the insured;

b. health insurance policies eligible to be purchased under the program shall be any policy that is silver level of coverage or lower as defined by 42 U.S.C.§18022(d). Provided, however, the insured may elect to purchase a gold level or platinum level of coverage as defined by 42 U.S.C. § 18022(d) if the insured pays the difference in premiums between such policy and the premium for the silver level policy offered by the same insurer. Such payments shall be paid into the account established in subdivision one of this section and shall be governed by the terms of the memorandum of understanding required by this section;

c. notwithstanding the conditions set forth in paragraphs a and b of this subdivision, a memorandum of understanding with the jockeys organization that represents at least fifty-one percent of the eligible active jockeys may be approved by the commission upon a determination that such memorandum of understanding is in the best interest of racing that creates a jockeys health trust to be administered by the franchised corporation for the purpose of obtaining jockey health benefits from a health insurance provider that covers jockeys and their dependents with a health insurance policy that is not purchased on an American health benefit exchange established pursuant to 42 U.S.C. § 18031(b) but does provide silver level coverage or lower as defined by 42 U.S.C. § 18022(d);

d. the payment of premiums pursuant to this section shall be made on behalf of eligible jockeys pursuant to paragraph e of this subdivision by the franchised corporation from monies in the account established in subdivision one of this section directly to the health plan selected pursuant to paragraph b or c of this subdivision;

e. to be eligible to receive health insurance through this program, an individual must meet one of the following requirements:

(i) have ridden in at least two hundred fifty races conducted by the franchised corporation during the prior calendar year or in at least one hundred fifty races conducted by any other corporation or association licensed pursuant to this article during the prior calendar year; provided, however, if an individual qualified for coverage in any prior year and fails to meet the qualification due to an injury not resulting in a permanent disability, that individual shall be deemed to have met the qualification; or

(ii) have retired from racing on or after January first, two thousand ten after having ridden in at least seventy-five hundred races conducted by any corporation or association licensed pursuant to this article. For the purposes of this section, an individual shall be considered retired from racing if they have ridden in fewer than fifty races at any track in the nation licensed to conduct thoroughbred racing during the calendar year; or

(iii) have become permanently disabled due to a racing accident while eligible to receive benefits or would become eligible to receive benefits in the following year pursuant to subparagraph (i) of this paragraph; provided, however, if an individual fails to meet the qualification of such subparagraph (i) due to an injury resulting in a permanent disability, that individual shall be deemed to have met the qualification; and

f. the commission shall have the following powers:

(i) to rule on eligibility in the event of a denial of coverage pursuant to paragraph e of this subdivision. In the event of a denial of coverage, such individual denied eligibility may appeal to the commission;

(ii) to make a determination if an individual would have qualified pursuant to subparagraph (i) of paragraph e of this subdivision in the event that the individual suffers an injury and contends that he or she would have qualified had they not suffered such injury; and

(iii) to audit the books and records of the program.

§ 221-b. Health insurance for trainers. 1. A franchised corporation shall, as a condition of racing, establish a program to administer the purchase of health insurance for eligible trainers. Such program shall be funded through the deposit of up to three percent of the gross purse enhancement amount from video lottery gaming at a thoroughbred track pursuant to paragraph two of subdivision b and paragraph one of subdivision f of section sixteen hundred twelve of the tax law. The franchised corporation shall establish a segregated account for the receipt of such monies and such monies shall remain separate from any other funds. The franchised corporation licensed pursuant to this article shall pay into such account any amount due within ten days of the receipt of revenue pursuant to section sixteen hundred twelve of the tax law. Any portion of such funding to the account unused during a calendar year, less an amount sufficient to cover anticipated premium liabilities over the next sixty days, shall be returned on a pro rata basis in accordance with the amounts originally contributed and shall be used for the purpose of enhancing purses at such tracks. Provided, however, if the franchised corporation licensed pursuant to this article provides an alternative source of funding for such program, an amount equal to this alternative funding, but not in excess of the amount originally contributed during the year from the gross purse enhancement amount from video lottery gaming attributable to the franchised corporation, shall be returned to the franchised corporation and used for the purpose of enhancing purses at such track. Provided, further, any such alternative source of funding shall be approved by the gaming commission.

2. The franchised corporation shall enter into a memorandum of understanding with the horsemen's organization representing at least fifty-one percent of the owners and trainers utilizing the facilities of such franchised corporation for a plan of operation of the program, provided that such memorandum of understanding shall be approved by the gaming commission upon a determination that such memorandum of understanding meets the statutory requirements of this section and is in the best interest of racing and shall include, but not be limited to, the following conditions:

a. health insurance policies shall be purchased on an American health benefit exchange established pursuant to 42 U.S.C. § 18031(b) by the insured;

b. health insurance policies eligible to be purchased under the program shall be any policy that is silver level of coverage or lower as defined by 42 U.S.C. § 18022(d). Provided, however, the insured may elect to purchase a gold level or platinum level of coverage as defined by 42 U.S.C. § 18022(d) if the insured pays the difference in premiums between such policy and the premium for the silver level policy offered by the same insurer. Such payments shall be paid into the account established in subdivision one of this section and shall be governed by the terms of the memorandum of understanding required by this section;

c. notwithstanding the conditions set forth in paragraphs a and b of this subdivision, a memorandum of understanding with the horsemen's organization representing at least fifty-one percent of the owners and trainers utilizing the facilities of such franchised corporation may be approved by the commission upon a determination that such memorandum of understanding is in the best interest of racing that creates a trainer health trust to be administered by the franchised corporation for the purpose of obtaining trainers health benefits from a health insurance provider that covers trainers and their dependents with a health insurance policy that is not purchased on an American health benefit exchange established pursuant to 42 U.S.C. § 18031(b) but does provide silver level coverage or lower as defined by 42 U.S.C. § 18022(d);

d. the payment of premiums pursuant to this section shall be made on behalf of eligible trainers pursuant to paragraph e of this subdivision by the franchised corporation from monies in the account established in subdivision one of this section directly to the health plan selected pursuant to paragraph b or c of this subdivision;

e. to be eligible to receive health insurance through this program, an individual shall have started at least forty-three races conducted by the franchised corporation during the prior calendar year and at least sixty percent of the trainer's total amount of starts occurred at the franchised corporation during the prior calendar year; and

f. the gaming commission shall have the following powers:

(i) to rule on eligibility in the event of a denial of coverage pursuant to paragraph e of this subdivision. In the event of a denial of coverage, such individual trainer that was denied eligibility may appeal to the gaming commission;

(ii) to make a determination if an individual would have qualified pursuant to paragraph e of this subdivision; and

(iii) to audit the books and records of the program.

§ 222. Notice to be posted upon grounds. Every corporation to be organized under this article or which shall be entitled to exercise any of the powers conferred by section two hundred three of this article shall cause to be properly posted in conspicuous positions upon the grounds whereon such races are held, printed notices or placards in large and legible type, which notices or placards shall be to the effect that all disorderly conduct, pool-selling, bookmaking or any other kind of gambling is prohibited, and such notices or placards shall contain a copy of subdivision nine of section 225.00 of the penal law.

§ 223. Special police officers. For the purpose of preserving order and preventing offenses against the laws prohibiting gambling, the trustees or directors of any corporation created under or subject to the provisions of this article are hereby authorized to appoint from time to time, five or more special police officers, and the same to remove at pleasure, who, when appointed, shall be peace officers with the same powers within and about such grounds as are set forth in section 2.20 of the criminal procedure law, whose duty, when appointed, shall be to preserve order within and around the grounds and racetracks of such corporation, to protect the property within such grounds, to eject or arrest all persons who shall be improperly within the grounds of such corporation or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fees or to observe the rules prescribed by such corporation; and it shall be the further duty of such police officers, when appointed, to prevent all violations of law with reference to pool-selling, bookmaking and other gambling, and to arrest any and all persons violating such provisions, and to convey such person or persons so arrested, with a statement of the cause of such arrest, before a court having jurisdiction of such offense, to be dealt with according to the law. The appointment of police officers in pursuance of this section shall not be deemed to supersede in any way on the grounds and racetrack of such corporation the authority of peace officers or police officers of the jurisdiction within which such grounds and racetrack are located.

§ 224. Penalty for unlawful racing and betting. All racing or trials of speed between horses or other animals for any bet, stake or reward, except such as is allowed by this article or by special laws, is a public nuisance; and every person acting or aiding therein, or making or being interested in such bet, stake or reward is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail or penitentiary for a period of not more than one year; and in addition to the penalty prescribed therefor he forfeits to the people of this state all title or interest in any animal used with his privity in such race or trial of speed, and in any sum of money or other property betted or staked upon the result thereof.

§ 225. Registration of race horses. The true name, sex and age, and also the pedigree, unless such pedigree is unknown, of every horse, mare, gelding, colt or filly shall be registered with the jockey club, United States trotting association, American quarter horse association, the national steeplechase and hunt association or such other entity as the commission may designate before it shall be eligible to compete in any race conducted under a license or franchise of the commission and such name shall continue to be its true name unless and until the same shall be changed according to the rules and regulations of such organization. The class to which any such animal belongs for the purpose of the entry or competition in any race shall be determined by the public performance thereof in former contests or trials of speed, as prescribed by the printed rules of the person, association or corporation sponsoring such race. No horse, mare, gelding, colt or filly shall be eligible to compete in any race, unless it is first microchipped and registered with the jockey club, United States trotting association, American quarter horse association, the national steeplechase and hunt association or such other entity, as applicable and as the commission may designate. The commission may request that all microchip information be provided and available to the commission as necessary pursuant to this chapter.

§ 226. Increased or additional entrance fees. A corporation authorized by or entitled to the benefits of this article, conducting a running or steeplechase meeting, shall have the right to charge increased or additional entrance fees for admission to any special portion or portions of the grounds of such corporation, unless such pool-selling or bookmaking as is punishable by fine or imprisonment, or other acts so punishable be thereon authorized or knowingly permitted.

§ 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.

§ 229. Backstretch employees drug and alcohol rehabilitation eligibility. Any licensed not-for-profit organization providing drug and alcohol rehabilitation services to backstretch employees shall receive information concerning available funding and existing programs from a coordinated effort of the commission and division of substance abuse services.

§ 230. Membership in a national thoroughbred racing association. Notwithstanding any other provision of law to the contrary, if a majority of the board of directors of a horsemen's organization qualified pursuant to section two hundred twenty-eight of this article shall annually approve, the qualified horsemen's organization may request that the franchised corporation make payments, from funds earned and retained for purses, to the National Thoroughbred Racing Association, for the purposes of establishing and maintaining membership for such organization. Upon receipt of a duly adopted corporate resolution requesting payment to the National Thoroughbred Racing Association from a qualified horsemen's organization, the franchised corporation shall make payments from funds earned and retained for purses on behalf of such qualified horsemen's organization, provided:

1. In no event shall the sum of the payments made pursuant to the corporate resolution during any twelve month period exceed an amount equal to one and one-quarter per centum of the total purses paid at all tracks operated by the franchised corporation during the preceding calendar year.

2. Payments shall be made by the franchised corporation in accordance with a schedule provided in the corporate resolution by the board of the qualified horsemen's organization. Such schedule shall (i) identify the twelve month period commencing on April first during which a specific sum is to be paid and (ii) delineate a timetable for making the payments, which are to be equal in amount and made no less frequently than every three months.

3. Upon receipt of a duly adopted corporate resolution from the qualified horsemen's organization stating that a majority of its board members has voted to rescind approval of such payments, the franchised corporation shall make no further payments unless and until it receives a duly adopted corporate resolution as described in this section.

§ 231. Pari-mutuel betting on horse races legalized. In the exercise of the authority vested in it by section nine of article one of the state constitution, as amended by vote of the people at the general election in November, nineteen hundred thirty-nine, the legislature prescribes that pari-mutuel betting on horse races shall be lawful in this state if conducted in the manner and subject to the conditions and supervision provided by this chapter, notwithstanding the provisions of any other law, general, special or local, prohibiting or restricting lotteries, pool-selling or bookmaking, or any other kind of gambling; it being the purpose of this chapter to derive from such betting as herein authorized a reasonable revenue for the support of government and to promote agriculture generally and the improvement of breeding of horses particularly in the state. Such pari-mutuel betting shall only be conducted within the grounds or enclosure of a racetrack on races at such track and on such dates when racing at such track shall have been authorized pursuant to this chapter; provided, however, that nothing in this section shall be deemed to prohibit off-track pari-mutuel betting in a municipality pursuant to article five, five-A or six of this chapter.

§ 232. License to conduct pari-mutuel betting at race meetings for running races or steeplechases. 1. Any corporation, at the time of making application to the commission for a license to conduct a race course or a race meeting for running races or steeplechases, or at such subsequent time as the commission may permit, may apply to such commission for a license to conduct at such race meeting pari-mutuel betting on the races to be run thereat. The commission may prescribe the form in which such application shall be made and the information to be furnished by such corporation. If the commission is satisfied from such application, or from other sources of information, that the racetrack of such corporation for which such application is made has facilities and equipment sufficient to accommodate its probable number of patrons, the commission shall issue to such corporation a license to conduct pari-mutuel betting in the manner and subject to the conditions prescribed by this chapter, at the racetrack described in such license on the days specified in such license.

2. The refusal of an application for such license shall be preceded by notice and an opportunity to be heard. In the conduct of such hearing the commission shall not be bound by technical rules of evidence but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission, shall be permanently preserved and shall constitute the record of the commission in such case. Such hearing may be presided over by the chair of the commission or by any member or by an officer of the commission designated by the chair in writing to act as hearing officer and such person or persons may issue subpoenas for witnesses and administer oaths to witnesses. The hearing officer, at the conclusion of the hearing shall make findings which, if concurred in by a majority of the commission, shall become the findings of the commission. The action of the commission in refusing a license shall be reviewable in the supreme court in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

§ 233. Bond required of corporation conducting pari-mutuel betting. 1. Every corporation franchised or licensed by the commission to conduct pari-mutuel betting, annually and before the opening of any race meeting, shall execute and file with the state comptroller, a bond to the state in a penalty to be fixed by the commissioner of taxation and finance not exceeding five hundred thousand dollars, with sureties approved by the attorney general, that it will keep its books and records and make reports as required by this chapter, that it will pay to the state all taxes imposed by this chapter, that it will distribute to the patrons of pari-mutuel pools conducted by it all sums due upon presentation of winning tickets held by them, and that it will otherwise comply with all the provisions of this chapter in relation to the conduct of races and of pari-mutuel betting on its racetrack.

2. In addition hereto, every such corporation first licensed or franchised after January first, nineteen hundred eighty-six, annually and before the opening of any race meeting shall execute and file with the state comptroller, a bond to the state in a penalty to be fixed by

the commission not exceeding five hundred thousand dollars, with sureties approved by the attorney general, that such corporation will make all purse payments advertised and offered as premiums, prizes or awards to owners of horses competing in races at such track within one week of such race, or, if such payment is ordered held by the commission pending investigation by it of any race, into a trust account pending completion of such investigation.

§ 234. Place and manner of conducting pari-mutuel betting. Any corporation licensed or franchised to conduct pari-mutuel betting at a horse race meeting shall provide a place or places within the race meeting grounds or enclosure at which such licensee or franchisee shall conduct the pari-mutuel system of betting by its patrons on the results of the horse races at such meeting. Such place or places shall be provided with necessary equipment for issuing or vending pari-mutuel tickets, and adding machine equipment and a device capable of accurate and speedy determination of the amount of money in each pool and on each horse and the amount of award or dividend to winning patrons and displaying the same to its patrons. Such place shall also be equipped with automatic or hand-operated machinery for displaying on a mutuel indicator in plain view of the public, the total amount of sales separately for straight, place and show on every race and on each horse in such race. The machine or mutuel indicator shall also display the approximate straight odds on each horse in any race; the value of a two-dollar winning mutuel ticket, straight, place and show, on the first three horses in any race; the elapsed time of the race; the value of a two-dollar daily double ticket, if a daily double be conducted; and any other information that may be necessary for the guidance of the general public that the commission may require. All such machines and equipment must be approved by the commission and the department of taxation and finance before being used, but the commission shall not require the installation of any particular make of mechanical or electrical equipment.

§ 235. Rules for the conduct of pari-mutuel betting. 1. The commission shall make rules regulating the conduct of pari-mutuel betting, as authorized pursuant to this chapter.

2. The rules shall provide that all winning pari-mutuel tickets must be presented for payment before April first of the year following the year of their purchase and failure to present any such ticket within the prescribed period of time shall constitute a waiver of the right to participate in the award or dividend.

3. The department of taxation and finance is hereby charged with the financial administration of pari-mutuel betting as herein described and as supplemented by the rules and regulations of the commission. The department of taxation and finance shall have authority to prescribe the forms and the system of accounting to be employed and through its representatives shall at all times have access to the issuing or vending machines, the adding machines and all other pari-mutuel betting equipment.

§ 236. Disposition of pari-mutuel pools; percentage payable to state as a tax; authority of counties or certain cities to impose a tax. 1. Every corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting on races run thereat, except as provided in section two hundred thirty-eight of this article with respect to the franchised corporation, shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, providing such tickets be presented for payment before April first of the year following the year of their purchase, less an amount that shall be established and retained by such racing corporation of between fourteen to twenty percent of the total deposits in pools resulting from regular on-track bets and less sixteen to twenty-two percent of the total deposits in pools resulting from multiple on-track bets and less twenty to thirty percent of the total deposits in pools resulting from exotic on-track bets and less twenty to thirty-six percent of the total pools resulting from super exotic on-track bets. The retention rate to be established is subject to the prior approval of the commission. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. Of the amount so retained there shall be paid by such corporation to the department of taxation and finance as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meeting held by such corporation, which tax is hereby levied, in the applicable percentage set forth in subdivision one of section one hundred thirty-six of this chapter. Any such racing corporation shall, for any twelve-month period beginning on April first in nineteen hundred ninety and any year thereafter, expend an amount equal to at least one-half of one percent of its on-track bets during the immediately preceding calendar year for enhancements consisting of capital improvements as defined by section two hundred thirty-seven of this article, repairs to its physical plant, structures, and equipment used in its racing or wagering operations and five special events at each track in each calendar year, not otherwise conducted in the ordinary course of business, the purpose of which shall be to encourage, attract and promote track attendance and encourage new and continued patronage, which events shall be subject to the prior approval of the commission for purposes of this subdivision. In the determination of the amounts expended for such enhancements, the commission may consider the immediately preceding twelve-month calendar period or the average of the two immediately preceding twelve-month calendar periods. Provided further, however, that of the portion of the increased amounts retained by such corporation above those amounts retained in nineteen hundred eighty-four, an amount of such increase shall be distributed to purses in the same proportion as commissions and purses were distributed during nineteen hundred eighty-four as certified by the commission.

Such corporation shall pay to the New York state thoroughbred breeding and development fund one-half of one percent of the total daily on-track pari-mutuel pools from regular, multiple and exotic bets, and three percent of super exotic bets.

Such corporation shall distribute to purses an amount equal to fifty percent of any compensation it receives from simulcasting or from wagering conducted outside the United States. Such corporation shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of the total daily on-track pari-mutuel pools of such corporation.

2. The balance of the retained percentage of such pool shall be held by such corporation for its own use and purposes, except that in addition to any payments to purses provided for in subdivision one of this section, an amount equal to two and one-half percent of the total pools resulting from on-track regular bets and exotic bets and an amount equal to three and one-half percent of the total pools resulting from on-track multiple bets and an amount equal to twelve percent of on-track super exotic bets shall be used exclusively for the purpose of increasing purses (including stakes, premiums and prizes) awarded to horses in races conducted by such corporation. Such two and one-half percent and three and one-half percent shall be in addition to (i) four and one-half percent of such total pools resulting from regular and multiple wagers and five and one-half percent of such total pools resulting from exotic wagers, or (ii) the percentage of such total pools used for purses (including stakes, premiums and prizes) during the year nineteen hundred eighty-two, whichever is larger. Such percentage of the total pools mentioned in this subdivision shall be used for purses (including stakes, premiums and prizes) in races hereafter conducted by such corporation, and any portion not so used during any year shall be so used during the following year. The commission shall report annually, on or before July first, to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee the extent to which such corporation used and retained percentages for operations, maintenance, capital improvements, advertising and promotion, administration and general overhead and evaluate the effectiveness and make recommendations with respect to the application of the rates of taxation. Such report shall also specify the amount of such retained percentages used for investments not directly related to racing activities and such amounts used to declare dividends or other profit distributions, additions to capital stock, its sale and transfer and additions to retained earnings. Such reports shall also

include an analysis of any such agreements or proposals to conduct or otherwise expand wagers authorized under article ten of this chapter and present its conclusions with respect to the conduct of such wagering, the nature of such proposals and agreements, and recommendations to ensure the future maintenance of the intent of this article.

3. Maintenance of pari-mutuel racing activity. For any calendar year commencing on or after January first, nineteen hundred eighty-nine, a racing corporation in zone two shall not conduct fewer pari-mutuel programs and pari-mutuel races at its facilities than ninety percent of the programs and races so conducted during nineteen hundred eighty-five or during nineteen hundred eighty-six, whichever is less, unless such corporation demonstrates to the satisfaction of the commission good cause due to factors beyond the control of such corporation or because the commission finds that it would be uneconomical or impractical for such corporation to be assigned or conduct the prescribed number.

4. The payment of the state tax imposed by this section shall be made to the commissioner of taxation and finance on the last business day of each month and shall cover taxes due for the period from the sixteenth day of the preceding month through the fifteenth day of the current month provided, however, that such payments required to be made on March thirty-first shall include all taxes due and accruing through the last full week of racing in March of the current year or as otherwise determined by the commissioner of taxation and finance, and shall be accompanied by a report under oath, showing the total of all such contributions, together with such other 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 subdivision were paid in error, the commissioner of taxation and finance may cause the same to be refunded without interest out of any moneys collected thereunder, provided an application therefor is filed with the commissioner of taxation and finance 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.

5. No county, city, town, village or other political subdivision of the state may impose, levy or collect a tax on admission fees or tickets of admission, on wagers made by patrons, in the form of purchases of pari-mutuel tickets or upon such tickets, on pari-mutuel pools, on breaks, on dividends or payments made to winning bettors, or on that part of the pari-mutuel pools to be retained by racing corporations under this section, except as otherwise provided in this chapter.

§ 237. Capital improvements. 1. For the purposes of this section, "capital improvement" shall mean any addition to, replacement of or remodeling of the physical plant, structures and equipment now or hereafter owned or leased by a racing corporation that is used or is to be used by such corporation in connection with the conduct of horse race meetings, and shall include improvements to land but not land itself.

2. (a) Any non-franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting on races run thereat, may elect upon thirty days written notice to the commission to withhold from the pari-mutuel pool in addition to any other amounts required by this section, one percent of the total deposits in pools resulting from regular and multiple on-track bets; provided, however, that any such corporation withholding pursuant to this subdivision shall use at least fifty percent of such one percent exclusively for capital improvements as defined in subdivision one of this section subject to the rules and regulations of the commission. An amount, not to exceed fifty percent of such one percent, may be used for advertising and promotion expenses subject to the rules and regulations of the commission. For the purposes of this paragraph the term "advertising" shall be limited to paid advertising through radio, television, the print media, direct mail or billboards. Promotions shall mean activities that are intended to increase the attendance at, or visibility of, any such corporation and shall include premium giveaways, prizes, free admission, free parking,

free programs, additional monies for purses or other activities of a promotional nature that stimulate on-track attendance. In no event shall this section be construed to permit the payment of salaries to employees of any such corporation who are engaged in advertising or promotional activities, provided, however, that monies credited to such capital improvement account on or before July first, nineteen hundred ninety-six, as certified by the commission, shall not be expended for any such advertising and promotion as defined herein. Such election shall terminate upon thirty days written notice to the commission.

(b) At least once annually, prior to approving any plan for the expenditure of such capital improvement funds pursuant to this section, the commission shall, together with the track operator and representatives of the horsemen's organization representing owners and trainers using the facility and representatives of the jockeys organization representing licensed jockeys and apprentice jockeys regularly riding or exercising at such facility, inspect the entire facility, including the area commonly referred to as the backstretch, in order to determine whether the capital improvement plan submitted by the corporation for commission approval includes adequate provision for expenditures relating to the continued health, safety and well-being of patrons, jockeys, backstretch personnel and the horses in their care. After such inspection, if the commission shall determine that such proposed plan does not include adequate provision for repairs and improvements necessary to correct any conditions that it has determined to be unsafe or otherwise deleterious to the health and safety of patrons, jockeys, employees or horses, the commission shall require the track operator to modify its capital improvement plan to provide for the expenditure of funds for such repairs and improvements.

3. On or after July first, nineteen hundred ninety such amounts as may be withheld for the purposes of this section shall be deposited in a trust fund, kept and maintained by such corporation and administered by a trustee approved by the commission for the purpose of lending such sums and any interest thereon on an unsecured basis to such corporation exclusively for capital improvements as defined in subdivision one of this section. All such amounts borrowed by such corporation from such trust shall be forgiven and deemed satisfied according to a schedule of

depreciation deductions for federal and New York state income tax purposes for such related capital improvements. It is further provided that at such time as such corporation shall surrender its pari-mutuel license or franchise or fail to apply for a pari-mutuel license for the succeeding year by December thirty-first of the preceding year that the commission may declare the trust fund at an end and all sums therein deposited plus all sums due or owing from such corporation to such trust shall be disposed of in accordance with provisions of law to be enacted for such purpose. Such trust shall be established and administered pursuant to the rules and regulations of the commission.

§ 238. Disposition of pari-mutuel pools of the franchised corporation; percentage payable to state as a tax; authority of counties or certain cities to impose a tax. 1. (a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets are presented for payment before April first of the year following the year of their purchase, less an amount that shall be established and retained by such franchised corporation of between twelve to seventeen percent of the total deposits in pools resulting from on-track regular bets, and fourteen to twenty-one percent of the total deposits in pools resulting from on-track multiple bets and fifteen to twenty-five percent of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six percent of the total deposits in pools resulting from on-track super exotic bets. The retention rate to be established is subject to the prior approval of the commission. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, which tax is hereby levied, in the applicable percentage set forth in subdivision one of section one hundred thirty-six of this chapter. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one percent of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three percent of super exotic bets and for the period April first, two thousand one through December thirty-first, two thousand twenty-seven, such payment shall be seven-tenths of one percent of regular, multiple and exotic pools.

(b) An amount equal to fifty percent of any compensation received by a franchised corporation from simulcasting or from wagering conducted outside the United States or outside New York state and within the United States shall be distributed to purses, except with respect to such compensation received from Connecticut which shall be computed as a percentage of wagering handle in a manner approved by the commission.

(c) An amount equal to fifty percent of any compensation received by the franchised corporation from simulcasting or from wagering conducted outside the United States shall be distributed to purses.

(d) (i) The franchised corporation shall conduct a race meeting at Aqueduct racetrack during the months of December, January, February, March and April. For purposes of this paragraph such race meeting shall consist of not less than ninety-five days of racing unless otherwise agreed to in writing by the New York Thoroughbred Breeders Inc., the New York thoroughbred horsemen's association (or such other entity as is certified and approved pursuant to section two hundred twenty-eight of this article) and approved by the commission. Not later than May first of each year, the commission shall determine whether a race meeting at Aqueduct racetrack consisted of the number of days as required by this subparagraph. In determining the number of race days, cancellation of a race day because of an act of God that the commission approves or because of weather conditions that are unsafe or hazardous that the commission approves shall not be construed as a failure to conduct a race day. Additionally, cancellation of a race day because of circumstances beyond the control of such franchised corporation for which the commission gives approval shall not be construed as a failure to conduct a race day.

(ii) Such franchised corporation shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of the total daily on-track pari-mutuel pools of such franchised corporation.

2. a. Subject to the provisions of this section the payment of such state tax shall be made to the commissioner of taxation and finance on the last business day of each month and shall cover taxes due for the period from the sixteenth day of the preceding month through the fifteenth day of the current month provided, however, that such payments required to be made on March thirty-first shall include all taxes due and accruing through the last full week of racing in March of the current year or as otherwise determined by the commissioner, and shall be accompanied by a report under oath, showing such information as the commissioner 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 the payment of the tax shall be payable in case any tax imposed by this section is not paid when due. If the commissioner determines that any moneys received by the commissioner under this section were paid in error, the commissioner may cause the same to be refunded without interest out of any moneys collected thereunder, provided an application therefor is filed with the 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 into the general fund of the state treasury.

b. The balance of the retained percentage of such pool shall be held by such franchised corporation for its corporate purposes, except as provided in paragraph c of this subdivision.

c. An amount equal to five and ninety-four hundredths percent of the total pools resulting from on-track regular bets and an amount equal to five and ninety-four hundredths percent of the total pools resulting from on-track multiple and exotic bets, and twelve percent of the total pools resulting from super exotic bets shall be used exclusively for purses (including stakes, premiums and prizes) awarded in races conducted by such franchised corporation. Any portion of such percent not so used during any year shall be so used during the following year.

3. No county, city, town, village or other political subdivision of the state may impose, levy or collect a tax on admission fees or tickets of admission, on wagers made by patrons in the form of purchases of pari-mutuel tickets or upon such tickets, on pari-mutuel pools, on breaks, on dividends or payments made to winning bettors, or on revenue retained by the franchised corporation, except as provided in former article two-B of the general city law, and as otherwise provided in this chapter.

§ 239. Books and records of pari-mutuel betting. Every corporation or association conducting a horse race meeting at which pari-mutuel betting on the races run at such meeting is authorized shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any. The department of taxation and finance or its duly authorized representatives shall at all reasonable times have access to all such books and records for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due to the state are being paid by such licensed or franchised corporation.

§ 240. Yearly audit. 1. The franchised corporation shall, at its own expense, cause its annual financial statements to be audited in accordance with generally accepted auditing standards by a qualified independent certified public accountant approved by the franchise oversight board. The annual financial statements shall be prepared on a comparative basis for the current and prior fiscal year and shall present the financial position and results of operations in conformity with generally accepted accounting principles. Three manually-signed copies of the audited financial statements, together with the report thereon of the franchised corporation's independent certified public accountant shall be filed: one with the franchise oversight board, one with such franchised corporation and one with the office of the attorney general, not later than ninety days following the end of the fiscal year. All such annual financial statements and yearly audits shall be subject to audit by the state comptroller and shall be public records.

2. The franchised corporation shall require the independent certified public accountant to render the following additional reports:

a. a report on material weakness in accounting, internal controls, and business and management practices discovered in the ordinary course of preparing such audited financial statements. Whenever in the opinion of the independent certified public accountant there exists no material weaknesses in accounting, internal controls and business and management practices, no report shall be required; and

b. a report expressing the opinion of the independent certified public accountant that based on his or her examination of the financial statements the franchised corporation has followed, in all material respects, during the period covered by his or her examination, the system of accounting and internal control as filed with the franchise oversight board. Whenever in the opinion of the independent certified public accountant the franchised corporation has deviated from the system of accounting and internal controls filed with the franchise oversight board or the accounts, records, and control procedures examined are not maintained by the franchised corporation in accordance with generally accepted accounting standards the report shall enumerate such deviations. The independent certified public accountant shall also report on areas of the system no longer considered effective, and shall make recommendations in writing regarding improvements in the system of accounting and internal controls.

3. If the independent certified public accountant who was previously engaged to audit the franchised corporation's financial statements resigns or is dismissed as the franchised corporation's auditor, or another independent certified public accountant is engaged as auditor, the franchised corporation shall file a report with the franchise oversight board within ten days following the end of the month in which such event occurs, setting forth the following:

a. the date of such resignation, dismissal, or engagement;

b. whether in connection with the audits of the two most recent years preceding such resignation, dismissal, or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former accountant would have caused such accountant to make reference in connection with such accountant's report to the subject matter of the disagreement; including a description of each such disagreement. The disagreements to be reported include those resolved and those not resolved; and

c. whether the former accountant's report on the financial statements for any of the past two years contained an adverse opinion or disclaimer of opinion or was qualified. The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described.

4. Upon direction of the franchise oversight board, the franchised corporation shall, at its own expense, cause its business and managerial practices to be audited.

§ 241. Disposition of unpaid money due on account of pari-mutuel tickets not presented. The sum held by any corporation authorized to conduct pari-mutuel betting for payment of outstanding winning pari-mutuel tickets and for refunding the price of pari-mutuel tickets shall be retained by such corporation for such purposes until April first of the succeeding year; provided, however, that ninety-five per centum of such sum remaining unclaimed as of the last day of February of such year shall be paid to the department of taxation and finance by March fifteenth. On April tenth, the balance of such sum remaining unclaimed and any other unclaimed amount received in the course of conducting pari-mutuel betting shall be paid to the department of taxation and finance. A penalty of five per centum and interest at the rate of one per centum per month from the due date to the date of payment of the unclaimed balance due March fifteenth or April tenth, as the case may be, shall be payable in case such balance is not paid when due. Such amounts, interest and penalties when collected shall be paid by the department of taxation and finance into the general fund of the state treasury.

§ 242. Races for horses bred in the state. The commission in granting a license to a corporation to conduct running or steeplechase races at its racetrack, if the commission deems such requirement practicable, may require such corporation to provide for at least one race during the racing season in which the entries shall be exclusively horses foaled in this state.

§ 243. Free or reduced fee passes, cards or badges. A corporation licensed or franchised to conduct pari-mutuel betting on races run on its racetrack may issue free passes, cards or badges to any qualified person. A qualified person shall include, but need not be limited to, officers and employees of the corporation conducting the race meeting, members, officers and employees of the commission, members and employees of the jockey club, members and employees of the national steeplechase and hunt association, members of turf organizations of other states and foreign countries, public officers engaged in the performance of their duties, persons actually employed and accredited by the press to attend such meetings, owners, stable managers, trainers, jockeys, jockey managers, grooms, concessionaires, spouses, domestic partners and children of owners, trainers and jockeys, other persons whose actual duties require their presence at such racetrack, and any other person or guest deemed appropriate by such corporation. In addition, free or reduced fee passes, cards or badges may be issued to the general public or segments of the general public in connection with any promotional campaign or marketing program sponsored by such corporation to increase attendance at live race meets. The issuance of free passes, cards or badges shall be under the rules and regulations of the commission.

§ 244. Revocation of license or franchise. The commission may revoke a license issued by it under this chapter or a franchise granted pursuant to section two hundred six of this article if the corporation to which such license or franchise shall have been issued, or its officers or directors, shall not conduct racing at its track, including pari-mutuel betting on races thereat, in accordance with the terms and conditions of such license or franchise, with the rules of the commission and with the provisions of this chapter; or if such corporation or its officers or directors shall knowingly permit on its grounds or within the enclosure of its racetrack, lotteries, pool selling or bookmaking, or any other kind of gambling, in violation of this chapter or of the penal law.

§ 245. Hearing on refusal or revocation of license or franchise. If the commission refuses to grant a license applied for under this article, or determines to revoke such a license granted by it or a franchise pursuant to sections two hundred twelve and two hundred forty-four of this article, the commission shall give to the applicant or licensee notice of a time and place for a hearing before the commission, at which the commission will hear such applicant, licensee or franchise corporation in reference thereto. The commission may continue such hearing from time to time for the convenience of all parties. Any of the parties affected by such hearing may be represented by counsel, and the commission may be represented by the attorney general or an assistant attorney general. In the conduct of such hearing the commission shall not be bound by technical rules of evidence, but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission, shall be permanently preserved and shall constitute the record of the commission in such case. In connection with such hearing, each member of the commission shall have the power to administer oaths and examine witnesses, and may issue subpoenas to compel the attendance of witnesses, and the production of all necessary reports, books, papers, documents, correspondence and other evidence. The commission may, if occasion shall require, by order, refer to one or more of its members, the duty of taking testimony in such matter, and to report thereon to the commission, but no determination shall be made therein except by the commission. Within thirty days after such hearing, the commission shall make a final determination. If the commission determines that such license shall not be granted, or that a license issued by the commission shall be revoked, or a franchise revoked pursuant to sections two hundred twelve and two hundred forty-four of this article, the commission shall make an order accordingly, and shall cause such order to be entered on the commission's minutes and a copy thereof served on such applicant, licensee or franchised corporation, as the case may be. The action of the commission in refusing to grant a license, or in revoking a license, or in revoking a franchise pursuant to sections two hundred twelve and two hundred forty-four of this article, shall be reviewable in the supreme court in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

§ 246. Approval of plans of corporation. The commission shall not grant to a corporation hereafter formed pursuant to this chapter, a license to conduct a running or steeplechase race meeting within the state until such corporation shall have submitted to the commission a statement of the location of its proposed grounds and racetrack, together with a plan of such racetrack, and plans of all buildings, seating stands and other structures, in such form as the commission may prescribe, and such plans shall have been approved by the commission. The commission at the expense of the applicant may order such engineering examination thereof as the commission may deem necessary. Alterations of buildings, seating stands or other structures, and the erection of new or additional buildings, seating stands or other structures on the grounds of any corporation heretofore or hereafter formed pursuant to this chapter may be made only with the approval of the commission and after examination and inspection of the plans thereof and the issuance of a permit therefor by such commission. The approval of the certificate of incorporation of such corporation shall not be deemed to vest in it the right to a license to conduct running or steeplechase race meetings at such race course or racetrack unless such grounds, track, buildings, seating stands and other structures are completed in accordance with the plans approved by the commission.

§ 247. Racing zones. There are hereby created two racing zones to be known as the first zone and the second zone. The first zone shall include all of the counties in the first, second, ninth, tenth, eleventh and twelfth judicial districts. The second zone shall include all the other counties of the state. Not more than six corporations shall hereafter be licensed by the commission or franchised by the state to conduct a race course or race meeting for running races or steeplechases at which pari-mutuel betting shall be authorized within the first zone, and not more than three of such corporations shall hereafter be so licensed within the second zone. The commission shall not hereafter approve the incorporation of such a corporation for conducting a race course or race meeting within the second zone if the location of the proposed race course of such corporation is within seventy-five miles of the race course of another such corporation.

§ 248. Racing season; allotment of dates for racing. In the assignment of dates by the commission to corporations for conducting running races or steeplechases no conflict shall be deemed to exist by reason of duplication of dates as between race meetings in the first zone and race meetings in the second zone, nor as between race meetings within a zone if the race courses at which such meetings are held are at least thirty-five miles apart in the first zone and at least seventy-five miles apart in the second zone, except that a minimum of thirty-six days of racing shall be assigned exclusively to the second zone unless the governor determines that a sufficient emergency exists for reducing such number of days of racing, in which event the commission is then authorized to assign a lesser number of days of racing to the second zone. The commission may separately apportion to the several corporations licensed or franchised to conduct running races or steeplechases as many of the racing days for the season, not to exceed the maximum number of racing days permitted by law.

§ 249. Pari-mutuel employees to be citizens and residents. At least eighty-five per centum of the persons employed each day by a racing corporation conducting a race meeting, to operate or assist in the operation of its pari-mutuel system of betting shall be citizens of the United States and residents of the state of New York for at least two years preceding the date of their employment. Each person, prior to his employment by a racing corporation, shall be required to execute and submit to such racing corporation a duly verified affidavit setting forth his qualifications for employment pursuant to the provisions of this section.

§ 250. Power of commission to impose penalties. The commission, in addition to its power to suspend or revoke occupational licenses, licenses to conduct running races and race meetings or steeplechases and steeplechase meetings and licenses to conduct pari-mutuel betting at a race course or race meeting for running races or steeplechases issued by the commission, is authorized to impose civil penalties upon any such licensee or franchisee for a violation of any provision of this chapter or the rules and regulations promulgated pursuant thereto, not exceeding the amounts set forth in section one hundred sixteen of this chapter, which penalties shall be paid into the state treasury. Each day upon which such violation continues may be considered by the commission as a separate violation in assessing the amount of civil penalty to be imposed. Any penalty so imposed shall be sued for by the attorney general in the name of the people of the state of New York, if so directed by the commission. The amount of the penalty collected by the commission or recovered in any such action, or paid to the commission upon a compromise as hereinafter provided, shall be paid by the commission into the state treasury and credited to the general fund. The commission, for cause shown and in its discretion, may extend the time for the payment of such penalty and, by compromise may accept less than the amount of such penalty as imposed in settlement thereof. The powers granted by this section shall not be affected by the circumstances that any such license has expired by its terms prior to the imposition of such penalty.

§ 251. Definitions. As used in sections two hundred fifty-two through two hundred fifty-six of this article, the following terms shall mean and include:

1. "Fund." The New York state thoroughbred breeding and development fund corporation established by section two hundred fifty-two of this article.

2. "Board." The board of directors of the corporation as such board is constituted pursuant to section two hundred fifty-two of this article.

* 3. "New York-bred." A thoroughbred which is registered in the registry designated and administered by such fund in accordance with such rules concerning domicile and registration requirements as may be established by the fund and: was on or before December thirty-first, nineteen hundred eighty, foaled in this state; or is on or after January first, nineteen hundred eighty-one, either: (i) sired by a New York stallion and foaled from a mare domiciled in this state; (ii) foaled from a mare domiciled in this state which mare has been serviced back exclusively by a New York stallion in the year of such foaling; or (iii) on or after January first, nineteen hundred ninety-five foaled from a mare domiciled in New York. The fund shall report to the governor and the legislature on or before December fifteenth, nineteen hundred ninety-nine effects of paragraph (iii) of this subdivision on the New York state breeding industry.

* NB Effective until January 1, 2022

* 3. "New York-bred." A thoroughbred which is registered in the registry designated and administered by such fund in accordance with such rules concerning domicile and registration requirements as may be established by the fund, including that each mare, stallion, and foal be microchipped and registered pursuant to section two hundred twenty-five of this article, and: was on or before December thirty-first, nineteen hundred eighty, foaled in this state; or is on or after January first, nineteen hundred eighty-one, either: (i) sired by a New York stallion and foaled from a mare domiciled in this state; (ii) foaled from a mare domiciled in this state which mare has been serviced back exclusively by a New York stallion in the year of such foaling; or (iii) on or after January first, nineteen hundred ninety-five foaled from a mare domiciled

in New York.
* NB Effective January 1, 2022

4. "Breeder." The owner of the mare at the time the mare foals a New York-bred.

5. "New York stallion." A stallion standing in New York at the time he was bred to the dam of a New York-bred; a stallion must be registered with the fund or its designated agent and must be (i) owned by a resident of this state and standing the entire stud season in this state; or (ii) owned by a resident of another state but standing the entire stud season in this state and leased by a resident of this state for a term of not less than one year; or (iii) owned jointly by a resident of this state together with a resident of another state and standing the entire stud season in this state and leased by a resident of this state for a term of not less than one year. Leases shall be filed with the fund or its designated agent.

6. "Stallion owner." The owner of a stallion standing in New York at the time he was bred to the dam of a New York-bred.

7. "Races." Races upon which pari-mutuel wagering is conducted at thoroughbred race meetings of racing corporations as authorized by the commission.

§ 252. New York state thoroughbred breeding and development fund. 1. A corporation to be known as the New York state thoroughbred breeding and development fund corporation is hereby created. Such corporation shall be a body corporate and politic constituting a public benefit corporation. It shall be administered by a board of directors consisting of the chair of the state gaming commission or his or her designee, the commissioner of agriculture and markets, three members of the state gaming commission or their designees, all of whom are experienced, have knowledge, or have been actively engaged in the thoroughbred horse industry in the state as designated by the governor and six members appointed by the governor, all of whom are experienced or have been actively engaged in the breeding of thoroughbred horses in New York state, one, the president or the executive director of the statewide thoroughbred breeders association representing the majority of breeders of registered thoroughbreds in New York state, one upon the recommendation of the majority leader of the senate, one upon the recommendation of the speaker of the assembly, one upon the recommendation of the minority leader of the senate, and one upon the recommendation of the minority leader of the assembly. Two of the appointed members shall initially serve for a two year term, two of the appointed members shall initially serve for a three year term and two of the appointed members shall initially serve for a four year term. All successors appointed members shall serve for a four year term. All members shall continue in office until their successors have been appointed and qualified. The governor shall designate the chair from among the sitting members who shall serve as such at the pleasure of the governor.

2. The powers of the fund shall be vested in and exercised by the board at a meeting duly held at a time fixed by any by-law adopted by the board or at any duly adjourned meeting of such meeting or at any meeting held upon reasonable notice to all of the directors, and a majority of the whole number of directors shall constitute a quorum; provided that neither the business nor the powers of the fund shall be transacted or exercised except pursuant to a favorable vote of at least a majority of the directors present at a meeting at which a quorum is in attendance.

3. The board may delegate to one or more of the directors or officers of the fund such powers and duties as it may deem proper and shall utilize, pursuant to a contract approved by the director of the budget, the service employees of the state gaming commission and the state office of racing promotion and development.

4. The directors shall not be entitled to any compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

5. Such members, except as otherwise provided by law, may engage in private employment, or in a profession or business including the breeding and racing of thoroughbred horses. The fund, its members, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public officers law.

§ 253. Powers of the fund. The fund shall have power:

1. To sue and be sued.

2. To have a seal and to alter the seal at its pleasure.

3. To make by-laws for the management and regulation of its affairs.

4. To acquire, hold and dispose of personal property for its corporate purposes.

5. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation.

6. To perform such other acts and engage in such other activities as may be necessary and proper for exercising its powers.

§ 254. Resources of fund. 1. * a. The fund is authorized and directed to collect and receive on a quarterly basis in each calendar year from any racing corporation or regional off-track betting corporations from on-track wagers or off-track wagers, as the case may be, the sum of one-half of one percent of regular, multiple and exotic wagers, and three percent of super exotic wagers and to deposit such moneys in a bank or banks in this state.

* NB Effective until October 28, 2028

* a. The fund is authorized and directed to collect and receive in each calendar year from any racing corporation or regional off-track betting corporations from on-track wagers or off-track wagers, as the case may be, the sum of one-half of one percent of regular, multiple and

exotic wagers, and three percent of super exotic wagers and to deposit such moneys in a bank or banks in this state.

* NB Effective October 28, 2028

b. The fund is authorized to receive one and one-half percent of the total wagered after payout of prizes for the operation of video lottery gaming at Aqueduct racetrack for an appropriate breeding fund for the manner of racing conducted at Aqueduct racetrack, Belmont Park racetrack and Saratoga race course.

2. The fund is authorized to dispose and distribute the moneys received by it pursuant to this chapter and in accordance with distribution schedules promulgated by the fund and adopted in the rules and regulations of the commission. Such schedules shall be developed and based on reasonable estimates of fund income for the fiscal year of the fund and made available prior to January first of each year. In formulating distribution schedules, the board of directors of the fund may determine that for those New York-breds foaled after December thirty-first, nineteen hundred eighty-seven, the amounts to be made available in awards to the breeders and owners of such New York-breds that have been sired by registered New York stallions may exceed the amounts to be made available to the breeders and owners of such New York-breds sired by other than registered New York stallions. Such schedules may be adjusted, from time to time, by majority vote of the board of directors of the fund, for the following purposes and no other:

* a. An amount as shall be determined by the fund, but not in excess of forty-three percent as awards to breeders of New York-breds finishing first, second, third and fourth in pari-mutuel races run in New York state; except that during any calendar year when the total percentage of breeder awards exceeds forty-three percent of total revenue, the fund, by a two-thirds vote of its board, may increase the percentage of revenue allotted to breeder awards, but in no event shall the allotment exceed sixty-five percent of total revenue.

* NB Effective until October 28, 2028

* a. An amount as shall be determined by the fund, but not in excess of forty-three percent as awards to breeders of New York-breds finishing first, second, third and fourth in pari-mutuel races run in New York

state; except that during any calendar year when the total percentage of breeder awards exceeds forty-three percent of total revenue, the fund, by a two-thirds vote of its board, may increase the percentage of revenue allotted to breeder awards, but in no event shall the allotment exceed fifty percent of total revenue.

* NB Effective October 28, 2028

b. An amount as shall be determined by the fund, but not in excess of thirty-three percent as premiums to owners of New York-breds finishing first, second, third and fourth in pari-mutuel races run in New York state and not restricted to New York-breds; except that during any calendar year when the total percentage of owner awards exceeds thirty-three percent of total revenue, the fund, by a two-thirds vote of its board, may increase the percentage of revenue allotted to owner awards, but in no event shall the allotment exceed forty percent of total revenue.

c. An amount as shall be determined by the fund but not in excess of fifteen percent as awards to stallion owners, whose New York stallions have sired New York-breds finishing first, second, third and fourth in pari-mutuel races run in New York state; except that during any calendar year when the total percentage of stallion awards exceeds fifteen percent of total revenue, the fund, by a two-thirds vote of its board, may increase the percentage of revenue allotted to stallion awards, but in no event shall the allotment exceed twenty percent of total revenue.

d. (i) An amount as shall be determined by the fund but not in excess of forty-four percent to provide purse moneys exclusively for New York-breds entered in all races, the conditions of which have been approved by the fund; provided, however, that the fund shall set aside forty percent of the funds allotted under this subdivision to tracks operated by corporations licensed or franchised in accordance with the provisions of section two hundred five or section two hundred six of this article except that in addition to the other amounts allotted by the fund under this paragraph, seventy-five percent of fund revenues derived from payments received in accordance with subdivision one of section five hundred twenty-seven of this chapter shall be allotted exclusively to purses at a track operated by a corporation licensed under the provisions of section two hundred five of this article.

(ii) The fund may direct a portion or portions of revenues allocated in this paragraph and dedicated to a racing corporation licensed in accordance with section two hundred five of this article to pari-mutuel races at such track that are not restricted to New York-breds provided that the revenues so allocated shall be used only to enrich any purses awarded to New York-breds finishing first, second, third, fourth or fifth in such non-restricted races.

* e. An amount as shall be determined by the fund but not in excess of six percent to advance and promote breeding and raising of thoroughbreds in this state by the publication and dissemination of information relating thereto, and the encouragement of interest, including among youth, in the breeding and raising of New York-breds, and to advance and promote interest generally in agricultural pursuits.

* NB Effective until October 28, 2028

* e. An amount as shall be determined by the fund but not in excess of five percent to advance and promote breeding and raising of thoroughbreds in this state by the publication and dissemination of information relating thereto, and the encouragement of interest, including among youth, in the breeding and raising of New York-breds, and to advance and promote interest generally in agricultural pursuits.

* NB Effective October 28, 2028

* f. An amount as shall be determined by the fund but not in excess of five percent for the administration and management of the fund.

* NB Effective until October 28, 2028

* f. An amount as shall be determined by the fund but not in excess of four percent for the administration and management of the fund.

* NB Effective October 28, 2028

g. An amount equal to two percent thereof for the promotion of equine research through a fund of a land grant university within this state with a regents approved veterinary college facility.

h. An amount as shall be determined by the fund for the care of retired horses, provided, however, such amounts shall be allocated from a dedicated account maintained by the fund supported by the collection of fines assessed pursuant to section three hundred eighty-two of the agriculture and markets law and contributions made pursuant to sections two hundred nine-N and six hundred thirty-i of the tax law, and the fund shall not be required to make any allocations for such purposes that are in excess of the amount collected pursuant to those sections during the preceding year. In making such allocations, the fund shall consider whether the potential recipient organization is an accredited horse retirement and rescue program. The gaming commission shall establish an advisory board to consult the fund when making such allocations with representatives of thoroughbred and standardbred owners and breeders, and animal protection organizations with expertise in the care of retired and rescued horses.

All moneys of the fund in excess of seventy-five thousand dollars on hand at the end of each calendar year shall be apportioned between and paid to the state and the regional off-track betting corporations based on the level of contributions to such fund during the year by the racing corporations and the regional off-track betting corporations, respectively. Payment of such money to the state and such corporations, respectively, shall be made by March fifteenth of the year following the close of such calendar year.

That portion returned to the regional off-track betting corporations shall be distributed prior to May first of such year to the participating local governments within each region in the same proportion as the net earnings of such corporation for the prior calendar year were distributed.

§ 255. Annual audit. The comptroller or his legally authorized representative is authorized to and shall from time to time but at least annually examine the accounts and books of the fund, including its receipts and disbursements.

§ 256. Annual report. The fund shall annually make during the month of January a report to the governor setting forth in detail:

1. Its operations and accomplishments during the preceding year; and

2. Its receipts and disbursements during the preceding year.

The fund is directed to report annually, on or before January thirty-first, to the governor and the legislature, on the state of the thoroughbred breeding industry in this state. Such reports shall include, but not be limited to, the impact of the fund's programs on the breeding and racing aspects of the industry; economic factors affecting the industry such as employment and employment growth, state and local benefits of breeding farms, income and the production of income within this state, economic comparisons with other states; and data relative to mares and stallions standing in New York to include such information as the number in New York, racing quality as measured by wins and stakes won and placed and money won, the number of foals and foal racing quality as measured by sales value and number of starts, races and money won, the progeny quality, including earnings, and the success of New York-breds nationally.

The fund is further directed to incorporate into its reports comments from spokesmen representing all segments of the industry as well as recommendations on preserving and enhancing the thoroughbred breeding industry in this state.

§ 257. Actions against fund. Except in an action for wrongful death, no action against the fund founded upon tort shall be commenced (a) prior to the expiration of thirty days from the date on which the notice of claim upon which the action is founded, served pursuant to section fifty-e of the general municipal law, was presented to a member of the board of directors of the fund or other officer thereof designated for such purpose nor (b) more than one year and ninety days after the cause of action therefor shall have accrued. An action against the fund for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

ARTICLE III

HARNESS RACING AND BREEDING

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§ 301. General powers of commission; harness racing defined; super exotic bet defined, authorized. 1. Pursuant to the provisions of sections two hundred twenty-two through seven hundred five of this chapter, the commission shall have power to supervise generally all harness race meetings in this state at which pari-mutuel betting is conducted. The commission may adopt rules and regulations not inconsistent with sections two hundred twenty-two through seven hundred five of this chapter to carry into effect its purposes and provisions and to prevent circumvention or evasion thereof. In order that the rules of harness horse racing may be uniform throughout the United States, the commission may adopt the rules and regulations of the United States Trotting Association, in whole or in part, and may adopt such other or different rules as the commission deems necessary to carry into effect the purposes and provisions of sections two hundred twenty-two through seven hundred five of this chapter.

2. Without limiting the generality of the foregoing, and in addition to its other powers:

a. The commission shall prescribe rules and regulations for effectually preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed of harness horses in races in which they are about to participate.

b. The rules of the commission shall also provide that all winning pari-mutuel tickets must be presented for payment before April first of the year following the year of their purchase and failure to present any such ticket within the prescribed period of time shall constitute a waiver of the right to participate in the award or dividend.

c. The commission shall have power in its discretion, consistent with the powers of department of taxation and finance, to prescribe uniform methods of keeping accounts, records and books to be observed by associations or corporations licensed under the provisions of this article or by any association or corporation that owns stock in, or shares in the profits, or participates in the management or affairs of, such licensed association or corporation, or by any person, firm, association or corporation holding any concession, right or privilege to perform any service or sell any article at any track at which pari-mutuel harness racing meets are conducted. The commission may also in its discretion, consistent with the powers of the state tax commission, prescribe by order forms of accounts, records and memoranda to be kept by such persons, firms, associations or corporations. The commission shall have power to visit, investigate, and place expert accountants, or such other persons as it may deem necessary, in the offices, tracks or other places of business of any such person, firm, association or corporation for the purpose of seeing that the provisions of sections two hundred twenty-two through seven hundred five of this chapter and the rules and regulations issued by the commission thereunder are strictly complied with. Such persons, firms, associations or corporations shall annually file with the commission, on such date as the commission shall prescribe, a report showing their financial condition and financial transactions during the fiscal year, including a balance sheet and a profit and loss statement, verified by the oath of at least two of its principal officers, if it be an association or corporation having officers, and by one or more of the owners or proprietors thereof if not an association or corporation. The report shall be in such form and contain such other matters as the commission may determine from time to time to be necessary to disclose accurately the financial condition and operation of such persons, firms, associations or corporations during the preceding fiscal year. The commission may for good cause shown grant a reasonable extension of time for the filing of any such report.

3. The term "racing", as used in this article, shall be construed to mean only horse racing in which the horses participating are harnessed to a sulky, carriage, or similar vehicle, and shall not include any form of horse racing in which the horses participating are mounted by a jockey.

4. The term "super exotic bet" or "super exotic wager", as used in this chapter, shall mean a single bet or wager on six or more horses, evidenced by a single ticket and representing an interest in a betting pool hereby authorized to be conducted by licensed racing associations or corporations or regional off-track betting corporations pursuant to rules and regulations of the commission. Such rules and regulations shall provide the manner in which winning tickets in such pool shall be determined and may provide that a portion only of the amounts otherwise available to winners of such pools be paid to holders of consolation tickets combining the most winning horses as provided in such rules and regulations and that the balance of amounts otherwise available to winners from such pool be carried forward and deposited in any subsequent super exotic pools. Such rules and regulations shall also provide that an amount not to exceed six percent of the total wagers in each super exotic pool may be used or accumulated to reimburse any such association or corporation conducting such pool for the cost of assuring an advertised winning pay-out for winning wagers or for a capital improvement fund or to reimburse any such association or corporation for amounts it has contributed to the amounts otherwise available for winning wagers to increase the pay-out therefor. Such rules and regulations may further provide that all of the amounts available for winning tickets and accumulations therefor shall be distributed periodically to holders of tickets combining the most winners in a pool conducted upon a date specified by the commission and, in any event, shall provide for complete disposition of all amounts available for winning tickets and accumulations therefor before the end of the licensed meet during which such super exotic pools are conducted.

Notwithstanding the foregoing or any other provisions of law, all distributions, taxes and regulatory fees on super exotic bets shall be distributed as though the bet were an exotic bet, except that a balance may be retained and deposited in subsequent pools.

5. The commission shall have the power to issue licenses to western regional off-track betting corporation or to a subsidiary of said western regional off-track betting corporation for the purpose of conducting harness race meetings at Batavia Downs race track and to make capital improvements to said track, provided that such corporation otherwise meets the terms and conditions for licensure as provided under this article. Notwithstanding the provisions of articles five and five-a of this chapter, said corporation shall be deemed to be a harness racing corporation with respect to pari-mutuel wagering conducted at said track pursuant to this chapter, except that net revenues derived from such pari-mutuel wagering shall be distributed among the counties that participate in such corporation 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.

§ 302. Incorporation. Any number of persons, not less than five, may become a corporation for the purpose of conducting harness horse race meetings at which pari-mutuel betting will be conducted, with all the general powers of corporations created under the laws of this state, by making, signing, acknowledging and filing a certificate that shall contain the:

1. name of the proposed corporation;

2. objects for which the corporation is to be formed and the location at which it is proposed to conduct its business;

3. amount and description of the capital stock;

4. location of the corporation's principal business office;

5. duration of the corporation;

6. number of the corporation's directors, not less than five nor more than thirteen;

7. names and post office addresses of the directors for the first year; and

8. post office addresses of the subscribers and a statement of the number of shares of stock that each agrees to take in the corporation.

No certificate of incorporation under this section shall hereafter be filed without the approval of the commission indorsed thereon or annexed thereto.

No corporation organized pursuant to this article or operating a harness horse race meet pursuant to the provisions of section three hundred four of this article, shall have or be given the right or power to conduct any harness horse race meet pursuant to this article except at the location designated in its certificate of incorporation as the place at which it was proposed to conduct its business, or at the place or places where it is presently licensed to conduct a harness horse race meet or meetings by the commission; provided, however, that this restriction shall not apply to any such corporation or association whose racing plant or the usefulness thereof or of any material part thereof, in the discretion of the commission, shall, for any reason beyond the control of such corporation or association, be totally destroyed or so substantially interfered with or damaged as to render same unfit for continued operation. Pending the rebuilding, or restoration of its usefulness or the making of the required repairs to said plant or the part thereof so destroyed or damaged, the commission may license such corporation or association to conduct its harness horse race meetings at any other suitable location.

§ 303. Filing of information concerning stock transfers; necessity for commission approval. 1. Whenever a transfer of stock of any association or corporation that is licensed under this article, or of any association or corporation that leases to such licensee the track at which it conducts pari-mutuel harness races, or that owns twenty-five percent or more of the stock of such licensee shall be made, there shall be filed simultaneously with the association or corporation that issued such stock the following:

a. In duplicate, an affidavit executed by the transferee stating that the affiant is to be the sole beneficial owner thereof, and whether or not the affiant has (i) been convicted of a crime involving moral turpitude, (ii) been engaged in bookmaking or other forms of illegal gambling, (iii) been found guilty of any fraud or misrepresentation in connection with racing or breeding, (iv) been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction for which suspension from racing might be imposed in such jurisdiction, or (v) violated any rule, regulation or order of the commission; if the transferee is not, or is not to be, the sole beneficial owner thereof, then there shall be annexed to said affidavit of the transferee, and expressly stated in such affidavit to be deemed a part thereof, a true and complete copy, or if oral, a complete statement of all the terms, of the agreement or understanding pursuant to which the stock is to be so held by the transferee, including a detailed statement of the interest therein of each person who is to have any interest therein; and at the same time.

b. In duplicate, an affidavit executed by each person for whom such stock, or any interest therein, is to be held by said transferee, setting forth whether or not the affiant has (i) been convicted of a crime involving moral turpitude, (ii) engaged in bookmaking or other forms of illegal gambling, (iii) been found guilty of any fraud or misrepresentation in connection with racing or breeding, (iv) been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction for which suspension from racing might be imposed in such jurisdiction, or (v) violated any rule, regulation or order of the commission; to each of which affidavits shall be annexed, and expressly stated in such affidavit to be deemed a part thereof, a true and complete copy, or if oral, a complete statement of all the terms, of the agreement or understanding pursuant to which the stock is to be so held by the transferee, including a detailed statement of the interest therein of each person who is to have any interest therein.

c. Said association or corporation shall forthwith file with the commission one of each of said duplicate affidavits.

2. If, after the filing of any affidavit required to be filed by subdivision one of this section, there is any change in the status of any such affiant with respect to any of the matters set forth in subparagraph (i), (ii), (iii), (iv) or (v) of paragraph a of subdivision one of this section of the affidavit theretofore filed by him or her, such affiant shall forthwith file with the association or corporation with which the affiant's affidavit was so filed a new affidavit, executed in duplicate, setting forth such change of status, and the association or corporation shall forthwith file one of said affidavits with the commission.

3. Whenever any change is made in the amount, nature, or otherwise, of the interest of any person having an interest in stock of any such association or corporation, or any new interest is created therein, without a transfer of such interest as provided in subdivisions one and two of this section, the record owner of such stock, and each person whose interest therein has been so attempted to be changed or created, shall file with the association or corporation that issued such stock, in duplicate, affidavits as provided by paragraphs a and b of subdivision one of this section, except that such affidavits need not include the matters referred to in subparagraphs (i), (ii), (iii), (iv) and (v) of paragraph a of subdivision one of this section, unless then required pursuant to subdivision two of this section, and one copy thereof shall forthwith be filed by the association or corporation with the commission.

4. The commission may, upon application to it for good cause shown, waive compliance with subdivisions one, two and three of this section.

5. If the commission determines that it is inconsistent with the public interest, convenience or necessity, or with the best interests of racing generally, that any person continue to be a stockholder of record, or the beneficial owner of any interest in stock standing in the name of another, in any association or corporation licensed under this article, or of any association or corporation that leases to such licensee the track at which it conducts pari-mutuel harness racing or that owns twenty-five percent or more of the stock of such licensee, the commission shall have full power and authority to order or direct each such stockholder or beneficial owner irrespective of the time when such stockholder or beneficial owner acquired his or her stock or interest therein to dispose of such stock or interest within a period of time to be specified by the commission, which period the commission shall have full power and authority to extend from time to time.

6. If the commission shall make any order or direction as provided in subdivision five of this section, the person aggrieved thereby shall be given notice of the time and place of a hearing before the commission at which the commission will hear such person in reference thereto. The action of the commission in making any such order or direction shall be reviewable in the courts of this state in the manner provided by, and subject to the provisions of article seventy-eight of the civil practice law and rules.

7. Upon application of the commission, the supreme court of this state shall have jurisdiction to issue final orders, on notice and after hearing, commanding any person to comply with the provisions of the orders or directions issued by the commission under subdivision five of this section.

8. In case of conflict between this section and article eight of the uniform commercial code, this section shall control.

§ 43. Subdivision (b) and the closing paragraph of section 303-a of the racing, pari-mutuel wagering and breeding law, as added by chapter

281 of the laws of 1994, are amended to read as follows:

(b) Non-managing owners. There shall be no restriction on the number of non-managing owners of a race horse except that no horse shall be entered or started that is owned by thirty-five or fewer owners unless all such owners are licensed; in the event that a horse is owned by more than thirty-five owners, only those individuals having a three percent or greater property interest in such horse shall be required to be licensed as an owner.

The commission shall adopt rules and regulations regarding ownership of horses not inconsistent with this section.

§ 303-a. Non-managing ownership of standardbred horses. (a) For purposes of this section, a managing owner shall mean a person who through ownership, lease or designation manages all racing activities for a race horse and is personally responsible for all liabilities arising therefrom.

(b) Non-managing owners. There shall be no restriction on the number of non-managing owners of a race horse except that no horse shall be entered or started that is owned by thirty-five or fewer owners unless all such owners are licensed; in the event that a horse is owned by more than thirty-five owners, only those individuals having a three percent or greater property interest in such horse shall be required to be licensed as an owner.

The commission shall adopt rules and regulations regarding ownership of horses not inconsistent with this section.

§ 304. Right to hold harness race meetings and races. Any corporation formed under the provisions of sections two hundred twenty-two through seven hundred five of this chapter, and any corporation or association which shall have conducted harness horse race meetings during two years prior to March thirty-first, nineteen hundred forty, and any town or county fair association or other fair association shall have the power and the right to hold one or more harness horse race meetings in each year and to hold, maintain and conduct harness races at such meetings. At such harness race meetings the corporation or association, or the owners of horses engaged in such races, or others who are not participants in the race, may contribute purses, prizes, premiums or stakes to be contested for, but no person or persons other than the owner or owners of a horse or horses contesting in a race shall have any pecuniary interest in a purse, prize, premium or stake contested for in such race, or be entitled to or receive any portion thereof after such race is finished, and the whole of such purse, prize, premium or stake shall be allotted in accordance with the terms and conditions of such race. Such meeting shall not be held except during the period extending from the first day of January to the thirty-first day of December inclusive in each year. In counties having a population of two hundred fifty thousand or less, the commission may, however, permit the holding of one or more harness horse race meetings and the conduct of harness races at such meetings on a day or days not during such period if the commission is satisfied that a special occasion makes the holding of such meetings and the conduct of such races on such day or days proper or necessary; but in no event shall such meetings or races be held or conducted on the twenty-fifth day of December. Such power and right, however, shall not include the right to conduct pari-mutuel betting at such harness horse race meetings except pursuant to license granted by the commission pursuant to sections two hundred twenty-two through seven hundred five of this chapter.

§ 45. Section 305 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

§ 305. Pari-mutuel betting at harness races. No more than eight corporations or associations shall be licensed by the commission in any one year to conduct a pari-mutuel meet or meets. Said pari-mutuel betting conducted at such meetings shall be under the general supervision and control of the commission which shall make rules regulating the conduct of such pari-mutuel betting in accordance with the provisions of sections two hundred twenty-two through seven hundred five of this chapter. The department of taxation and finance is charged with the financial administration of pari-mutuel betting as prescribed in this article and as supplemented by the rules and regulations of the commission. The department of taxation and finance shall have authority to prescribe the forms and the system of accounting to be employed, and through its representatives shall at all times have power of access to and examination of any equipment relating to such betting.

§ 305. Pari-mutuel betting at harness races. No more than eight corporations or associations shall be licensed by the commission in any one year to conduct a pari-mutuel meet or meets. Said pari-mutuel betting conducted at such meetings shall be under the general supervision and control of the commission which shall make rules regulating the conduct of such pari-mutuel betting in accordance with the provisions of sections two hundred twenty-two through seven hundred five of this chapter. The department of taxation and finance is charged with the financial administration of pari-mutuel betting as prescribed in this article and as supplemented by the rules and regulations of the commission. The department of taxation and finance shall have authority to prescribe the forms and the system of accounting to be employed, and through its representatives shall at all times have power of access to and examination of any equipment relating to such betting.

§ 307. Licenses for harness race meetings. 1. Any association or corporation desiring to conduct harness race meetings at which pari-mutuel betting shall be permitted may apply annually to the commission for a license so to do. If, in the judgment of the commission the public interest, convenience or necessity will be served thereby and a proper case for the issuance of such license is shown consistent with the purposes of sections two hundred twenty-two through seven hundred five of this chapter and the best interests of racing generally, it may grant such license for a term ending not later than the thirty-first day of December next succeeding the granting thereof, specifying dates and hours during which and the place where the licensee may operate; provided, however, that any harness racetrack which applies to the commission for permission to make one or more capital improvements may, in connection with such application or before or after such application, also apply to the commission for, and the commission shall, as an inducement for or in recognition of the making of such capital improvement, grant a capital improvement license, which may be conditioned on the completion of the capital improvement if not yet made, for a period of not more than twenty-five years, but in no event for a period longer than is necessary to amortize any loan for capital improvements and shall specify for each year of the term of said license the minimum number of days on which, and the minimum number of hours on each such day, and the places where said licensee may conduct such harness race meetings at which pari-mutuel betting shall be permitted. Such a capital improvement license shall be issued if in the judgment of the commission the public interest, convenience or necessity will be served thereby and a proper case for the issuance of such a license is shown consistent with the purposes of sections two hundred twenty-two through seven hundred five of this chapter and the best interests of racing generally, and in determining the period and other terms of such capital improvement license, the commission shall be guided by the nature of the capital improvement and the cost thereof. Such capital improvement license shall automatically expire, irrespective of the term thereof, when the loan of funds upon which it has been issued, has been paid off by the licensee. Where a capital improvement license is granted, the commission shall specify annually the dates on which, but not beyond the thirty-first day of December, and hours during which such licensee may operate, at the places and for the full number of days and hours specified in its capital improvement license.

2. Every such license shall be issued upon condition:

a. that every harness horse race meeting at which pari-mutuel betting is conducted shall be subject to the supervision of and to the reasonable rules and regulations from time to time prescribed by the commission, and

b. that pari-mutuel betting conducted thereunder shall also be subject to the supervision of and to the reasonable regulations from time to time prescribed by the department of taxation and finance. Any such license may also be issued upon any other condition that the commission shall determine to be necessary or desirable to insure that the public interest, convenience or necessity is served.

3. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. Each application for renewal of a license shall be deemed to be an application for a new license. The fee for such licenses shall be one hundred dollars for each racing day payable in installments in advance of each week's racing which sums shall be paid into the general fund of the state treasury by the commission. The term "racing week" shall include those days as defined by the rules and regulations of the commission.

4. In considering an application for a license under this section the commission may give consideration to the number of licenses already granted and to the location of the tracks previously licensed. No such license shall be granted to any track which has not conducted pari-mutuel harness racing during at least ten calendar years and which is located within ten miles of a state, county or town fair conducting harness racing for the three consecutive years immediately preceding April second, nineteen hundred fifty-three, which license shall be operative during the racing dates of such fair, unless the association, corporation or society conducting such fair shall affirmatively waive objection to the issuance of such license for dates within such period. No such license shall be granted to any track located within the corporate limits of a city of the first class. No such license shall be granted to any harness horse racetrack located within twenty-five miles of any track already licensed for the same dates and hours except with the consent of the licensee located within such twenty-five mile area.

5. The commission may refuse to grant a license to an association or corporation if it shall determine that:

a. Any officer, director, member or stockholder of such association or corporation applying for a license, or of any association or corporation that owns stock in or shares in the profits, or participates in the management, of the affairs of such applicant, or that leases to such applicant the track where such applicant will operate has:

(i) been convicted of a crime involving moral turpitude;

(ii) engaged in bookmaking or other forms of illegal gambling;
(iii) been found guilty of any fraud or misrepresentation in connection with racing or breeding;
(iv) been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction for which suspension from racing might be imposed in such jurisdiction;
(v) violated any rule, regulation or order of the commission; or

b. The experience, character or general fitness of any officer, director or stockholder of any of the aforesaid associations or corporations is such that the participation of such person in harness racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of racing generally; but if the commission determines that the interest of any stockholder referred to in this paragraph or in paragraph a of this subdivision is insufficient in the opinion of the commission to affect adversely the conduct of pari-mutuel harness racing by such association or corporation in accordance with the provisions of this article, the commission may disregard such interest in determining whether or not to grant a license to such association or corporation; or

c. The applicant is not the owner of the track at which it will conduct pari-mutuel harness racing pursuant to the license applied for, or that any person, firm, association or corporation other than the applicant shares, or will share, in the profits of the applicant, other than by dividends as a stockholder, or participates or will participate in the management of the affairs of the applicant.

5-a. The commission shall not issue a license pursuant to this section to any harness racing association or corporation that does not apply to conduct at its facilities a minimum number of pari-mutuel programs and pari-mutuel races at its facilities equal to at least seventy-five percent of the programs and races so conducted during nineteen hundred eighty-five or during nineteen hundred eighty-six, or one hundred percent of the programs and races so conducted during two thousand, whichever is greater; provided, however, that for a harness racing association or corporation located in Westchester and Erie counties, such minimum number of pari-mutuel programs and pari-mutuel races at its facilities shall equal at least one hundred percent of the programs and races conducted during two thousand. If the track did not conduct races during two thousand, such minimum number of pari-mutuel programs and pari-mutuel races at its facilities shall equal at least ninety percent of the programs and races conducted during two thousand at Buffalo raceway, in the town of Hamburg and county of Erie, unless cancellation of a race day because of an act of God, that the commission approves or because of weather conditions that are unsafe or hazardous that the commission approves shall not be construed as a failure to conduct a race day; provided further, the commission shall not grant a license to such association or corporation upon application unless such programs and races are conducted during the same calendar year period as were conducted during the applicable period above used to measure the minimum number of pari-mutuel programs and pari-mutuel races, as approved by the commission. Nothing in the foregoing paragraph shall affect any agreement in effect on or before the effective date of this paragraph. The commission may grant a license to such association or corporation to conduct fewer such programs and races for good cause shown due to factors beyond the control of such association or corporation, and upon consent of the representative horsemen's association, as determined pursuant to section three hundred eighteen of this article.

5-b. Notwithstanding any inconsistent provision of subdivision five-a of this section and article ten of this chapter, where the commission certifies by December first of the proceeding year that the number of standardbred horses eligible for competition is less than that of the base year as defined in subdivision five-a of this section, and only if the authorized horsemen's association concurs as evidenced by a written agreement between the track and the horsemen's association, a licensee pursuant to this section may submit and the commission may accept a license application requesting a reduced number of race dates where it is in the best interest of racing within this state and provided that the licensee shall not be penalized or required by the commission to diminish simulcasting activities or incur an increased tax liability as a result of a commission-sanctioned reduction in its live racing activity under this subdivision.

6. The commission shall also have power to refuse to grant a license:

a. to any association or corporation, the charter or certificate of incorporation of which fails to contain a provision requiring any stockholder, upon written demand of the association or corporation, to sell his, her or its stock to the association or corporation at a price to be fixed in the manner otherwise provided by law, provided such demand be made pursuant to written direction of the commission; and from and after the date of the making of such demand, prohibiting the transfer of such certificate of stock, except to the association or corporation; or

b. to any association or corporation that, having been a licensee, has failed in the opinion of the commission to properly maintain its track and plant in good condition or has failed to make adequate provision for rehabilitation and capital improvements to its track and plant.

7. Pending final determination of any question under this section, the commission may issue a temporary license upon such terms and conditions as it may deem necessary, desirable or proper to effectuate the provisions of sections two hundred twenty-two through seven hundred five of this chapter.

8. Notwithstanding any other provision of this article, the commission may, no more than once in any calendar year, grant a license to any authorized harness racing association or corporation to hold and conduct one additional harness race meeting of not more than seven days duration, with pari-mutuel betting, on any mile track within this state, to enable said authorized harness racing association or corporation to conduct a special stakes race not limited to the Hambletonian stakes and associated events.

9. The commission shall have power to direct that every certificate of stock of an association or corporation licensed under the provisions of sections two hundred twenty-two through seven hundred five of this chapter shall bear a legend plainly and prominently imprinted upon the

face of the certificate reading: "This certificate of stock is transferable only subject to the provisions of section three hundred three of the racing, pari-mutuel wagering and breeding law".

10. Notwithstanding the provisions of section three hundred twenty-one of this article, the refusal of an application for such license shall be preceded by notice and an opportunity to be heard. In the conduct of such hearing the commission shall not be bound by technical rules of evidence but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission, shall be permanently preserved and shall constitute the record of the commission in such case. Such hearing may be presided over by the chair of the commission or by any member or by an officer of the commission designated by the chair in writing to act as hearing officer and such person or persons may issue subpoenas for witnesses and administer oaths to witnesses. The hearing officer, at the conclusion of the hearing shall make findings which, if concurred in by a majority of the commission, shall become the findings of the commission. The action of the commission in refusing a license shall be reviewable in the supreme court in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

§ 307-a. New York-bred or wholly owned harness races. (a) Any association or corporation licensed to conduct harness race meetings at which pari-mutuel betting is permitted may, if in its sole discretion such association or corporation determines that it would be beneficial, offer non-stakes races that are limited to New York-bred horses or horses wholly owned by New York state residents. These races may be written on such terms and conditions as any other race authorized pursuant to law or regulation of the commission, notwithstanding any preference date requirements.

(b) For each horse entered into a race that is limited to horses wholly owned by New York state residents, each owner shall provide documentation that demonstrates that such horse is wholly owned by a New York state resident. Leased horses shall not be eligible for such races unless both the lessor and lessee are New York state residents. In the case of a horse owned by a corporation, all owners, officers, shareholders, and directors shall meet the requirements of a New York state resident; in the case of a horse owned by an association, all owners shall meet the requirements of a New York state resident.

(c) If it is in the opinion of such corporation or association licensed to conduct harness race meetings at which pari-mutuel betting is permitted that sufficient competition cannot be had among such restricted class of horses, said race may be eliminated for said day and a substitute race provided instead.

(d) The commission shall be authorized to promulgate regulations to effectuate the intent of this section.

§ 308. Officials at harness horse race meetings. 1. At all harness race meetings licensed by the commission in accordance with the provisions of sections two hundred twenty-two through seven hundred five of this chapter qualified judges and starters shall be designated by the commission. Such officials shall enforce the rules and regulations of the commission and shall render regular written reports of the activities and conduct of such race meetings to the commission.

2. The licensed racing corporations shall reimburse the commission for the per diem cost to the commission to employ one associate judge and the starter to serve at harness race meetings. The commission shall notify each such licensed racing corporation of the per diem cost of the associate judge and the starter at the track of such licensed racing corporation within sixty days of the end of each month. Payment of the reimbursement required by this section shall be made to the commission by each entity required to make such payments within thirty days of such notification by the commission and shall cover all the costs incurred during that month. A penalty of five percent of payment due, and interest at the rate of one percent per month calculated from such date that payment is due to the date of the payment of the per diem cost shall be payable in case any per diem cost imposed by this subdivision is not paid when due. The commission shall promulgate rules and regulations to ensure the proper reimbursement of such costs.

3. The commission shall pay into the racing regulation account, as defined in section ninety-nine-i of the state finance law, under the joint custody of the comptroller and the commission, the total amount of the reimbursements collected pursuant to this section. With the approval of the director of the budget, monies used to pay the costs and expenses of the operations of the commission shall be paid out of such account on the audit and warrant of the comptroller on vouchers, certified and approved by the director of the division of the budget or his or her duly designated official.

4. Any associate judge and starter whose per diem costs are reimbursed by a licensed racing corporation shall remain employees of the commission and shall retain all the rights and privileges of their current civil service jurisdictional classification and status and collective bargaining unit representation.

§ 309. Licenses for participants and employees at harness race meetings. 1. For the purpose of maintaining a proper control over harness race meetings conducted pursuant to sections two hundred twenty-two through seven hundred five of this chapter, the commission may license drivers and such other persons participating in harness horse race meets, as the commission may by rule prescribe, including, if the commission deems it necessary so to do, owners, and some or all persons exercising their occupation or employed at harness race meets, provided, however, that no such license shall be required for seasonal employees hired solely to work for no longer than six weeks during the summer meet at the Syracuse mile. Each applicant for a license shall pay to the commission an annual license fee as follows: owner's license, if a renewal, fifty dollars, and if an original application, one hundred dollars; trainer's license, twenty dollars; assistant trainer's license, twenty dollars; driver's license, twenty dollars; farrier's license, twenty dollars; and stable employee's license, five dollars. Such fees shall be paid to the commission and by it paid into the state treasury. The commission may by rule fix the license fees to be paid by other persons required to be licensed by the rules of the commission, not to exceed twenty dollars per category. All such licenses, unless revoked for cause shall be for the period of no more than one, two or three years, as determined by rule of the commission, expiring on the applicant's birth date. Licenses current on the effective date of this provision shall not be reduced in duration by this provision. An applicant who applies for a license that, if issued, would take effect less than six months prior to the applicant's birth date may, by payment of a fifty percent higher fee, receive a license that shall not expire until the applicant's second succeeding birth date. For each category of license, the applicant may apply for a two or three year license by payment to the commission of the appropriate multiple of the annual fee. The applications for licenses shall be in writing, accompanied by fingerprints and a photograph of the applicant, and shall be in such form, and contain such other information, as the commission may require. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

Every person employed after May first, nineteen hundred fifty-four, by such association or corporation, including officers and directors thereof, whether or not such person be licensed, shall file fingerprints and a photograph with the commission within ten days after such employment. The fingerprints so obtained from applicants for licenses and from employees not to be licensed shall be forthwith transmitted by the commission to the division of criminal justice services and may also be submitted to the federal bureau of investigation or any other government agency having facilities for checking fingerprints for the purpose of establishing the identity and the previous criminal record, if any, of such person and such agency shall promptly report its findings to the commission in writing.

2. If the commission finds that the experience, character and general fitness of the applicant are such that the participation of such person in harness horse race meets will be consistent with the public interest, convenience and necessity and with the best interests of racing generally in conformity with the purposes of sections two hundred

twenty-two through seven hundred five of this chapter, the commission may thereupon grant a license.

Without limiting the generality of the foregoing, the commission may refuse to issue a license, pursuant to this section, if the commission finds that the applicant has:

a. been convicted of a crime involving moral turpitude;

b. engaged in bookmaking or other form of illegal gambling;

c. been found guilty of any fraud or misrepresentation in connection with racing or breeding;

d. been found guilty of any violation or attempt to violate any law, rule or regulation of racing in any jurisdiction for which suspension from racing might be imposed in such jurisdiction; or

e. violated any rule, regulation or order of the commission. The commission may suspend or revoke a license issued pursuant to this section if the commission determines that (i) the applicant or licensee has (1) been convicted of a crime involving moral turpitude; (2) engaged in bookmaking or other form of illegal gambling; (3) been found guilty of any fraud in connection with racing or breeding; (4) been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction for which suspension from racing might be imposed in such jurisdiction; or (5) violated any rule, regulation or order of the commission, or (ii) the experience, character or general fitness of any applicant or licensee is such that the participation of such person in harness racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of racing generally.

3. Pending final determination of any question under this section, the commission may issue a temporary license upon such terms and conditions as it may deem necessary, desirable or proper to effectuate the provisions of sections two hundred twenty-two through seven hundred five

of this chapter.

§ 310. Power of the commission to impose fines and penalties. The commission, in addition to its power to suspend or revoke licenses granted by the commission, is authorized and empowered to impose monetary fines upon any corporation, association or person participating in any way in any harness race meet at which pari-mutuel betting is conducted, other than as a patron, and whether licensed by the commission or not, for a violation of any provision of this chapter or the rules promulgated by the commission pursuant thereto, not exceeding the amounts set forth in section one hundred sixteen of this chapter. The commission is further authorized and empowered to impose monetary fines, not exceeding the amounts set forth in section one hundred sixteen of this chapter, upon any such corporation, association or person for a violation of any order issued by the commission pursuant to the provisions of this chapter or the rules promulgated by the commission pursuant thereto, provided that a copy of such order shall have been served, either personally or by registered mail, upon the corporation, association or person to whom the same was directed, prior to the occurrence of the violation for which such fine is imposed. Such fines shall be paid into the treasury of the state. The action of the commission in imposing any monetary fine shall be reviewable in the supreme court in the manner provided by and subject to the provisions of article seventy-eight of the civil practice law and rules.

§ 311. Refunds. Moneys received by the commission pursuant to this article may within one year from the receipt thereof be refunded to the party for whose account the same were received on proof satisfactory to the commission that:

1. such moneys were in excess of the amount required by law;

2. the license for which application was made has been refused by the commission;

3. such moneys were received as a fine and the commission has after review reduced the amount of such fine; or

4. upon judicial review, a court of competent jurisdiction reduced or remitted the fine imposed.

Such refunds shall, upon approval by the commission and after audit by the comptroller, be paid from any moneys in the custody of the department received pursuant to this article.

§ 312. Special police officers. 1. For the purpose of preserving order and preventing offenses against the laws prohibiting gambling, the officers or directors of any corporation or association created under or subject to the provisions of sections two hundred twenty-two through seven hundred five of this chapter are hereby authorized to appoint from time to time, special police officers, and the same to remove at pleasure, who, when appointed, shall be peace officers with the same powers within and about such grounds as are vested in peace officers as set forth in section 2.20 of the criminal procedure law, whose duty and powers, when appointed, shall be to preserve order within and around the grounds and racetracks of said corporation or association, to protect the property within said grounds, to eject or arrest all persons who shall be improperly within the grounds of such corporation or association or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fees or to observe the rules prescribed by said corporation or association; and it shall be the further duty of said police officers, when appointed to prevent all violations of law with reference to pool-selling, bookmaking, and other gambling, and to arrest any and all persons violating such provisions, and to convey such person or persons so arrested, with a statement of the cause of such arrest, before a court having jurisdiction of such offense, to be dealt with according to the law. The appointment of police officers in pursuance of this section shall not be deemed to supersede in any wise on the grounds and racetrack of such corporation or association the authority of peace officers or police officers of the jurisdiction within which such grounds and racetrack are located.

2. Any appointment of a special police officer under this section shall be made only with the approval of the commission. Application for such approval shall be in such form as may be prescribed by the commission and shall contain such other information or material or evidence as the commission shall require. In acting on an application for such approval the commission shall consider the background, experience, integrity, and competence of the candidate for appointment, the public interest, convenience or necessity and the interests of harness racing generally. The commission in its discretion may set the term of any such appointment, terminate any existing appointment at any time and prescribe conditions and rules for the conduct of such office.

§ 313. Place and manner of conducting pari-mutuel betting. Any corporation or association licensed to conduct pari-mutuel betting at a harness race meeting shall provide a place or places within race meeting grounds or enclosure at which such licensee shall conduct the pari-mutuel system of betting by its patrons on the result of the harness horse races at such meetings. Such licensee shall cause to be erected a sign or board upon which shall be displayed the approximate straight odds on each horse in any race; the total amount wagered upon each horse in each pool; the value of a two-dollar winning mutuel ticket, straight, place or show on the first three horses in any race; the elapsed time of the race; the value of a two-dollar winning daily double ticket, if a daily double be conducted, and any other information that the commission may deem necessary for the guidance of the general public. All machines and equipment used for pari-mutuel betting or for the display of the foregoing information must be approved by the commission and the department of taxation and finance before being used, but neither the commission nor the department of taxation and finance shall require the installation of any particular make of mechanical or electrical equipment.

§ 314. Construction with other laws. 1. Nothing in sections two hundred twenty-two through seven hundred five of this chapter shall be construed to preclude the United States Trotting Association from independently licensing or disciplining any of its members or performing any function heretofore performed by that organization relative to its membership in the state of New York.

2. Notwithstanding the provisions of any general or special statute of this state or of any local law or ordinance of any municipality within the state, whether such provision or provisions be penal in character or otherwise, the provisions of sections two hundred twenty-two through seven hundred five of this chapter and the rules, regulations and requirements of the commission relating to the time when and place where or manner in which the harness races shall be conducted in this state and the control of the grounds and structures erected or to be erected thereon upon and at which such racing is conducted and the activities conducted thereat and thereon in connection with any trial or contest of speed or power of endurance of harness horses shall be construed and deemed to be exclusive of and shall supersede any provisions of such other general or special statute, local law or ordinance in any wise relating thereto, insofar as the same affect or relate to trotting or harness racing, nor shall the provisions of article two hundred twenty-five of the penal law be deemed to apply to pari-mutuel betting conducted pursuant to sections two hundred twenty-two through seven hundred five of this chapter.

§ 315. Bond required of corporation or association conducting pari-mutuel betting. Every corporation or association licensed by the commission to conduct harness horse race meetings at which pari-mutuel betting shall be permitted, annually and before the opening of any race meeting shall execute and file with the state comptroller a bond to this state in a penalty to be fixed by the department of taxation and finance not exceeding two hundred fifty thousand dollars, with sureties approved by the attorney general, that it will keep its books and records and make reports as required by sections two hundred twenty-two through seven hundred five of this chapter, that it will pay to the state all taxes imposed by this chapter, that it will distribute to the patrons of pari-mutuel pools conducted by it all sums due upon presentation of winning tickets held by them, and that it will otherwise comply with all of the provisions of sections two hundred twenty-two through seven hundred five of this chapter and with the rules and regulations prescribed by the commission and the department of taxation and finance.

§ 316. Books and records of pari-mutuel betting. Every corporation or association conducting a harness horse race meeting at which pari-mutuel betting is authorized shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool including daily double pools, if any. The state tax commission or its duly authorized representatives shall at all reasonable times have access to all such books and records for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due to this state are being paid by such licensed corporation or association.

§ 317. Filing of certain agreements with the commission. Every association or corporation licensed to conduct harness race meetings at which pari-mutuel betting is permitted shall promptly after entering into any lease, agreement concerning any concession, labor management relations, the hiring of designated classes of officers, employees or contractors specified by the commission or any such other contract, agreement or arrangement as the commission may from time to time prescribe, file with the commission a true and correct copy, or an accurate summary, if oral, thereof.

§ 318. Disposition of on-track pari-mutuel pools; harness races. 1. Except as otherwise provided by law, every association or corporation authorized under this article to conduct pari-mutuel betting at a harness horse race meeting on races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment prior to April first of the year following the year of their purchase, less an amount that shall be established and retained by such racing association or corporation of between fourteen and twenty percent of the total deposits in pools resulting from regular bets, less sixteen to twenty-two percent of the total deposits in pools resulting from multiple bets, less twenty to thirty percent of the total deposits in pools resulting from exotic bets, and less twenty to thirty-six percent of the total betting deposits in pools resulting from super exotic bets. The retention rate to be established is subject to the prior approval of the commission. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter.

"Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in subdivision four of section three hundred one of this article.

a. Of the sum so retained from on-track pari-mutuel betting pools, such association or corporation authorized to operate in Westchester or Nassau county: (i) shall pay to the commissioner of taxation and finance as a reasonable tax for the privilege of conducting pari-mutuel betting at races run at race meetings held by such corporation or association, a tax, which is hereby levied, in the applicable percentage set forth in subdivision one of section one hundred thirty-six of this chapter as limited by subdivision two of section one hundred thirty-six of this chapter. Any such association or corporation shall, for any twelve-month period beginning on April first in nineteen hundred ninety and any year thereafter, expend an amount equal to at least one-half of one percent of its on-track bets during the immediately preceding calendar year for enhancements consisting of capital improvements as defined by section three hundred nineteen of this article, repairs to its physical plant, structures, and equipment used in its racing or wagering operations, and five special events at each track in each calendar year, not otherwise conducted in the ordinary course of business, the purpose of which shall be to encourage, attract and promote track attendance and encourage new and continued patronage, which events shall be subject to the approval of the commission for purposes of this subdivision. In the determination of the amounts expended for such enhancements, the commission shall consider the average of the two immediately preceding twelve-month calendar periods.

(ii) except as otherwise provided in this paragraph an amount equal to six and eight-tenths percent of the total pool resulting from on-track regular bets, an amount equal to seven and ninety-five one hundredths percent of the total pool resulting from on-track multiple bets, an amount equal to ten and one-half percent of the total pool resulting from on-track exotic bets, an amount equal to fifteen and one-half percent of the total daily pool resulting from on-track super exotic bets shall be used exclusively for purses, of which an amount of not less than ninety percent shall be used exclusively for purses for overnight races conducted by such association or corporation. Such amounts may be reduced upon an application approved by the commission and an agreement between the licensed harness racing corporation or association and the representative horsemen's organization as a condition to reduce the amounts of retained percentages as provided for in this section. However, of the total amount available for purses, an amount as determined by contractual obligations between an organization representing at least fifty-one percent of the owners and trainers using the facilities of such association or corporation for racing, training or stabling purposes and the association or corporation, shall be used for the administrative purposes of said organization and for such welfare and medical plans for regularly employed backstretch employees principally employed at the facilities of such corporation or association as provided by said organization, provided, however, that eligibility for benefits in such plans shall not be conditioned upon membership in such organization by any employee or employer thereof, and any denial of eligibility for benefits in such plans which, upon investigation and review by the commission, is determined to have resulted from a person, firm, association, corporation or organization knowingly aiding in or permitting eligibility for benefits being conditioned upon membership in such organization shall subject such organization to the penalties imposed under sections three hundred ten and three hundred twenty-one of this article but the ratio between the amounts actually expended for such welfare and medical plans and the cost actually incurred in administering such welfare and medical plans for fiscal years of such corporation or association, on or after July twenty-fourth, nineteen hundred eighty-one, shall not be less than the ratio between such amounts actually expended and such costs actually incurred for the fiscal year immediately prior to such date. Such organization shall annually on or before July first certify to the commission that it represents at least fifty-one percent of such owners and trainers and provide copies of such certification to such association or corporation. Any other organization claiming to represent at least fifty-one percent of such owners and trainers may file a challenge with the commission within fifteen days of such original certification. The commission shall examine such claim and may undertake studies and conduct hearings to determine the validity of such claim. Within sixty days of receiving such challenge and based upon the findings of such studies and hearings, the commission shall render a decision on the validity of such claim and advise such organizations and association or corporation of its determination. Upon receipt of such original certification by such organization, the association or corporation shall make such payments to said organization and, in the event of a challenge brought to any other organization, such payments shall continue to be made until such time as the commission renders its decision on such challenge; and

(iii) the balance of the retained percentage of such pools may be held by such association or corporation for its own use and purposes except as provided in paragraph c of this subdivision and in subdivision four of section three hundred one of this article, provided, however, that the commission shall report annually, on or before July first, to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee the extent to which such corporations and associations used such retained percentages for operations, maintenance, capital improvements, advertising and promotion, administration and general overhead and evaluate the effectiveness and make recommendations with respect to the application of the rates of taxation as provided for in subparagraph (i) of this paragraph in accomplishing the objectives stated therein. Such report shall also specify the amounts of such retained percentages used for investments not directly related to racing activities and such amounts used to declare dividends or other profit distributions, additions to capital stock, its sale and transfer and additions to retained earnings. Such reports shall also include an analysis of any such agreements or proposals to conduct or otherwise expand wagers authorized under article ten of this chapter and present its conclusions with respect to the conduct of such wagering, the nature of such proposals and agreements, and recommendations to ensure the future maintenance of the intent of this article and article ten of this chapter.

b. (i) Of the sums retained by any other licensed harness racing association or corporation other than those described in paragraph a of this subdivision, such association or corporation shall pay to the commissioner of taxation and finance as a reasonable tax for the privilege of conducting pari-mutuel betting at races run at race meetings held by such corporation or association, a tax, which is hereby levied, in the applicable percentage set forth in subdivision one of section one hundred thirty-six of this chapter, as limited by subdivision two of section one hundred thirty-six of this chapter. Any such racing association or corporation shall for any twelve-month period beginning on April first in nineteen hundred ninety and any year thereafter, expend an amount equal to at least one-half of one percent of its on-track bets during the immediately preceding calendar year for enhancements consisting of capital improvements as defined by section three hundred nineteen of this article, repairs to its physical plant, structures, and equipment used in its racing or wagering operations, not otherwise conducted in the ordinary course of business, the purpose of which shall be to encourage, attract and promote track attendance and encourage new and continued patronage, which events shall be subject to the approval of the commission for purposes of this subdivision. In this regard, expenditures by a county agricultural society pursuant to section three hundred nineteen of this article shall be credited to the applicable harness racing association or corporation for this purpose. In the determination of the amounts expended for such enhancements, the commission may consider the immediately preceding twelve-month calendar period or the average of the two immediately preceding twelve-month calendar periods. The commission shall report annually, before July first, to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee the extent to which such corporations and associations used such retained percentages for operations, maintenance, capital improvements, advertising and promotion, administration and general overhead and evaluate the effectiveness and make recommendations with respect to the application of the rates of taxation as provided for in this subparagraph in accomplishing the objectives stated therein. Such report shall also specify the amounts of such retained percentages used for investments not directly related to racing activities and such amounts used to declare dividends or other profit distributions, additions to capital stock, its sale and transfer and additions to retained earnings. Such reports shall also include an analysis of any such agreements or proposals to conduct or otherwise expand wagers authorized under article ten of this chapter and present its conclusions with respect to the conduct of such wagering, the nature of such proposals and agreements, and recommendations to ensure the future maintenance of the intent of this article.

(ii) Of the sums retained by such association or corporation, an amount equal to one and three-quarters percent of the total pool resulting from on-track regular, multiple and exotic bets shall be used exclusively for the purpose of increasing purses awarded in overnight races conducted by such association or corporation. Such amounts shall be in addition to purse moneys otherwise provided pursuant to existing contractual obligations. In this regard an amount equal to twelve percent of the total bets in super exotic pools shall be used for purses in lieu of any such contractual obligations that might otherwise apply to purses to be awarded on super exotic bets. Any portion of such amount not so used during any year shall be so used during the following year. In addition to the amounts required in this paragraph, fifty percent of all additional sums retained, as a result of tax reductions provided in this section after September first, nineteen hundred ninety-four to qualified licensed harness racing associations, shall be used exclusively for purposes of increasing purses awarded in overnight races conducted by such association or corporation, provided that such association or corporation has entered into a written agreement with its representative horsemen's organization on and after September first, nineteen hundred ninety-four. Notwithstanding anything contained herein to the contrary, in a harness special betting district the amount to be used for purses or the methodology for calculating the amount to be used for purses may be specified in a written contract between a harness racing association or corporation and its representative horsemen's association. The balance of the retained percentage of such pool may be held by such corporation or association for its own use and purposes.

(iii) The commission shall as a condition of racing require an association authorized to operate in areas other than Westchester or Nassau county to withhold one percent of all purses and to pay such sum to the horsemen's organization representing the owners and trainers using the facilities of such association that had a contract with the association governing the conditions of racing on January first, nineteen hundred ninety-two, as determined by the commission.

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) such organization 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.

c. Of the sums retained by any harness racing association or corporation, an amount equal to one percent of the total pools resulting from on-track regular, multiple and exotic bets and an amount equal to three percent of the total pools resulting from on-track super exotic bets shall be paid to the agriculture and New York state horse breeding development fund.

d. Every harness racing association or corporation shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of the total daily on-track pari-mutuel pools of such association or corporation.

2. The state tax levied adjusted for any credits in this section shall be paid to the commissioner of taxation and finance, on the last business day of each month and shall cover taxes due for the period from the sixteenth day of the preceding month through the fifteenth day of the current month provided, however, that such payments required to be made on March thirty-first shall include all taxes due and accruing through the last full week of racing in March of the current year or as otherwise determined by the commissioner, and shall be accompanied by a report under oath showing the total of all such contributions together with such other information as the commissioner 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 determines that any moneys received under this section were paid in error, the commissioner may cause the same to be refunded without interest out of any moneys collected thereunder, provided an application therefor is filed with it 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 into the general fund of the state treasury.

3. Except as otherwise provided by law no county, city, town, village

or other political subdivision of the state may impose, levy or collect a tax on admission fees or tax on admission, on bets made by patrons in the form of purchases of pari-mutuel tickets or upon such tickets, on pari-mutuel pools, on breaks, on dividends or payments made to winning bettors, or on that part of the pari-mutuel pools or breaks to be retained by harness horse racing associations or corporations under this section.

4. Notwithstanding any other provisions of this chapter, there shall be no pari-mutuel tax imposed upon the compensation received by any harness racing association or corporation in consideration for (a) permission to have wagering conducted outside this state on races run by such association or corporation, and (b) the simulcasting outside this state of races run by such association or corporation, except for such permission or such simulcasting as may be granted to an off-track betting operator in the state of Connecticut by a harness racing association or corporation located in Nassau or Westchester county. Any such association or corporation so simulcasting to an off-track betting operator in the state of Connecticut shall pay to the New York commissioner of taxation and finance a reasonable tax for such permission and privilege for such simulcasting, which is hereby levied, at the following rates: one and one-tenth percent of total daily regular and multiple bets; three and one-tenth percent of total daily exotic bets; and three and one-half percent of total daily super exotic bets.

5. Maintenance of pari-mutuel racing activity. For any calendar year commencing on or after January first, nineteen hundred eighty-nine, a harness racing association or corporation shall not conduct fewer pari-mutuel programs and pari-mutuel races at its facilities than ninety percent of the programs and races so conducted during nineteen hundred eighty-five or during nineteen hundred eighty-six, whichever is less, unless such association or corporation demonstrates to the satisfaction of the commission good cause due to factors beyond the control of such association or corporation or because the commission finds that it would be uneconomical or impractical for such association or corporation to be assigned or conduct the prescribed number.

6. Notwithstanding any provision of law to the contrary, in the absence of a contract between the licensed harness racing corporation or association and the representative horsemen's organization, the previously negotiated contract related to welfare, medical, or retirement plans, including any associated costs, provided by the horsemen's organization to participants in racing at the licensed harness racing facility shall be automatically extended for a one-time period of twelve months commencing from the date that the previously negotiated contract expired. The amounts shall be paid monthly from the horsemen's gross purse enhancement amount from video lottery gaming.

§ 319. Capital improvements. 1. For the purposes of this section, "capital improvement" shall mean any addition to, replacement of or remodeling of the physical plant, structures and equipment now or hereafter owned or leased by a racing corporation or association that is used or is to be used by such corporation or association in connection with the conduct of horse race meetings, and shall include improvements to land but not land itself.

2. (a) Notwithstanding the provisions of section three hundred eighteen of this article, a harness track, may elect upon thirty days written notice to the commission to withhold, in addition to any other amounts required by this section, one percent of the total deposits in pools resulting from regular and multiple bets, provided, however, that any harness track withholding pursuant to this subdivision shall use at least fifty percent of such one percent exclusively for capital improvements as defined in subdivision one of this section subject to the rules and regulations of the commission. An amount, not to exceed fifty percent of such one percent, may be used for advertising and promotion expenses subject to the rules and regulations of the commission. Provided further, however, that if the harness track was owned prior to December thirty-first, nineteen hundred eighty-five, by a nonprofit county agricultural society and leased by a racing association such one percent shall be paid by the association to the society as additional rent. Such society shall use such one percent exclusively for capital improvements as defined in subdivision one of this section

subject to the rules and regulations of the commission. The capital improvements shall be determined by a committee of the society composed of the executive director of the society, the chair of the board of directors of the racing association, or his or her designee, and the general manager of the racing association. For the purposes of this paragraph the term "advertising" shall be limited to paid advertising through radio, television, the print media, direct mail or billboards. Promotions shall mean activities that are intended to increase the attendance at, or visibility of, a harness track and shall include premium giveaways, prizes, free admission, free parking, free programs, additional monies for purses or other activities of a promotional nature which stimulate on track attendance. In no event shall this section be construed to permit the payment of salaries to employees of such a harness track who are engaged in advertising or promotional activities.

(b) At least once annually, prior to approving any plan for the expenditure of such capital improvement funds pursuant to this section, the commission shall, together with the track operator and representatives of the horsemen's organization representing owners and trainers using the facility, inspect the entire facility, including the area commonly referred to as the backstretch, in order to determine whether the capital improvement plan submitted by the association or corporation for commission approval includes adequate provision for expenditures relating to the continued health, safety and well-being of patrons, backstretch personnel and the horses in their care. After such inspection, if the commission shall determine that such proposed plan does not include adequate provision for repairs and improvements necessary to correct any conditions that it has determined to be unsafe or otherwise deleterious to the health and safety of patrons, employees or horses, the commission shall require the track operator to modify its capital improvement plan to provide for the expenditure of funds for such repairs and improvements.

3. On or after July first, nineteen hundred ninety for a harness track other than a harness track authorized to operate in Westchester or Nassau county or a harness track owned by a non-profit county agricultural society and leased by a harness racing association such amounts as may be withheld for the purposes of this section shall be

deposited in a trust fund, kept and maintained by such corporation or association and administered by a trustee approved by the commission for the purpose of lending such sums and any interest thereon on an unsecured basis to such corporation or association exclusively for capital improvements as defined in subdivision one of this section. All such amounts borrowed by such corporation or association from such trust shall be forgiven and deemed satisfied according to a schedule of depreciation deductions for federal and New York state income tax purposes for such related capital improvements. It is further provided that at such time as such corporation or association shall surrender its pari-mutuel license or fail to apply for a pari-mutuel license for the succeeding year by December thirty-first of the preceding year that the commission may declare the trust fund at an end and all sums therein deposited plus all sums due or owing from such corporation or association to such trust shall be disposed of in accordance with provisions of law to be enacted for such purpose; except that the commission shall direct that such sums therein deposited and all sums due and owing from such corporation or association be transferred to the credit of a successor in interest to such corporation or association upon the licensing of such successor in interest by the commission. Such trust shall be established and administered pursuant to the rules and regulations of the commission.

§ 320. Revocation of license. The commission may revoke or suspend a license for the conduct of harness race meetings at which pari-mutuel betting is conducted:

a. For any cause that would permit or require its refusal to issue a license, or

b. If it shall determine that: the corporation or association to which such license shall have been issued, or its officers or directors, fail to conduct racing at its track, including pari-mutuel betting on the races thereat, in accordance with the terms and conditions of such license, the rules of the commission or of the department of taxation and finance, or the provisions of sections two hundred twenty-two through seven hundred five of this chapter, or if such corporation or association or its officers or directors shall knowingly permit on its grounds or within the enclosure of its racetrack, lotteries, pool-selling or bookmaking, or any other kind of gambling, in violation of sections two hundred twenty-two through seven hundred five of this chapter or of the penal law.

§ 321. Hearing of refusal or revocation of license. If the commission refuses to grant a license applied for under sections two hundred twenty-two through seven hundred five of this chapter, or revokes or suspends such a license granted by it, or imposes a monetary fine upon a participant in harness racing the applicant or licensee or party fined may demand, within ten days after notice of such act of the commission, a hearing before the commission and the commission shall give prompt notice of a time and place for such hearing at which the commission will hear such applicant or licensee or party fined in reference thereto. Pending such hearing and final determination, the action of the commission in refusing to grant or in revoking or suspending a license or in imposing a monetary fine shall remain in full force and effect. The commission may continue such hearing from time to time for the convenience of any of the parties. Any of the parties affected by such hearing may be represented by counsel, and the commission may be represented by the attorney general, a deputy attorney general or its counsel. In the conduct of such hearing the commission shall not be bound by technical rules of evidence, but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission, shall be permanently preserved and shall constitute the record of the commission in such case. In connection with such hearing, each member of the commission shall have the power to administer oaths and examine witnesses, and may issue subpoenas to compel attendance of witnesses, and the production of all material and relevant reports, books, papers, documents, correspondence and other evidence. The commission may, if occasion shall require, by order, refer to one or more of its members or officers, the duty of taking testimony in such matter, and to report thereon to the commission, but no determination shall be made therein except by the commission. Within thirty days after the conclusion of such hearing, the commission shall make a final order in writing, setting forth the reasons for the action taken by it and a copy thereof shall be served on such applicant or licensee or party fined, as the case may be. The action of the commission in refusing to grant a license or in revoking or suspending a license or in imposing a monetary fine shall be reviewable in the supreme court in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

§ 322. Approval of plans of corporation or association. The commission shall not grant to a corporation or association hereafter formed pursuant to sections two hundred twenty-two through seven hundred five of this chapter, a license to conduct a harness race meeting at which pari-mutuel betting may be conducted within the state until such corporation or association shall have submitted to the commission a statement of the location of its proposed grounds and racetrack, together with a plan of such racetrack, and plans of all buildings, seating stands and other structures in such form as the commission may prescribe, and such plans shall have been approved in writing by the commission. Such plans shall show that its paddock and barn areas can accommodate and serve the needs of horses and horse trainers that participate in live racing at such facility. Alterations or discontinuance of existing buildings, seating stands and other structures, and the erection of new or additional buildings, seating stands or other structures may be made only with the prior written approval of the commission and after examination and inspection of the plans thereof and the issuance of a permit therefor by the commission. The commission at the expense of the applicant may order such engineering examination thereof as the commission may deem necessary. The approval of the certificate of incorporation of such corporation or association shall not be deemed to vest in it the right to a license to conduct harness race meetings at such race course or racetrack unless such grounds, track, buildings, seating stands and other structures shall be completed in accordance with the plans approved by the commission.

§ 324. Free or reduced fee passes, cards or badges. A corporation or association licensed to conduct pari-mutuel betting on harness horse races run at its racetrack may issue free passes, cards or badges to any qualified person. A qualified person shall include, but need not be limited to, officers and employees of the corporation or association conducting the race meeting, members, officers, and employees of the commission, members of harness racing associations of other states and foreign countries, public officers engaged in the performance of their duties, persons actually employed and accredited by the press to attend such meetings, owners, stable managers, trainers, drivers, concessionaires, spouses, domestic partners and children of owners, trainers and drivers, other persons whose actual duties require their presence at such racetrack, and any other person or guest deemed appropriate by such corporation or association. In addition, free or reduced fee passes, cards or badges may be issued to the general public or segments of the general public in connection with any promotional campaign or marketing program sponsored by such corporation or association to increase attendance at live race meets. The issuance of free passes, cards or badges shall be under the rules and regulations of the commission.

§ 325. County, town and agricultural fairs and harness race meetings not licensed to conduct pari-mutuel betting. Pari-mutuel betting on harness races at any county, town, agricultural or other fair held within the state, shall not be authorized and no lottery, pool-selling, bookmaking, or any other kind of gambling upon the result of races, heats or contests of speed of harness horses allowed at such fair or at any harness race meeting conducted in the state, except such as may be licensed to operate pari-mutuel betting pursuant to the provisions of sections two hundred twenty-two through seven hundred five of this chapter which said form of betting as herein provided shall alone be legalized and allowed.

Every corporation, society or association conducting racing without license for pari-mutuel betting shall cause to be posted conspicuously upon the grounds whereon such races or racing is held, printed notices or placards in legible type to the effect that all disorderly conduct, pool-selling, bookmaking or any other kind of gambling upon the result of heats or races or contests of speed of harness horses is prohibited.

In the event that the officers or directors of any corporation, association or society conducting a harness race meeting without pari-mutuel betting, including the officers and directors of county, town and agricultural fairs shall comply with the foregoing provisions contained in this section regarding the posting of notices then no director or officer thereof shall be personally liable for the imposition of any fine or to prosecution, or in any manner held liable for any violation, by a person other than himself, of the provisions of law relative to bookmaking or other gambling unless knowingly permitted by him, nor shall the maintaining of a racetrack nor the holding or conducting of harness races thereon be construed or held to be a violation of any of the provisions of any general or special law, penal or otherwise.

§ 326. Employees at harness race meetings. At least eighty-five per centum of the persons employed each day in the operation and conduct of pari-mutuel betting at harness race meets licensed pursuant to sections two hundred twenty-two through seven hundred five of this chapter shall be citizens of the United States of America and residents of this state for at least two years immediately prior to the commencement of such employment. Each person, prior to his employment in the operation and conduct of pari-mutuel betting at harness race meets, shall be required to execute and submit to the corporation or association by which he is employed a duly verified affidavit setting forth his qualifications for employment pursuant to the provisions of this section.

§ 327. Membership in a labor union or a labor organization. 1. Membership in a labor union or a labor organization shall not be, or be made, a condition of employment or a preference in employment nor a condition of, or a preference in, the continuation of employment of any person at any track at which pari-mutuel harness racing is conducted by any association or corporation licensed under sections two hundred twenty-two through seven hundred five of this chapter and it shall be unlawful for any labor union or labor organization, or any of its agents, to cause or attempt to cause any such association or corporation to make membership in a labor union or a labor organization a condition of employment or a preference in employment or a condition of, or a preference in, the continuation of employment of any person at any such track; except that nothing herein shall prohibit the incorporation in any collective bargaining agreement between such an association or corporation and a bona fide labor union or bona fide labor organization (determined to be the exclusive representative of employees in the appropriate bargaining unit covered by such agreement after an election pursuant to the provisions of the New York state labor relations act) of a provision which provides that an employee of such association or corporation shall not be permitted to continue in such employment beyond the fifteenth day after the date of his employment or the effective date of the agreement whichever is later unless by then he has become, and thereafter during his employment shall remain, a member of such labor union or labor organization, or, if such employee is required by the provisions of sections two hundred twenty-two through seven hundred five of this chapter to be licensed, unless he becomes such a member not later than the fifteenth day after the date of his employment, or after the day on which the board shall grant a license to such employee, whichever of said two days shall be later. Notwithstanding any such agreement, no such association or corporation shall discharge any employee for non-membership in a labor union or labor organization if it has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or if it has reasonable grounds for believing that membership was denied or terminated for any reason other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

2. Any person who wilfully violates any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof,

shall be subject to a fine of not more than five thousand dollars or to imprisonment for not more than one year, or both.

3. The supreme court of this state shall have jurisdiction, upon petition and upon such notice to the opposing party or parties as the court shall direct, to restrain any violation of this section, any other act of this state to the contrary notwithstanding, and to grant such other relief to any person who shall be aggrieved by any such violation as the court shall deem proper.

4. The provisions of this section shall not apply to employees engaged in the preparation, service and handling of food and beverages in the operation of a restaurant or a food or beverage dispensing facility at such track.

§ 328. Disposition of unpaid money due on account of pari-mutuel tickets not presented. The sum held by any corporation or association authorized to conduct pari-mutuel betting for payment of outstanding winning pari-mutuel tickets and for refunding the price of pari-mutuel tickets shall be retained by such corporation or association for such purposes until April first of the succeeding year; provided, however, that ninety-five per centum of such sum remaining unclaimed as of the last day of February of such year shall be paid to the state tax commission by March fifteenth. On April tenth, the balance of such sum remaining unclaimed and any other unclaimed amount received in the course of conducting pari-mutuel betting shall be paid to the state tax commission. A penalty of five per centum and interest at the rate of one per centum per month from the due date to the date of payment of the unclaimed balance due March fifteenth or April tenth, as the case may be, shall be payable in case such balance is not paid when due. Such amounts, interest and penalties when collected shall be paid by the state tax commission into the general fund of the state treasury.

§ 329. Penalties. 1. The failure of any witness, when duly subpoenaed, to attend, give testimony or produce other evidence shall be punishable by the supreme court in the same manner as such failure is punishable by such court in a case therein pending.

2. Any person who shall fail to file any affidavit as required by this article shall be guilty of an offense punishable by fine not to exceed one thousand dollars or imprisonment not exceeding one year or both. Except as provided otherwise by law, such an offense shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment, and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person convicted thereof.

3. Any person who shall wilfully make or file any false or fraudulent report, statement, affidavit or application required by this article to be made or filed under oath, or who, having been sworn or affirmed as a witness in any hearing as provided for in this article, shall wilfully give false testimony, shall be guilty of perjury.

§ 330. Agriculture and New York state horse breeding development fund. 1. There is hereby created within the state gaming commission the "agriculture and New York state horse breeding development fund". Such fund shall be a body corporate and politic constituting a public benefit corporation. It shall be administered by a board of directors consisting of the chair of the commission or his or her designee, the commissioner of agriculture and markets, and three members appointed by the governor, all of whom are experienced or have been actively engaged in the breeding of standardbred horses in New York state, one upon the recommendation of the temporary president of the senate and one upon the recommendation of the speaker of the assembly. The governor shall designate the chair from among the sitting members of such board of directors, who shall serve as such at the pleasure of the governor. Appointed members shall serve for a term of four years and shall continue to hold office until their successors are appointed and qualified. The members of the board of directors of the fund shall receive no compensation from the fund for their services as such members but shall be reimbursed by the fund for the expenses actually and necessarily they incur in the performance of their duties under sections two hundred twenty-two through seven hundred five of this chapter. Such fund shall have perpetual existence and shall exercise all powers authorized by this chapter and reasonably necessary for accomplishing its purposes. Such powers shall be exercised in the name of the fund.

2. The board of directors of the fund may delegate to one or more of the members or officers of the fund such powers and duties as it may deem proper and shall use, pursuant to a contract or memorandum of understanding approved by the director of the budget, the service employees of the commission and the state office of racing promotion and development.

3. The fund is created in order that it may promote the breeding of horses and the conduct of equine research in this state on its own responsibility and under its own business management. The policy, good faith and interest of the state are concerned with the management and development of the fund and are committed to promotion of horse breeding and equine research in this state in active cooperation with the fund. The promotion and encouragement of equine research shall be through a fund of a land grant university within this state with a regents approved veterinary college facility. Nothing herein, however, shall be deemed in any way to obligate the state to any bondholder or other creditor of the fund.

4. The fund is directed to report annually, on or before January thirty-first, to the governor and the legislature, on the state of the standardbred breeding industry in this state. Such reports shall include, but not be limited to, the impact of the fund's programs on the breeding and racing aspects of the industry; economic factors affecting the industry such as employment and employment growth, state and local benefits of breeding farms, income and the production of income within this state, economic comparisons with other states; and data relative to mares and stallions standing in this state to include such information as the number in this state, racing quality as measured by wins and stakes won and placed and money won, the number of foals and foal racing quality as measured by sales value and number of starts, races and money

won, the progeny quality, including earnings, and the success of New York-breds nationally.

5. The fund is further directed to incorporate into its reports comments from spokesmen representing all segments of the industry as well as recommendations on preserving and enhancing the standardbred breeding industry in this state.

§ 331. Powers. The fund shall have power:

1. To sue and be sued.

2. To have a seal and alter the same at pleasure.

3. To acquire, hold and dispose of personal property for its corporate purposes.

4. To make by-laws for the management and regulation of its affairs.

5. To invest or to authorize the comptroller to invest on behalf of the fund any moneys of the fund pursuant to the provisions of section ninety-eight-a of the state finance law, and all interest earned shall be credited to each account authorized by section three hundred thirty-two of this chapter pursuant to resolution.

§ 332. Resources of fund. The fund is authorized and directed:

1. To collect and receive in each calendar year amounts to be paid to the fund by the persons or corporations licensed to conduct pari-mutuel betting at harness racing tracks, an amount equal to three-fifths of one per centum of all moneys deposited in pari-mutuel betting pools resulting from on-track bets at all races conducted by licensees at a harness horse meeting or races run thereat except that for super exotic betting pools such amount shall be three per centum of such bets, as provided by paragraph c of subdivision one of section three hundred

eighteen of this article and to collect and receive in each calendar year to be paid to the fund by each regional corporation, an amount equal to three-fifths of one per centum of daily pools derived from off-track bets on harness races except that for super exotic betting pools such amount shall be three per centum of such bets as provided by subdivision five of section five hundred twenty-seven of this chapter; provided however, that after April first, nineteen hundred eighty-six, the amount to be collected and received from such licensees and regional corporations, except for super exotic betting pools, shall be one per centum, and to collect and receive such funds as may otherwise be authorized by law. The moneys shall be deposited forthwith in a bank or banks in this state. The fund is authorized to dispose of and distribute the monies received by it pursuant to the provisions of this chapter for the following purpose and no others:

a. An amount as shall be determined by the fund, but shall not exceed four percent thereof in an account designated "administration".

b. An amount as shall be determined by the fund in an account designated "4-H standardbred development program".

c. An amount as shall be determined by the fund in an account designated "New York state exposition horse facility maintenance and construction".

d. An amount as shall be determined by the fund in an account designated "New York state exposition breeding farms".

e. An amount as shall be determined by the fund in an account designated "county and town agricultural societies".

f. An amount as shall be determined by the fund but shall not be less than seventy-five percent thereof in an account designated "New York state breeding farms", and of such amount not less than ten percent nor more than twenty percent as determined by the trustees of the fund may be used exclusively for breeders' awards for New York-breds and awards to owners of eligible stallions.

g. An amount as shall be determined by the fund in an account designated "county and town agricultural society harness racing events".

h. An amount equal to two percent thereof in an account designated "equine research".

i. An amount as shall be determined by the fund, but not in excess of one and one-half percent thereof, in an account designated "to support and promote research, educational programming, and the preservation of the history and traditions of harness and trotting horse racing through acquiring and maintaining collections of artifacts, memorabilia and documents related to such history and to maintaining a historic race track that is designated as a national registered historic landmark".

j. An amount as shall be determined by the fund for the care of retired horses, provided, however, such amounts shall be allocated from a dedicated account to be funded by the collection of fines assessed pursuant to section three hundred eighty-two of the agriculture and markets law. The gaming commission shall establish an advisory board to consult the fund when making such allocations with representatives of thoroughbred and standardbred owners and breeders, and animal protection organizations with expertise in the care of retired and rescued horses.

2. a. To disburse annually out of the account designated in paragraph e of subdivision one of this section, to any agricultural society qualified therefor under rules and regulations established by the fund and which properly requests same, reimbursement for moneys expended by it for actual and necessary repairs to its grounds or buildings approved by the fund and used directly in promotion of agriculture generally, except that no such qualifying society shall be paid in excess of six thousand dollars for such repair in any one year, and to disburse annually out of the said account designated in paragraph e of subdivision one of this section, to any agricultural society qualified therefor, under rules and regulations established by the fund and which properly requests same.

b. After disbursements of moneys out of the account designated in paragraph e of subdivision one of this section for repairs as set forth in paragraph a of this subdivision, to disburse the balance of moneys in such account upon proper request made by a duly qualifying agricultural society for capital construction of the grounds, building or equipment, of the requesting society. In the event that the said balance remaining in such account is not sufficient to pay each qualifying society the amount requested and approved for payment by the authority, the balance in such account shall be paid proratably to the amount each requesting society would be eligible to receive, except that no qualifying society shall be paid in excess of fifteen thousand dollars for such capital construction purpose in any one year. No capital construction moneys under this subdivision shall be paid to any such agricultural society in the absence of satisfactory proof presented to the fund that such society has in its possession or on deposit to its account in bank, a like amount of money to be used by it for the same capital construction purpose.

c. Each such society whose application for capital construction moneys as described in paragraph b of this subdivision is approved by the fund in any year, shall have the right and privilege to defer such approved payment to it for capital construction for a period of up to three years beyond the year of approval. In the event that the approved capital construction remains uncompleted at the end of said three year deferred period, the amount of moneys so approved and deferred shall become a part of the balance for capital construction available to all such agricultural societies.

d. Any county or town agricultural society may apply to the fund for permission pursuant to the provisions hereof to make one or more capital improvements and the fund shall determine whether the proposed capital construction will promote agriculture or domestic arts in this state and, on a finding in the affirmative shall approve such construction and provide for payment to the applying society out of the account under the provisions designated in paragraph e of subdivision one of this section.

e. Agricultural societies qualified to participate under this subdivision, shall, on or before the thirty-first day of December in the year immediately preceding the year in which the said moneys are to be distributed, make application for participation to the fund. Sums paid hereunder to participating societies shall be separate from and additional to any sums paid annually by the department of agriculture and markets under the provisions of section two hundred eighty-six of the agriculture and markets law.

f. The fund shall provide forms for application for distribution and shall prescribe such regulations and rules as are necessary for carrying out the provisions of this section and may make such investigations as are necessary to determine the validity of any requests, claims and applications for distribution of moneys hereunder.

3. To disburse annually out of the account designated in paragraph b of subdivision one of this section, to such 4-H societies, such amounts as the directors deem advisable, as are engaged or propose to engage in a program for the development of standardbred horses. The form for application by such 4-H societies for such moneys, shall be prescribed by the trustees of the fund.

4. To disburse annually out of the account designated in paragraph c of subdivision one of this section, to the department of agriculture and markets for the construction and maintenance of racing facilities at the New York state exposition, such moneys deposited therein, to the extent that such moneys are expended for such purposes.

5. The salaries of the officers, agents and employees, and all other expenses of the said fund shall be paid out of the account designated in paragraph a of subdivision one of this section.

§ 333. New York state exposition harness racing. The fund is authorized and empowered to disburse annually as purses, prizes or premiums the moneys contained in the account designated in paragraph d of subdivision one of section three hundred thirty-two of this article, to owners of the winners, second, third, fourth and fifth place horses of all harness horse stake and overnight races conducted at the New York state exposition, or at any licensed pari-mutuel track in New York state, with a preference given to any available licensed pari-mutuel track that is five-eighths of a mile long or larger, for New York-bred colts, fillies and horses, as such New York-bred colts, fillies and horses comply with conditions for stake and overnight events set forth in section three hundred thirty-four of this article.

§ 334. New York-bred harness horse events. 1. The fund is further authorized and directed to conduct each year, at the New York state exposition, with the approval of the director of the exposition, or at any licensed pari-mutuel track in New York state, with a preference given to any available licensed pari-mutuel track that is five-eighths of a mile long or larger, colt, stake and overnight events for standardbred horses to provide contests for two year old and three year old colts and fillies at each gait of trotting and pacing. The colt, stake and overnight events so conducted for two year old and three year old colts and fillies at each gait of trotting and pacing hereunder shall be conditioned to admit only those colts and fillies sired by a stallion owned or leased and permanently standing for service at and within this state at the time of the said foal's conception, provided, however, that such mare, stallion, and foal shall be microchipped with such microchip information which the commission may request be provided and made available pursuant to section two hundred twenty-five of this chapter. Such colt, stake and overnight events shall be opened for nomination not earlier than the first day of January in the year the event is to be held and only colts and fillies and horses complying with the following standards shall be eligible for such nomination:

a. All foals must be sired by a stallion registered with the fund or an agent designated by it.

b. Prior to December first of each year, all persons standing a stallion at either public or private service shall file with the fund or an agent designated by it a list of all mares bred to each stallion.

c. All persons standing a stallion in New York state must:

Register each stallion with the fund or an agent designated by it.

d. Syndicates standing a stallion in this state where the syndicate is owned partly by non-residents of this state, must file a lease with the fund or an agent designated by it.

e. Stallion eligibility: Eligible stallions are those stallions:

(i) owned by a resident of New York state and standing the entire stud season in New York state, or

(ii) owned by a resident of a state other than New York but standing the entire stud season in this state and leased by a resident of this state for a term of not less than one year, or

(iii) owned jointly by a resident of a state other than New York together with a resident of this state and standing the entire stud season in this state and leased by a resident of this state for a term of not less than one year.

(1) Starting fees in such colt and filly stake events shall not be less than two percent of the amount of the purse therefor and shall be added to purses to be distributed as hereinafter provided.

(2) Purses, stakes or prizes shall be paid to the winners, second, third, fourth and fifth place horses in the aforesaid colt and filly and horse stake events, in amounts determined by the fund. Purses and prizes shall be paid to the winners, second, third, fourth and fifth place horses in overnight events, in amounts to be determined by the harness track licensees.

2. The fund is further authorized and directed in each year, in cooperation with each licensee harness track in this state, to provide for the running of stake events conditioned to admit only two year old and three year old colts and fillies sired by a stallion owned or leased and permanently standing for service at and within this state at the time of the said foal's conception, at each gait of trotting and pacing, to be known as "New York sire stakes program" and to contribute to the purses, stakes or prizes to be awarded in such "New York sire stakes program", such sums as the fund shall deem advisable. The fund shall

provide bonus payments to those foals conceived within the state and dropped from mares that reside in the state for a time period defined and imposed by the fund. The fund may prescribe a starting fee for all races within the "New York sire stakes program" set forth in this subdivision, but in no event shall such fee be less than two per centum of the estimated purse for each entry. The fee prescribed shall be added to the purses awarded.

3. A foal shall be eligible for all races within the "New York sire stakes program" set forth in subdivision two of this section, and all stake and overnight events conducted at the New York state exposition set forth in subdivision one of this section if sired by a stallion owned by a resident of this state or leased to a resident of this state for a period of no less than one year and standing for service within the state at the time of the foal's conception.

4. The fund shall have the power to prescribe rules and regulations to determine the eligibility of entries in all races within the "New York sire stakes program" set forth in subdivision two of this section, and all stake and overnight events conducted at the New York state exposition set forth in subdivision one of this section and to effectuate the purposes and requirements set forth in this section.

§ 335. County and town agricultural society harness racing events. The fund is further authorized and directed in each year, in cooperation with each town and county agricultural society, qualified therefor under rules and regulations established by the fund, to provide for the running of New York-bred harness horse racing events, as authorized by the fund, and to contribute to the purses, prizes and premiums, such sums as the fund shall deem advisable, to be disbursed from the account designated "county and town agricultural society harness racing events". Said events shall be conditioned to admit only standardbred horses which meet the standards set forth in subdivision one of section three hundred thirty-four of this chapter.

§ 336. Actions against fund. Except in an action for wrongful death, no action against the fund founded upon tort shall be commenced (a) prior to the expiration of thirty days from the date on which the notice of claim upon which the action is founded, served pursuant to section fifty-e of the general municipal law, was presented to a member of the board of directors of the fund or other officer thereof designated for such purpose nor (b) more than one year and ninety days after the cause of action therefor shall have accrued. An action against the fund for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

ARTICLE IV
QUARTER HORSE RACING AND BREEDING

Section 401. General powers of commission.
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432. Powers of the fund.
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436. Actions against fund.

§ 401. General powers of commission. 1. Pursuant to the provisions of sections two hundred twenty-two through seven hundred five of this chapter, the commission shall have power to supervise generally all quarter horse race meetings in this state at which pari-mutuel betting is conducted. The commission may adopt rules and regulations not inconsistent with sections two hundred twenty-two through seven hundred five of this chapter to carry into effect its purposes and provisions and to prevent circumvention or evasion thereof. In order that the rules of quarter horse racing may be uniform throughout the United States, the commission may adopt the rules and regulations of the American Quarter Horse Association, in whole or in part, and may adopt such other or different rules as it deems necessary to carry into effect the purposes and provisions of sections two hundred twenty-two through seven hundred five of this chapter.

2. Without limiting the generality of the foregoing, and in addition to its other powers:

a. The commission shall have power to fix minimum and maximum charges for admission to quarter horse race meetings at which pari-mutuel betting is conducted provided, however, that the commission shall have power to fix the charge for admission of members of the armed forces of the United States in uniform at one-half of the amount fixed for such admission generally under authority of this section.

b. The commission shall prescribe rules and regulations for effectually preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed of quarter horses in any race in which they are about to participate.

c. The rules of the commission shall also provide that all winning pari-mutuel tickets must be presented for payment before April first of the year following the year of their purchase and failure to present any such ticket within the prescribed period of time shall constitute a waiver of the right to participate in the award or dividend.

d. The commission shall have power in its discretion, consistent with the powers of the department of taxation and finance, to prescribe uniform methods of keeping accounts, records and books to be observed by associations or corporations licensed under the provisions of this article or by any association or corporation that owns stock in, or shares in the profits, or participates in the management or affairs of, such licensed association or corporation, or by any person, firm, association or corporation holding any concession, right or privilege to perform any service or sell any article at any track at which pari-mutuel quarter horse racing meets are conducted. The commission may also in its discretion, consistent with the powers of the department of taxation and finance, prescribe by order forms of accounts, records and memoranda to be kept by such persons, firms, associations or corporations. The commission shall have power to visit, investigate, and place expert accountants, or such other persons as it may deem necessary, in the offices, tracks or other places of business of any such person, firm, association or corporation for the purpose of seeing that the provisions of sections two hundred twenty-two through seven hundred five of this chapter and rules and regulations issued by the commission thereunder are strictly complied with. Such persons, firms, associations or corporations shall annually file with the commission, on such date as the commission shall prescribe, a report showing their financial condition and financial transactions during the fiscal year, including a balance sheet and a profit and loss statement, verified by the oath of at least two of its principal officers, if it be an association or corporation having officers, and by one or more of the owners or proprietors thereof if not an association or corporation. The report shall be in such form and contain such other matters as the commission may determine from time to time to be necessary to disclose accurately the financial condition and operation of such persons, firms, associations or corporations during the preceding fiscal year. The commission may for good cause shown grant a reasonable extension of time for the filing of any such report.

§ 402. Incorporation. Any number of persons, not less than five, may become a corporation for the purpose of conducting quarter horse race meetings at which pari-mutuel betting will be conducted, with all the general powers of corporations created under the laws of this state, by making, signing, acknowledging and filing a certificate which shall contain:

1. The name of the proposed corporation.

2. The objects for which it is to be formed and the location at which it is proposed to conduct its business.

3. The amount and description of the capital stock.

4. The location of its principal business office.

5. Its duration, which shall not exceed fifty years.

6. The number of its directors, not less than five nor more than

thirteen.

7. The names and post office addresses of the directors for the first year.

8. The post office addresses of the subscribers and a statement of the number of shares of stock which each agrees to take in the corporation.

No certificate of incorporation under this section shall hereafter be filed without the approval of the commission indorsed thereon or annexed thereto.

No corporation organized pursuant to this article or operating a quarter horse race meet pursuant to the provisions of section four hundred four of this chapter, shall have or be given the right or power to conduct any quarter horse race meet pursuant to this article except at the location designated in its certificate of incorporation as the place at which it was proposed to conduct its business; provided, however, that this restriction shall not apply to any such corporation or association whose racing plant or the usefulness thereof or of any material part thereof, in the discretion of the board shall, for any reason beyond the control of such corporation or association, be totally destroyed or so substantially interfered with or damaged as to render same unfit for continued operation. Pending the rebuilding or restoration of its usefulness or the making of the required repairs to said plant or the part thereof so destroyed or damaged, the board may license such corporation or association to conduct its quarter horse race meetings at any other suitable location.

§ 403. Filing of information concerning stock transfers; necessity for commission approval. 1. Whenever there is a transfer of stock of any association or corporation that is licensed under this article, or of any association or corporation that leases to such licensee the track at that it conducts pari-mutuel quarter horse races, or which owns twenty-five percent or more of the stock of such licensee, there shall be filed simultaneously with the association or corporation that issued such stock the following:

a. In duplicate, an affidavit executed by the transferee stating that he or she is to be the sole beneficial owner thereof, and whether or not he or she (i) has been convicted of a crime involving moral turpitude, (ii) has been engaged in bookmaking or other forms of illegal gambling, (iii) has been found guilty of any fraud or misrepresentation in connection with racing or breeding, (iv) has been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction for which suspension from racing might be imposed in such jurisdiction, or (v) has violated any rule, regulation or order of the commission; if the transferee is not, or is not to be, the sole beneficial owner thereof, then there shall be annexed to said affidavit of the transferee, and expressly stated in such affidavit to be deemed a part thereof, a true and complete copy, or if oral, a complete statement of all the terms, of the agreement or understanding pursuant to which the stock is to be so held by the transferee, including a detailed statement of the interest therein of each person who is to have any interest therein; and at the same time.

b. In duplicate, an affidavit executed by each person for whom the said stock, or any interest therein, is to be held by said transferee, setting forth whether or not the affiant (i) has been convicted of a crime involving moral turpitude, (ii) has engaged in bookmaking or other forms of illegal gambling, (iii) has been found guilty of any fraud or misrepresentation in connection with racing or breeding, (iv) has been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction for which suspension from racing might be imposed in such jurisdiction, or (v) has violated any rule, regulation or order of the commission; to each of which affidavits shall be annexed, and expressly stated in such affidavit to be deemed a part thereof, a true and complete copy, or if oral, a complete statement of all the terms of the agreement or understanding pursuant to which the stock is to be so held by the transferee, including a detailed statement of the interest therein of each person who is to have any interest therein.

c. Said association or corporation shall forthwith file with the commission one of each of said duplicate affidavits.

2. If, after the filing of any affidavit required to be filed by subdivision one of this section, there is any change in the status of any such affiant with respect to any of the matters set forth in paragraph a or b of subdivision one of this section, of the affidavit filed by such affiant, then such affiant shall forthwith file with the association or corporation with which his or her affidavit was so filed a new affidavit, executed by him or her in duplicate, setting forth such change of status, and the association or corporation shall forthwith file one of said affidavits with the commission.

3. Whenever any change shall be made in the amount, nature, or otherwise, of the interest of any person having an interest in stock of any such association or corporation, or any new interest shall be created therein, without a transfer thereof as provided in this section, the record owner of such stock, and each person whose interest therein has been so attempted to be changed or created, shall file with the association or corporation that issued such stock, in duplicate, affidavits as provided by paragraphs a and b of subdivision one of this section, except that such affidavits need not include the matters referred to in paragraph a or b of subdivision one of this section, unless then required pursuant to subdivision two of this section, and one copy thereof shall forthwith be filed by the association or corporation with the commission.

4. The commission may, upon application to it for good cause shown, waive compliance with subdivisions one, two and three of this section.

5. If the commission determines that it is inconsistent with the public interest, convenience or necessity, or with the best interests of racing generally, that any person continue to be a stockholder of record or the beneficial owner of any interest in stock standing in the name of another, in any association or corporation licensed under this article, or of any association or corporation that leases to such licensee the track at which it conducts pari-mutuel quarter horse racing or that owns

twenty-five percent or more of the stock of such licensee, the commission shall have full power and authority to order or direct each such stockholder or beneficial owner irrespective of the time when such stockholder or beneficial owner acquired his or her stock or interest therein to dispose of such stock or interest within a period of time to be specified by the commission, which period the commission shall have full power and authority to extend from time to time.

6. If the commission shall make any order or direction as provided in subdivision five of this section, the person aggrieved thereby shall be given notice of the time and place of a hearing before the commission at which the board will hear such person in reference thereto. The action of the commission in making any such order or direction shall be reviewable in the courts of this state in the manner provided by, and subject to the provisions of article seventy-eight of the civil practice law and rules.

7. Upon application of the commission, the supreme court of this state shall have jurisdiction to issue final orders, on notice and after hearing, commanding any person to comply with the provisions of the orders or directions issued by the commission under subdivision five of this section.

8. In case of conflict between this section and article eight of the uniform commercial code, this section shall control.

§ 404. Right to hold quarter horse race meetings and races. Any corporation formed under the provisions of the pari-mutuel revenue law, and any corporation and association that shall have conducted quarter horse race meetings during two years prior to the enactment of the pari-mutuel revenue law, and any town or county fair association or other fair association shall have the power and the right to hold one or more quarter horse race meetings in each year and to hold, maintain and conduct quarter horse races at such meetings. At such quarter horse race meetings the corporation or association, or the owners of horses engaged in such races, or others who are not participants in the race, may contribute purses, prizes, premiums or stakes to be contested for, but no person or persons other than the owner or owners of a horse or horses contesting in a race shall have any pecuniary interest in a purse, prize, premium or stake contested for in such race, or be entitled to or receive any portion thereof after such race is finished, and the whole of such purse, prize, premium or stake shall be allotted in accordance with the terms and conditions of such race. Such power and right, however, shall not include the right to conduct pari-mutuel betting at such quarter horse race meetings except pursuant to license granted by the commission pursuant to sections two hundred twenty-two through seven hundred five of this chapter.

§ 405. Pari-mutuel betting at quarter horse races. No more than five corporations or associations shall be licensed by the commission in any one year to conduct a pari-mutuel meet or meets. Said pari-mutuel betting conducted at such meetings shall be under the general supervision and control of the commission which shall make rules regulating the conduct of such pari-mutuel betting in accordance with the provisions of sections two hundred twenty-two through seven hundred five of this chapter. The department of taxation and finance is charged with the financial administration of pari-mutuel betting as prescribed in this article and as supplemented by the rules and regulations of the commission. The department of taxation and finance shall have authority to prescribe the forms and the system of accounting to be employed, and through its representatives shall at all times have power of access to and examination of any equipment relating to such betting.

§ 407. Licenses for quarter horse race meetings. 1. Any association or corporation desiring to conduct quarter horse race meetings at which pari-mutuel betting shall be permitted may apply annually to the commission for a license so to do. If, in the judgment of the commission the public interest, convenience or necessity will be served thereby and a proper case for the issuance of such license is shown consistent with the purposes of sections two hundred twenty-two through seven hundred five of this chapter and the best interests of racing generally, the commission may grant such license for a time ending not later than the thirty-first day of December next, specifying dates and hours during which and the place where the licensee may operate.

2. Every such license shall be issued upon condition:

a. that every quarter horse race meeting at which pari-mutuel betting is conducted shall be subject to the supervision of and to the reasonable rules and regulations from time to time prescribed by the commission, and

b. that pari-mutuel betting conducted thereunder shall also be subject to the supervision of and to the reasonable regulations from time to time prescribed by the department of taxation and finance. Any such license may also be issued upon any other condition that the commission shall determine to be necessary or desirable to insure that the public interest, convenience or necessity is served.

3. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. Each application for renewal of a license shall be deemed to be an application for a new license. The fee for such licenses shall be one hundred dollars for each racing day payable in installments in advance of each week's racing which sums shall be paid into the general fund of the state treasury by the commission. The term "racing week" shall include those days as defined by the rules and regulations of the commission.

4. In considering an application for a license under this section the commission may give consideration to the number of licenses already granted and to the location of the tracks previously licensed. No such license shall be granted to any track located within the corporate limits of a city of the first class. No such license shall be granted to any quarter horse racetrack located within fifty miles of any existing harness, thoroughbred or quarter horse track except with the consent of the licensee located within such fifty-mile area, provided, however, that in the counties of Suffolk, Niagara and Albany such license shall

be granted to any quarter horse racetrack located more than thirty-five miles from any existing harness, thoroughbred or quarter horse track, except with the consent of the licensee located within such thirty-five mile area.

5. The commission may refuse to grant a license to an association or corporation if the commission determines that:

a. any officer, director, member or stockholder of such association or corporation applying for a license, or of any association or corporation that owns stock or shares in the profits or participates in the management, of the affairs of such applicant, or that leases to such applicant the track where such applicant shall operate has:

(i) been convicted of a crime involving moral turpitude;

(ii) engaged in bookmaking or other forms of illegal gambling;

(iii) been found guilty of any fraud or misrepresentation in connection with racing or breeding;

(iv) been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction for which suspension from racing might be imposed in such jurisdiction; or

(v) violated any rule, regulation or order of the commission; or

b. the experience, character or general fitness of any officer, director or stockholder of any of the aforesaid associations or corporations is such that the participation of such person in quarter horse racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of racing generally; but if the commission determines that the interest of any stockholder referred to in this paragraph or in paragraph a of this subdivision is insufficient in the opinion of the commission to affect adversely the conduct of pari-mutuel quarter horse racing by such association or corporation in accordance with the provisions of this article, the commission may disregard such interest in determining whether or not to grant a license to such association or corporation; or

c. the applicant is not the owner of the track at which it will conduct pari-mutuel quarter horse racing pursuant to the license applied for, or that any person, firm, association or corporation other than the applicant shares, or will share, in the profits of the applicant, other than by dividends as a stockholder, or participates or will participate in the management of the affairs of the applicant.

6. The commission shall also have power to refuse to grant a license:

a. to any association or corporation, the charter or certificate of incorporation of which shall fail to contain a provision requiring any stockholder, upon written demand of the association or corporation, to sell his or her stock to the association or corporation at a price to be fixed in the manner provided in article five of the business corporation law, provided such demand be made pursuant to written direction of the commission; and from and after the date of the making of such demand, prohibiting the transfer of such certificate of stock, except to the association or corporation; or

b. to any association or corporation that, having been a licensee, has failed in the opinion of the commission to properly maintain its track and plant in good condition or has failed to make adequate provision for rehabilitation and capital improvements to its track and plant.

7. Pending final determination of any question under this section, the commission may issue a temporary license upon such terms and conditions as it may deem necessary, desirable or proper to effectuate the provisions of sections two hundred twenty-two through seven hundred five of this chapter.

8. Notwithstanding any other provision of this article, the commission may grant a license to any authorized quarter horse racing association or corporation to hold and conduct one additional quarter horse race meeting of not more than one racing week's duration, with pari-mutuel betting, on any quarter mile track within this state.

9. The commission shall have power to direct that every certificate of stock of any association or corporation licensed under the provisions of sections two hundred twenty-two through seven hundred five of this

chapter shall bear a legend plainly and prominently imprinted upon the face of the certificate reading: "This certificate of stock is transferable only subject to the provisions of section four hundred three of the racing, pari-mutuel wagering and breeding law".

§ 408. Officials at quarter horse race meetings. At all quarter horse race meetings licensed by the commission in accordance with provisions of sections two hundred twenty-two through seven hundred five of this chapter, qualified judges and starters shall be designated by the commission. Such officials shall enforce the rules and regulations of the commission and shall render regular written reports of the activities and conduct of such race meetings to the commission.

§ 409. Licenses for participants and employees at quarter horse race meetings. 1. For the purpose of maintaining a proper control over quarter horse race meetings conducted pursuant to sections two hundred twenty-two through seven hundred five of this chapter, the commission may license jockeys or riders and such other persons participating in quarter horse race meets, as the commission may by rule prescribe, including, if the commission deems it necessary to do so, owners, and some or all persons exercising their occupation or employed at quarter horse race meets. Each applicant for a license shall pay to the commission an annual license fee as follows: owner's license, if a renewal, fifty dollars, and if an original application, one hundred dollars; trainer's license, twenty dollars; assistant trainer's license, twenty dollars; jockey's license, fifty dollars; jockey agent's license, twenty dollars; farrier's license, twenty dollars; and stable employee's license, five dollars. Such fees shall be paid to the commission and by it paid into the state treasury. The commission may by rule fix the license fees to be paid by other persons required to be licensed by the rules of the commission, not to exceed twenty dollars per category. All such licenses, unless revoked for cause, shall be for the period of no more than one, two or three years, as determined by rule of the commission, expiring on the applicant's birth date. Licenses current on the effective date of this provision shall not be reduced in duration by this provision. An applicant who applies for a license that, if issued, would take effect less than six months prior to the applicant's birth date may, by payment of a fifty percent higher fee, receive a license that shall not expire until the applicant's second succeeding birth date. For each category of license, the applicant may apply for a two- or three-year license by payment to the commission of the appropriate multiple of the annual fee. The applications for licenses shall be in writing, accompanied by fingerprints and a photograph of the applicant, and shall be in such form, and contain such other information, as the commission may require. Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

Every person employed by such association or corporation licensed to conduct pari-mutuel quarter horse racing, including officers and directors thereof, whether or not such person be licensed, shall file fingerprints and a photograph with the commission within thirty days after being so employed or taking such office. Every person employed after January first, nineteen hundred seventy-one, by such association or corporation, including officers and directors thereof, whether or not such person be licensed, shall file fingerprints and a photograph with the commission within ten days after such employment or after taking such office. The fingerprints so obtained from applicants for licenses and from employees not to be licensed shall be forthwith transmitted by the commission to the division of criminal justice services and may also be submitted to the federal bureau of investigation or any other government agency having facilities for checking fingerprints for the purpose of establishing the identity and the previous criminal record, if any, of such person and such agency shall promptly report its findings to the commission in writing.

2. If the commission finds that the experience, character and general fitness of the applicant are such that the participation of such person in quarter horse race meets will be consistent with the public interest, convenience and necessity and with the best interests of racing

generally in conformity with the purposes of sections two hundred twenty-two through seven hundred five of this chapter, the commission may grant a license.

Without limiting the generality of the foregoing, the commission may refuse to issue a license, pursuant to this section, if the commission finds that the applicant has:

a. been convicted of a crime involving moral turpitude;

b. engaged in bookmaking or other form of illegal gambling;

c. been found guilty of any fraud or misrepresentation in connection with racing or breeding;

d. been found guilty of any violation or attempt to violate any law, rule or regulation of racing in any jurisdiction for which suspension from racing might be imposed in such jurisdiction; or

e. violated any rule, regulation or order of the commission. The commission may suspend or revoke a license issued pursuant to this section if the commission determines that (i) the applicant or licensee (1) has been convicted of a crime involving moral turpitude; (2) has engaged in bookmaking or other form of illegal gambling; (3) has been found guilty of any fraud in connection with racing or breeding; (4) has been guilty of any violation or attempt to violate any law, rule or regulation of any racing jurisdiction for which suspension from racing might be imposed in such jurisdiction; or (5) has violated any rule, regulation or order of the commission, or (ii) the experience, character or general fitness of any applicant or licensee is such that the participation of such person in quarter horse racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of racing generally.

3. Pending final determination of any question under this section, the commission may issue a temporary license upon such terms and conditions as the commission may deem necessary, desirable or proper to effectuate

the provisions of sections two hundred twenty-two through seven hundred five of this chapter.

§ 410. Power of commission to impose fines and penalties. The commission, in addition to its powers to suspend or revoke licenses granted by it, is hereby authorized and empowered to impose monetary fines upon any corporation, association or person participating in any way in any quarter horse race meet at which pari-mutuel betting is conducted, other than as a patron, and whether licensed by the commission or not, for a violation of any provision of this chapter or the rules promulgated by the commission pursuant thereto, not exceeding the amounts set forth in section one hundred sixteen of this chapter. The commission is further authorized and empowered to impose monetary fines, not exceeding the amounts set forth in section one hundred sixteen of this chapter, upon any such corporation, association or person for a violation of any order issued by the commission pursuant to the provisions of this chapter or the rules promulgated by the commission pursuant thereto, provided that a copy of such order shall have been served, either personally or by registered mail, upon the corporation, association or person to whom the same was directed, prior to the occurrence of the violation for which such fine is imposed. Such fines shall be paid into the treasury of the state. The action of the commission in imposing any monetary fine shall be reviewable in the supreme court in the manner provided by and subject to the provisions of article seventy-eight of the civil practice law and rules.

§ 411. Refunds. Moneys received by the commission pursuant to this article may within one year from the receipt thereof be refunded to the party for whose account the same were received on proof satisfactory to the commission that:

1. such moneys were in excess of the amount required by law;

2. the license for which application was made has been refused by the commission;

3. such moneys were received as a fine and the commission has after review reduced the amount of such fine; or

4. upon judicial review, a court of competent jurisdiction reduced or remitted the fine imposed.

Such refunds shall, upon approval by the commission and after audit by the comptroller, be paid from any moneys in the custody of the department of taxation and finance received pursuant to this article.

§ 412. Special police officers. 1. For the purpose of preserving order and preventing offenses against the laws prohibiting gambling, the officers or directors of any corporation or association created under or subject to the provisions of this article are hereby authorized to appoint from time to time, special police officers, and the same to remove at pleasure, who, when appointed, shall be peace officers with the same powers within and about such grounds as are set forth in section 2.20 of the criminal procedure law whose duty, when appointed, shall be to preserve order within and around the grounds and racetracks of said corporation or association, to protect the property within said grounds, to eject or arrest all persons who shall be improperly within the grounds of such corporation or association or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fees or to observe the rules prescribed by said corporation or association; and it shall be the further duty of said police officers, when appointed to prevent all violations of law with reference to pool-selling, bookmaking, and other gambling, and to arrest any and all persons violating such provisions, and to convey such person or persons so arrested, with a statement of the cause of such arrest, before a magistrate having jurisdiction of such offense, to be dealt with according to law. The appointment of police officers in pursuance of this section shall not be deemed to supersede in any way on the grounds and racetrack of such corporation or association the authority of peace officers or police officers of the jurisdiction within which such grounds and racetrack are located.

2. Any appointment of a special police officer under this section, shall be made only with the approval of the commission. Application for such approval shall be in such form as may be prescribed by the commission and shall contain such other information or material or evidence as the commission shall require. In acting on an application for such approval the commission shall consider the background, experience, integrity, and competence of the candidate for appointment, the public interest, convenience or necessity and the interests of quarter horse racing generally. The commission in its discretion may set the term of any such appointment, terminate any existing appointment at any time and prescribe conditions and rules for the conduct of such office.

§ 413. Place and manner of conducting pari-mutuel betting. Any corporation or association licensed to conduct pari-mutuel betting at a quarter horse race meeting shall provide a place or places within race meeting grounds or enclosure at which such licensee shall conduct the pari-mutuel system of betting by its patrons on the result of the quarter horse races at such meetings. Such licensee shall cause to be erected a sign or board upon which shall be displayed the approximate straight odds on each horse in any race; the total amount wagered upon each horse in each pool; the value of a two-dollar winning mutuel ticket, straight, place or show on the first three horses in any race; the elapsed time of the race; the value of a two-dollar winning daily double ticket, if a daily double is conducted, and any other information that the commission may deem necessary for the guidance of the general public. All machines and equipment used for pari-mutuel betting or for the display of the foregoing information must be approved by the commission and the department of taxation and finance before being used, but neither the commission nor the department of taxation and finance shall require the installation of any particular make of mechanical or electrical equipment.

§ 414. Construction. Nothing in sections two hundred twenty-two through seven hundred five of this chapter shall be construed to preclude the American Quarter Horse Association from independently licensing or disciplining any of its members or performing any function heretofore performed by that organization relative to its membership in this state.

§ 415. Bond required of corporation or association conducting pari-mutuel betting. Every corporation or association licensed by the commission to conduct quarter horse race meetings at which pari-mutuel betting shall be permitted, annually and before the opening of any race meeting shall execute and file with the state comptroller a bond to this state in a penalty to be fixed by the department of taxation and finance not exceeding two hundred fifty thousand dollars, with sureties approved by the attorney general, that it will keep its books and records and make reports as required by sections two hundred twenty-two through seven hundred five of this chapter, that it will pay to the state all taxes imposed by sections two hundred twenty-two through seven hundred five of this chapter, that it will distribute to the patrons of pari-mutuel pools conducted by it all sums due upon presentation of winning tickets held by them, and that it will otherwise comply with all of the provisions of sections two hundred twenty-two through seven hundred five of this chapter and with the rules and regulations prescribed by the commission and the department of taxation and finance.

§ 416. Books and records of pari-mutuel betting. Every corporation or association conducting a quarter horse race meeting at which pari-mutuel betting is authorized shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool including daily double pools, if any. The state tax commission or its duly authorized representatives shall at all reasonable times have access to all such books and records for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due to this state are being paid by such licensed corporation or association.

§ 417. Filing of certain agreements with commission. Every association or corporation licensed to conduct quarter horse race meetings at which pari-mutuel betting is permitted shall promptly after entering into any lease, agreement concerning any concession, labor management relations, the hiring of designated classes of officers, employees or contractors specified by the commission or any such other contract, agreement or arrangement as the commission may from time to time prescribe file with the commission a true and correct copy, or an accurate summary, if oral, thereof.

§ 418. Disposition of pari-mutuel pools. 1. Every association or corporation authorized under section four hundred five of this article to conduct pari-mutuel betting at a quarter horse race meeting on races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein provided such tickets be presented for payment before April first of the year following the year of their purchase, less seventeen percent of the total deposits in pools resulting from regular on-track bets and less nineteen percent of the total deposits in pools resulting from multiple bets and less twenty-five percent of the total deposits in pools resulting from exotic on-track bets. "Multiple bet" or "multiple wager" shall mean a single bet or wager on two horses, evidenced by a single ticket and representing an interest in a single betting pool. "Exotic bet" or "exotic wager" shall mean a single bet or wager on three or more horses, evidenced by a single ticket and representing an interest in a single betting pool. Of the sum so retained there shall be eight percent, plus sixty-five percent of the amount of the breaks from on-track regular, multiple and exotic bets shall be paid by such corporation or association to the department of taxation and finance as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the quarter horse race meetings held by such corporation or association, which tax is hereby levied, in the applicable percentage set forth in subdivision one of section one hundred thirty-six of this chapter. The payment of such state tax shall be made to the department of taxation and finance at such regular intervals as the department of taxation and finance may require, and shall be accompanied by a report under oath showing the total of all such contributions together with such other information as the department 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 department of taxation and finance determines that any moneys received under this section were paid in error, it may cause the same to be refunded without interest out of any moneys collected thereunder, provided an application therefor is filed with it 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 department of taxation and finance into the general fund of the state treasury.

2. Except as may be authorized by the legislature, no county, city, town, village or other political subdivision of the state may impose, levy or collect a tax on admission fees or tax on admission, on wagers made by patrons in the form of purchases of pari-mutuel tickets or upon such tickets, on pari-mutuel pools, on breaks, on dividends or payments made to winning bettors, or on that part of the pari-mutuel pools or breaks to be retained by quarter horse racing corporations or associations under this section.

3. The sums paid by any corporation or association to the department of taxation and finance shall be determined by multiplying each applicable rate for total daily pools from on-track regular bets by the percentage that on-track regular bets is of the total on-track daily pool and by multiplying each applicable rate for total daily pools on on-track exotic bets by the percentage that exotic bets is of total daily pool, then combining the two determined percentages and applying the result to the appropriate level of the total daily pool from on-track regular and exotic bets.

§ 419. Revocation of license. The commission may revoke or suspend a license for the conduct of quarter horse race meetings at which pari-mutuel betting is conducted:

1. for any cause that would permit or require the commission to refuse to issue a license, or

2. if the commission determines that the corporation or association to which such license has been issued, or its officers or directors, fails to conduct racing at its track, including pari-mutuel betting on the races at such track, in accordance with the terms and conditions of such license, the rules of the commission or of the department of taxation and finance, or the provisions of sections two hundred twenty-two through seven hundred five of this chapter, or if such corporation or association or its officers or directors shall knowingly permit on its grounds or within the enclosure of its racetrack, lotteries, pool-selling or bookmaking, or any other kind of gambling, in violation of sections two hundred twenty-two through seven hundred five of this chapter or of the penal law.

§ 420. Hearing of refusal or revocation of license. If the commission refuses to grant a license applied for under sections two hundred twenty-two through seven hundred five of this chapter, or revokes or suspends such license granted by it, or imposes a monetary fine upon a participant in quarter horse racing, then the applicant or licensee or party fined may demand, within ten days after notice of such act of the commission, a hearing before the commission and the commission shall give prompt notice of a time and place for such hearing at which the commission will hear such applicant or licensee or party fined in reference thereto. Pending such hearing and final determination of such matter, the action of the commission in refusing to grant or in revoking or suspending a license or in imposing a monetary fine shall remain in full force and effect. The commission may continue such hearing from time to time, for the convenience of any of the parties. Any of the parties affected by such hearing may be represented by counsel, and the commission may be represented by the attorney general, a deputy attorney general or its counsel. In the conduct of such hearing the commission shall not be bound by technical rules of evidence, but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission, shall be permanently preserved and shall constitute the record of the commission in such case. In connection with such hearing, each member of the commission shall have the power to administer oaths and examine witnesses, and may issue subpoenas to compel attendance of witnesses, and the production of all material and relevant reports, books, papers, documents, correspondence and other evidence. The commission may, if occasion shall require, by order, refer to one or more of its members or officers, the duty of taking testimony in such matter, and to report thereon to the commission, but no determination shall be made therein except by the commission. Within thirty days after the conclusion of such hearing, the commission shall make a final order in writing, setting forth the reasons for the action taken by it and a copy thereof shall be served on such applicant or licensee or party fined, as the case may be. The action of the commission in refusing to grant a license or in revoking or suspending a license or in imposing a monetary fine shall be reviewable in the supreme court in the manner provided by and subject to the provisions of article seventy-eight of the civil practice law and rules.

§ 421. Approval of plans of corporation or association. The commission shall not grant to a corporation or association hereafter formed pursuant to sections two hundred twenty-two through seven hundred five of this chapter, a license to conduct a quarter horse race meeting at which pari-mutuel betting may be conducted within the state until such corporation or association shall have submitted to the commission a statement of the location of its proposed grounds and racetrack, together with a plan of such racetrack, and plans of all buildings, seating stands and other structures in such form as the commission may prescribe, and such plans shall have been approved in writing by the commission. Alterations of existing buildings, seating stands and other structures, and the erection of new or additional buildings, seating stands or other structures may be made only with the written approval of the commission and after examination and inspection of the plans thereof and the issuance of a permit therefor by the commission. The commission at the expense of the applicant may order such engineering examination thereof as the commission may deem necessary. The approval of the certificate of incorporation of such corporation or association shall not be deemed to vest in it the right to a license to conduct quarter horse race meetings at such race course or racetrack unless such grounds, track, buildings, seating stands and other structures shall be completed in accordance with the plans approved by the commission.

§ 422. Free or reduced fee passes, cards or badges. A corporation or association licensed to conduct pari-mutuel betting on quarter horse races run at its racetrack may issue free passes, cards or badges to any qualified person. A qualified person shall include, but need not be limited to, officers and employees of the corporation or association conducting the race meeting, members, officers, and employees of the commission, members of quarter horse racing associations of other states and foreign countries, public officers engaged in the performance of their duties, persons actually employed and accredited by the press to attend such meetings, owners, stable managers, trainers, jockeys, concessionaires, spouses, domestic partners and children of owners, trainers and jockeys, other persons whose actual duties require their presence at such racetrack, and any other person or guest deemed appropriate by such corporation or association. In addition, free or reduced fee passes, cards or badges may be issued to the general public or segments of the general public in connection with any promotional campaign or marketing program sponsored by such corporation or association to increase attendance at live race meets. The issuance of free passes, cards or badges shall be under the rules and regulations of the commission.

§ 423. County, town and agricultural fairs and quarter horse race meetings not licensed to conduct pari-mutuel betting. Pari-mutuel betting on quarter horse races at any county, town, agricultural or other fair held within the state, shall not be authorized and no lottery, pool-selling, bookmaking or any other kind of gambling upon the result of races, heats or contests of speed of quarter horses allowed at such fair or at any quarter horse race meeting conducted in the state, except such as may be licensed to operate pari-mutuel betting pursuant to the provisions of sections two hundred twenty-two through seven hundred five of this chapter which said form of betting as herein provided shall alone be legalized and allowed.

Every corporation, society or association conducting quarter horse racing without license for pari-mutuel betting shall cause to be posted conspicuously upon the grounds whereon such races or racing is held, printed notices or placards in legible type to the effect that all disorderly conduct, pool-selling, bookmaking or any other kind of gambling upon the result of heats or races or contests of speed of quarter horses is prohibited.

In the event that the officers or directors of any corporation, association or society conducting a quarter horse race meeting without pari-mutuel betting, including the officers and directors of county, town and agricultural fairs shall comply with the foregoing provisions contained in this section regarding the posting of notices then no director or officer thereof shall be personally liable for the imposition of any fine or to prosecution, or in any manner held liable for any violation, by a person other than himself, of the provisions of law relative to bookmaking or other gambling unless knowingly permitted by him, nor shall the maintaining of a racetrack or the holding or conducting of quarter horse races thereon be construed or held to be a violation of any of the provisions of any general or special law, penal or otherwise.

§ 424. Employees at quarter horse race meetings. At least eighty-five per centum of the persons employed each day in the operation and conduct of pari-mutuel betting at quarter horse race meets licensed pursuant to sections two hundred twenty-two through seven hundred five of this chapter shall be citizens of the United States of America and residents of the state of New York for at least two years immediately prior to the commencement of such employment. Each person, prior to his employment in the operation and conduct of pari-mutuel betting at quarter horse race meets, shall be required to execute and submit to the corporation or association by which he is employed a duly verified affidavit setting forth his qualifications for employment pursuant to the provisions of this section.

§ 425. Membership in a labor union or labor organization. 1. Membership in a labor union or a labor organization shall not be, or be made, a condition of employment or a preference in employment nor a condition of, or a preference in, the continuation of employment of any person at any track at which pari-mutuel quarter horse racing is conducted by any association or corporation licensed under sections two hundred twenty-two through seven hundred five of this chapter and it shall be unlawful for any labor union or labor organization, or any of its agents, to cause or attempt to cause any such association or corporation to make membership in a labor union or labor organization a condition of employment or a preference in employment or a condition of, or a preference in, the continuation of employment of any person at any such track; except that nothing herein shall prohibit the incorporation in any collective bargaining agreement between such an association or corporation and a bona fide labor union or bona fide labor organization (determined to be the exclusive representative of employees in the appropriate bargaining unit covered by such agreement after an election pursuant to the provisions of the New York state labor relations act) of a provision which provides that an employee of such association or corporation shall not be permitted to continue in such employment beyond the fifteenth day after the date of his employment or the effective date of the agreement whichever is later unless by then he has become, and thereafter during his employment shall remain, a member of such labor union or labor organization, or, if such employee is required by the provisions of sections two hundred twenty-two through seven hundred five of this chapter to be licensed, unless he becomes such a member not later than the fifteenth day after the date of his employment, or after the day on which the board shall grant a license to such employee, whichever of said two days shall be later. Notwithstanding any such agreement, no such association or corporation shall discharge any employee for non-membership in a labor union or labor organization if it has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or if it has reasonable grounds for believing that membership was denied or terminated for any reason other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

2. Any person who wilfully violates any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than five thousand dollars or to imprisonment for not more than one year, or both.

3. The supreme court of this state shall have jurisdiction, upon petition and upon such notice to the opposing party or parties as the court shall direct, to restrain any violation of this section, any other law to the contrary notwithstanding, and to grant such other relief to any person who shall be aggrieved by any such violation as the court shall deem proper.

4. The provisions of this section shall not apply to employees engaged in the preparation, service and handling of food and beverages in the operation of a restaurant or a food or beverage dispensing facility at such track.

§ 426. Disposition of unpaid money due on account of pari-mutuel tickets not presented. The sum held by any corporation or association authorized to conduct pari-mutuel betting for payment of outstanding winning pari-mutuel tickets and for refunding the price of pari-mutuel tickets shall be retained by such corporation or association for such purposes until April first of the succeeding year; provided, however, that ninety-five per centum of such sum remaining unclaimed as of the last day of February of such year shall be paid to the state tax commission by March fifteenth. On April tenth, the balance of such sum remaining unclaimed and any other unclaimed amount received in the course of conducting pari-mutuel betting shall be paid to the state tax commission. A penalty of five per centum and interest at the rate of one per centum per month from the due date to the date of payment of the unclaimed balance due March fifteenth or April tenth, as the case may be, shall be payable in the case such balance is not paid when due. Such amounts, interest and penalties when collected shall be paid by the state tax commission into the general fund of the state treasury.

§ 427. Penalties. 1. The failure of any witness, when duly subpoenaed, to attend, give testimony or produce other evidence shall be punishable by the supreme court in the same manner as such failure is punishable by such court in a case therein pending.

2. Any person who shall fail to file any affidavit as required by this article shall be guilty of an offense punishable by a fine not exceeding one thousand dollars or imprisonment not exceeding one year or both. Except as provided otherwise by law, such an offense shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment, and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person convicted thereof.

3. Any person who shall wilfully make or file any false or fraudulent report, statement, affidavit or application required by this article to be made or filed under oath, or who, having been sworn or affirmed as a witness in any hearing as provided for in this article, shall wilfully give false testimony, shall be guilty of perjury.

§ 428. Construction. Notwithstanding the provisions of any general, special, or local law or ordinance, the provisions of sections two hundred twenty-two through seven hundred five of this chapter and the rules and regulations and requirements of the commission relating to the time when and place where or manner in which the quarter horse races shall be conducted in this state and the control of the grounds and structures erected or to be erected thereon upon and at which such racing is conducted and the activities conducted thereat and thereon in connection with any trial or contest of speed or power of endurance of quarter horses shall be construed and deemed to be exclusive of and shall supersede any provisions of such other general, special or local law or ordinance in any wise relating thereto, nor shall the provisions of article two hundred twenty-five of the penal law be deemed to apply to pari-mutuel betting conducted pursuant to sections two hundred twenty-two through seven hundred five of this chapter.

§ 429. Quarter horse racing defined. The term "quarter horse racing", as used in this article, shall be construed to mean only horse racing in which the horses participating are mounted by a jockey and are registered by the American Quarter Horse Association.

§ 430. Definitions. As used in sections four hundred thirty-one through four hundred thirty-five of this article, the following terms shall mean and include:

1. "Fund." The New York state quarter horse breeding and development fund corporation established by section four hundred thirty-one of this article.

2. "Board." The board of directors of the corporation as such board is constituted pursuant to section four hundred thirty-one of this article.

3. "New York-bred." A quarter horse foaled in New York state and registered in the registry administered by quarter horse breeding associations in this state designated by the commission.

4. "Breeder." The owner of the mare at the time the mare foals a New York-bred.

5. "New York stallion." A stallion standing in New York at the time he was bred to the dam of a New York-bred; a stallion must be registered with the fund or its designated agent and must be:

a. Owned by a resident of this state and standing the entire stud season in this state; or

b. Owned by a resident of another state but standing the entire stud season in this state and leased by a resident of this state for a term of not less than ten years; or

c. Owned jointly by a resident of this state together with a resident of another state and standing the entire stud season in this state and leased by a resident of this state for a term of not less than ten years. Leases shall be filed with the fund or its designated agent.

6. "Stallion owner." The owner of a stallion standing in New York at the time he was bred to the dam of a New York-bred.

7. "Races." Races upon which pari-mutuel wagering is conducted at quarter horse race meetings of racing associations or corporations as authorized by the commission.

§ 431. New York state quarter horse breeding and development fund. 1. A corporation to be known as the "New York state quarter horse breeding and development fund corporation" is hereby created. Such corporation shall be a body corporate and politic constituting a public benefit corporation, the objective of which shall be to encourage the breeding of quarter horses and the development of the quarter horse industry in this state. It shall be administered by a board of directors consisting of the chair of the commission or his or her designee, who shall be chair of the board of directors of the corporation, the commissioner of agriculture and markets, and the members of the commission.

2. The powers of the fund shall be vested in and exercised by the board at a meeting held at a time fixed by any by-laws adopted by the board or at any duly adjourned meeting of such board or at any meeting held upon reasonable notice to all of the directors, and a majority of the whole number of directors shall constitute a quorum; provided that

neither the business nor the powers of the fund shall be transacted or exercised except pursuant to a favorable vote of at least a majority of the directors present at a meeting at which a quorum is in attendance.

3. The commission may delegate to one or more of the directors or officers of the fund such powers and duties as it may deem proper and shall use, pursuant to a contract approved by the director of the budget, the service employees of the commission and the state office of racing promotion and development.

4. The directors shall not be entitled to any compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

§ 432. Powers of the fund. The fund shall have power:

1. To sue and be sued.

2. To have a seal and to alter the seal at its pleasure.

3. To make by-laws for the management and regulation of its affairs.

4. To acquire, hold and dispose of personal property for its corporate purposes.

5. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation.

6. To perform such other acts and engage in such other activities as may be necessary and proper for exercising its powers and performing its duties under this article.

§ 433. Resources of fund. 1. The fund is authorized and directed to collect and receive in each calendar year to be paid to the fund by quarter horse racing associations or corporations or regional off-track betting corporations ten percent of the breaks derived from on-track wagers or off-track wagers, as the case may be, as provided in this article and article five-a of this chapter and to deposit such moneys in a bank or banks in this state.

2. The fund is authorized to dispose and distribute the moneys received by it pursuant to the provisions of sections two hundred twenty-two through seven hundred five of this chapter for the following purposes and no other:

a. Thirty-six percent as awards to breeders of New York-breds finishing first, second, third and fourth in open races.

b. Fifteen percent as awards to stallion owners, whose New York stallions have sired New York-breds finishing first, second, third and fourth in races.

c. Thirty-five percent to provide purse moneys for races exclusively for New York-breds, the conditions of which have been approved by the fund.

d. Nine percent to advance and promote breeding and raising of quarter horses in this state by the publication and dissemination of information relating thereto, and the encouragement of interest, including among youth, in the breeding and raising of New York-breds, and to advance and promote interest generally in agricultural pursuits.

e. Five percent or such lower proportion as the commission may prescribe based upon the operational experience and objectives of the fund, for the administration and management of the fund. If the commission shall reduce the proportion of the fund's resources applicable to administration, the proportions otherwise applicable shall be increased accordingly. All moneys of the fund in excess of twenty-five thousand dollars on hand at the end of each calendar year shall be remitted to and vest in the state.

§ 434. Annual audit. The comptroller or his legally authorized representative is authorized to and shall from time to time but at least annually examine the accounts and books of the fund, including its receipts and disbursements.

§ 435. Annual report. The fund shall annually make during the month of January a report to the governor setting forth in detail:

1. Its operations and accomplishments during the preceding year; and

2. Its receipts and disbursements during the preceding year.

§ 436. Actions against fund. Except in an action for wrongful death, no action against the fund founded upon tort shall be commenced (a) prior to the expiration of thirty days from the date on which the notice of claim upon which the action is founded, served pursuant to section fifty-e of the general municipal law, was presented to a member of the board of directors of the fund or other officer thereof designated for such purpose nor (b) more than one year and ninety days after the cause of action therefor shall have accrued. An action against the fund for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

ARTICLE V

REGIONAL OFF-TRACK BETTING CORPORATIONS

Section 501. Definitions.
502. Establishment of regional off-track betting corporations.
502-a. Special provisions with regard to the western regional off-track betting corporation.
503. Powers of regional corporations.
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505. Acquisition or leasing of property.
506. Loans and contributions by a participating county to a corporation.
507. Contracts of corporations.
508. Issuance of bonds and notes by a corporation.
509. Reserve fund.
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510. State and participating counties not liable on bonds and notes.
511. State's right to require redemption of bonds.
512. Remedies of holders of bonds and notes.
513. Exemption from taxation.
514. Notice of claim; action against corporation.
515. Bonds and notes as legal investments.
516. Moneys of corporations; disposition of net revenues.
517. Annual reports.

§ 501. Definitions. As used in this article, in addition to the definitions set forth in section one hundred one of this chapter, the following terms shall mean and include:

1. "Board of directors." The board of directors of a corporation as such board is constituted pursuant to section five hundred two of this article.

2. "Corporation." Each regional off-track betting corporation, as created by section five hundred two of this article.

3. "Participating county." Any of the counties in a region which have elected to join a corporation in the manner provided for in section five hundred two of this article.

4. "Bonds and notes." Bonds and notes, respectively, authorized and issued by the corporation pursuant to this article.

5. "Cost of corporation's functions." All costs and expenses incurred

by the corporation in connection with carrying out the functions as described by this article, including, but not limited to, operating expenses of the corporation, the costs of acquisition, construction or equipment of branch offices and other facilities of the corporation, and interest and principal on bonds, notes or other obligations of the corporation issued to finance the acquisition, construction or equipment of such offices, facilities or premises.

6. "Region." The several regions defined by subdivision one of section five hundred nineteen of this chapter.

7. "Track." The grounds or enclosure within which horse races are conducted by any person, association or corporation lawfully authorized to conduct such races.

8. "Governing body." The appropriate county legislative body.

9. "Branch office." An establishment maintained and operated by the corporation, where off-track, pari-mutuel betting on horse races may be placed in accordance with the terms and conditions of this article and the rules and regulations issued pursuant thereto.

10. "Enabling legislation." A local law, ordinance or resolution subject to a permissive referendum pursuant to the municipal home rule law.

§ 502. Establishment of regional off-track betting corporations. 1. a. A regional off-track betting corporation is hereby established for each region, except the New York city region for which the New York city off-track betting corporation established pursuant to and subject to article six of this chapter shall constitute the regional corporation and such article six shall govern such New York city off-track betting corporation. Each regional corporation shall be a body corporate and politic constituting a public benefit corporation. Each corporation shall be administered by a board of directors consisting of two members from each participating county containing a city of over one hundred fifty thousand in population, according to the last federal census, and one member from each other participating county. Notwithstanding any other provision of law to the contrary, the members shall be appointed by the county governing body, and may, at the discretion of such governing body of counties which have a population of less than two hundred thousand, include sitting members of such governing body. A member of a governing body who is appointed a director after July first, nineteen hundred ninety shall not be compensated by the regional corporation; provided, however, that the mayor of a city of over one hundred fifty thousand that has elected to participate in the management of a corporation pursuant to subdivision two of this section shall, with the approval of the city's legislative body, appoint one of the members to which the county containing such city is entitled. In the case of the corporation established for the Suffolk region and Nassau region, the board of directors of each corporation shall consist of three members appointed by the governing body of each county, not more than two of whom shall be members of the same political party. Each director shall serve at the pleasure of the governing body or mayor appointing such director, as the case may be. A chair shall be elected by the members to serve a term of one year.

b. No person who has served as a board member or officer of the corporation shall within a period of five years after such person's termination of such service, regardless of the reason for termination, (i) be appointed, reappointed or qualified as a member of the corporation; (ii) appear or practice before such corporation or receive compensation for any services rendered by such former board member or officer on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such corporation; or (iii) receive compensation for any services on behalf of any person, firm, corporation or association to appear, practice or directly communicate with the board of directors to promote or oppose, directly or indirectly, the passage of resolutions by such board of directors. No person who has served as a board member or officer of the corporation shall after the termination of such service appear, practice, communicate or otherwise render services before such corporation, or the board of directors thereof, or receive compensation for any such services rendered by such person on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which such person personally participated during the period of such service, or which was under their active consideration.

c. No person who is appointed to be a member of the board of directors may attend or participate in any board meetings, including executive sessions, until that person's application for a license has been approved by the commission.

2. A city with a population of more than one hundred fifty thousand, according to the last federal census, may elect to participate in the management and revenues of a regional corporation if the county in which such city is located has elected to become a participating county. Such election shall be by enabling legislation. Upon such election, such city shall participate in the amount of any loans or contributions made or to be made by the participating county containing the city to the corporation, pursuant to section five hundred six of this article, in the proportion that such city will participate in net revenues payable to such county or such other equitable arrangement as shall be approved by the commission.

3. Upon the passage of enabling legislation by the governing body of not less than three counties within a region representing not less than thirty percent of the population of such region, as determined by the last federal census, or in the case of the Suffolk region, upon the passage of enabling legislation by the governing body of Suffolk county, or in the case of the Nassau region, upon the passage of enabling legislation by the governing body of Nassau county, or in the case of the Mid-Hudson region upon the passage of enabling legislation by the governing body of the county of Westchester and of the governing body of one other county in such region, and following the appointment of members of the board of directors, such corporation shall file with the secretary of state and with the commission a certificate setting forth:

a. The date of passage of the enabling legislation;

b. The name of the agency, which shall be the name of the region followed by the words "regional off-track betting corporation"; and

c. The names of the members of the board of directors and the chair.

4. Each of the counties of the region that has not become a participating county at the time of filing of the certificate required by subdivision three of this section may do so by enacting enabling legislation, a duly certified copy of which must be filed with the board of directors, the commission, the secretary of state and the county clerk of each participating county. In the event that a county elects to participate after June first, nineteen hundred ninety, the effective date of approval by the commission shall not be earlier than the date that branch offices are established and operating. If, at the time of such election, the commission has approved a plan of operation for the corporation, a county may not become a participating county without approval by the commission of a modified feasibility study and amended plan of operation which shall be submitted by the corporation to the commission pursuant to section five hundred twenty-one of this chapter.

If the participating counties in the region have contributed or loaned funds or other consideration to the corporation, the board of directors may require that any county subsequently electing to become a participating county make such contributions in the same proportion, if any, as may have governed such contributions or loans by participating counties. Any dispute as to the value of consideration or as to a contribution required by the board of directors shall be resolved by the commission.

5. a. If the certificate required by subdivision three of this section is not filed by December thirty-first, nineteen hundred seventy-five, the corporate existence of a corporation shall terminate, but otherwise, each corporation and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the corporation shall have bonds, notes or other obligations

outstanding. Upon termination of the existence of the corporation all of its rights, property, assets and funds shall thereupon vest in and be possessed by the participating counties in the same proportion such property, assets and funds may have been contributed by each county or according to the manner in which the revenues of the corporation are distributed pursuant to section five hundred sixteen of this article, or any combination of both such methods, as the commission shall determine.

b. Notwithstanding the provisions of paragraph a of this subdivision, those counties comprising the Central region prior to January first, nineteen hundred seventy-four, even though such counties are included in off-track betting regions other than the Central region, shall have until December thirty-first, nineteen hundred eighty-two to file the certificate required by subdivision three of this section.

6. Each director shall continue to serve until the appointment and qualification of his successor.

7. The directors shall be removable for cause by the commission, upon charges and after a hearing.

8. The powers of the corporation shall be vested in and exercised by the board of directors at a meeting duly held at a time fixed by any by-law adopted by the board, or at any duly adjourned meeting of such meeting or at any meeting held upon reasonable notice to all of the directors, or upon written waiver thereof, and a majority of the whole number of directors shall constitute a quorum; provided that neither the business nor the powers of the corporation shall be transacted or exercised except pursuant to the favorable vote of at least a majority of the directors present at a meeting at which a quorum is in attendance.

9. The board of directors may delegate to one or more of the directors, officers, agents or employees of the corporation such powers and duties as it may deem proper.

10. a. The directors may receive a sum of two hundred fifty dollars

for each day or part thereof spent in attendance at meetings held in accordance with subdivision eight of this section, but not to exceed twenty-five hundred dollars during any one year.

b. The directors may receive a sum of one hundred dollars for each day or part thereof at meetings other than those defined in subdivision eight of this section or otherwise in the work of the corporation; provided that such activities are approved by the board as a whole. Such additional expenses shall not exceed fifteen hundred dollars in any calendar year.

c. The chairman of the board elected in accordance with subdivision one of this section shall receive additional compensation of one thousand dollars per year to cover those expenses and activities associated with such office.

d. In addition, the directors shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

e. Any expenses incurred by a director in excess of those authorized by paragraph d of this subdivision shall be the responsibility of the appointing political subdivision, payable on vouchers certified or approved by the chief fiscal officer of such political subdivision as is provided by law.

11. The directors may engage in outside employment or in a profession or business unless otherwise prohibited from doing so by virtue of holding another public office subject to the provisions of article eighteen of the general municipal law. For the purposes of such article eighteen, the corporation shall be a "municipality" and a director shall be a "municipal officer."

12. a. The board of directors shall hold an annual meeting and meet not less than quarterly.

b. Each board member shall receive, not less than seven days in advance of a meeting, documentation necessary to ensure knowledgeable and engaged participation. Such documentation shall include material relevant to each agenda item including background information of discussion items, resolutions to be considered and associated documents, a monthly financial statement which shall include an updated cash flow statement and aged payable listing of industry payables, financial statements, management reports, committee reports and compliance items.

c. Staff of the corporation shall annually submit to the board for approval a financial plan accompanied by expenditure, revenue and cash flow projections. The plan shall contain projection of revenues and expenditures based on reasonable and appropriate assumptions and methods of estimations, and shall provide that operations will be conducted within the cash resources available. The financial plan shall also include information regarding projected employment levels, collective bargaining agreements and other actions relating to employee costs, capital construction and such other matters as the board may direct.

d. Staff of the corporation shall prepare and submit to the board on a quarterly basis a report of summarized budget data depicting overall trends, by major category within funds, of actual revenues and budget expenditures for the entire budget rather than individual line items, as well as updated quarterly cash flow projections of receipts and disbursements. Such reports shall compare revenue estimates and appropriations as set forth in such budget and in the quarterly revenue and expenditure projections submitted therewith, with the actual revenues and expenditures made to date. Such reports shall also compare actual receipts and disbursements with the estimates contained in the cash flow projections, together with variances and their explanation. All quarterly reports shall be accompanied by recommendations from the president setting forth any remedial action necessary to resolve any unfavorable budget variance including the overestimation of revenues and the underestimation of appropriations. These reports shall be completed within thirty days after the end of each quarter and shall be submitted to the board by the corporation comptroller.

e. Revenue estimates and the financial plan shall be regularly reexamined by the board and staff and shall provide a modified financial plan in such detail and within such time periods as the board may require. In the event of reductions in such revenue estimates, the board shall consider and approve such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such revised revenue estimates or aggregate expenditure limitations.

13. The fiscal year of the corporation shall be the calendar year.

14. A general manager, who shall be the chief executive officer of the corporation, shall be in charge of the administration of its affairs. He shall perform his duties as chief executive officer, together with any other duties assigned to him by the corporation, under its direct supervision and control and shall give full time to such duties.

15. Any person prohibited by any law or rule from accepting compensation described in subdivision ten of this section shall nonetheless be permitted to serve as a director provided said person waives his compensation.

16. Notwithstanding any inconsistent provision of this chapter or any other law, any director, administrator, or other employee of a corporation may be issued and hold any license issued by the commission.

*** § 502-a. Special provisions with regard to the western regional off-track betting corporation.** 1. Notwithstanding any inconsistent provision of this article, on the effective date of this section the appointments of all members of the western regional off-track betting corporation appointed prior to the effective date of this section are deemed terminated, and each such vacant board position shall be replaced with the new appointments made pursuant to this section.

2. The western regional off-track betting corporation board of directors shall be composed of seventeen members, one each to represent each participating county within the western off-track betting region, and one each to represent the city of Rochester and the city of Buffalo. Each city representative shall be appointed by the mayor of the city

such member represents, and each county representative shall be appointed by the county executive of the county such member represents; provided however, in the case of a county that does not have a county executive, such county's board of supervisors shall appoint such county's representative.

3. No action shall be taken by the corporation except pursuant to the favorable vote of fifty-one percent of the total authorized voting strength of the board of directors. The total authorized voting strength of the board of directors shall be the sum total of the votes specified in subdivisions four and seven of this section.

4. The representatives of each of the participating counties and cities shall each have the following number of votes: the representative of the county of Niagara shall have eight votes, the representative of the county of Chautauqua shall have five votes, the representative of the county of Oswego shall have four votes, the representative of the county of Steuben shall have three votes, the representative of the county of Wayne shall have three votes, the representative of the county of Cattaraugus shall have three votes, the representative of the county of Cayuga shall have three votes, the representative of the county of Livingston shall have two votes, the representative of the county of Genesee shall have two votes, the representative of the county of Wyoming shall have one vote, the representative of the county of Orleans shall have one vote, the representative of the county of Seneca shall have one vote, the representative of the county of Schuyler shall have one vote, the representative of the county of Erie shall have twenty-four votes, the representative of the county of Monroe shall have twenty votes, the representative of the city of Buffalo shall have ten votes, and the representative of the city of Rochester shall have eight votes.

5. Each member of the corporation appointed pursuant to this section shall be appointed for a term of four years; provided however, that a member's term shall not be terminated except for good cause shown.

6. a. No person who has served as a board member or officer of the

corporation shall within a period of five years after such person's termination of such service, regardless of the reason for termination, (i) be appointed, reappointed or qualified as a member of the corporation; (ii) appear or practice before such corporation or receive compensation for any services rendered by such former board member or officer on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such corporation; or (iii) receive compensation for any services on behalf of any person, firm, corporation or association to appear, practice or directly communicate with the board of directors to promote or oppose, directly or indirectly, the passage of resolutions by such board of directors. No person who has served as a board member or officer of the corporation shall after the termination of such service appear, practice, communicate or otherwise render services before such corporation, or the board of directors thereof, or receive compensation for any such services rendered by such person on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which such person personally participated during the period of such service, or which was under their active consideration.

b. No person who is appointed to be a member of the board of directors may attend or participate in any board meetings, including executive sessions, until that person's application for a license has been approved by the commission.

7. Members representing a majority of the total voting strength of the board of directors then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the corporation. Except as otherwise specified in this section, for the transaction of any business or the exercise of any power of the corporation, the corporation shall have the power to act by a majority vote of the total voting strength present at any meeting at which a quorum is in attendance.

8. The members of the board of directors shall elect from their

membership, by a majority vote of the total voting strength of the board of directors, a chairperson. Such chairperson shall serve as chairperson for the duration of their term on the board of directors, or until such chairperson's resignation or upon removal by a majority vote of the total voting strength of the board of directors. In addition to such chairperson's voting strength possessed by virtue of such chairperson's representation of a municipality which is a member of the board, such chairperson shall also have one additional vote.

* NB Repealed May 3, 2037

§ 503. Powers of regional corporations. Subject to the general and specific limitations of sections two hundred twenty-two through seven hundred five of this chapter and the authority of the commission pursuant to articles one and five-a of this chapter, each corporation shall have power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To acquire, hold, lease, rent and dispose of personal property for its corporate purposes;

4. To acquire, in the name of the corporation, by purchase, condemnation, gift, grant or devise or otherwise, and to use, real property that is necessary or convenient for carrying out its corporate purposes; provided that the corporation shall not condemn any real property without first having obtained the consent of the chief elected official in the jurisdiction in which such real property is located. All real property acquired by the corporation by condemnation shall be acquired in the manner provided by law for the condemnation of real property in the jurisdiction in which the real property is located;

5. To make by-laws for the management and regulation of its affairs;

6. To appoint officers, agents, and employees, to prescribe their

qualifications, and to fix their compensation;

7. To make contracts and leases, and to execute all instruments necessary or convenient to accomplish its corporate purposes;

8. To construct such buildings, structures and facilities as may be necessary;

9. To accept grants, loans and contributions from the United States, and the state or any agency or instrumentality of either of them, or any participating county, or a city, or any person, including gifts or transfers by bequest or otherwise, and to use the same or expend the proceeds thereof for its corporate purposes;

10. In the manner and subject to the provisions of sections two hundred twenty-two through seven hundred five of this chapter, and subject to the rules and regulations of the commission, to establish and conduct within the region a system of off-track pari-mutuel betting on horse races, and, if licensed to do so under article three of this chapter, conduct harness race meetings;

10-a. In the Suffolk region, to install and operate up to two thousand video lottery gaming terminals at a corporation's facility which is licensed pursuant to section one thousand eight or one thousand nine of this chapter;

11. a. To promulgate, amend and repeal such rules and regulations consistent with the provisions of sections two hundred twenty-two through seven hundred five of this chapter as it may deem necessary or desirable to carry out the purposes of this article. Such rules and regulations shall have the force and effect of law;

b. No rule or regulation promulgated by a corporation pursuant to the provisions of this subdivision shall be effective until a copy thereof is filed with the clerk of each participating county;

c. Any violation of any rule or regulation, filed with the county clerk of each county in which such corporation operates and designated by the letter "R" by resolution of the board of directors of the corporation, shall be a violation and shall be punishable by imprisonment for not more than three months, or by a fine of not more than one thousand dollars, or by both such imprisonment and fine. All such fines collected shall be payable to the county comptroller in the county in which the violation occurred and shall be paid by such county comptroller into the general fund of such county. Any such rule shall be effective, notwithstanding that any act or omission made an offense or punishable thereby may be a crime or violation or punishable under any other provision of law;

12. When licensed to conduct harness race meetings pursuant to article three of this chapter, western regional off-track betting corporation shall be authorized to enter into an agreement to make payments in lieu of taxes to the Batavia city school district in an amount that is based upon the assessed value of Batavia Downs race track as of the first day of January, nineteen hundred ninety-eight and to enter into an agreement with the county of Genesee to pay five-tenths of one percent of the total deposits in pools resulting from the acceptance of simulcast wagering at Batavia Downs race track in order to compensate such county for losses that may occur as the result of the closure of branch offices in said county.

12-a. To enter into, amend, cancel and terminate agreements for the performance among themselves, licensed racing associations and corporations, and multi-jurisdictional account wagering providers, as defined in section one thousand one of this chapter, of their respective functions, powers and duties on a cooperative or contract basis.

13. To perform such other acts and engage in such other activities as may be necessary and proper for exercising its powers and performing its duties under this article.

14. Nassau regional off-track betting is authorized to enter into and perform an agreement pursuant to paragraph four of subdivision a of section sixteen hundred seventeen-a of the tax law to have video lottery

terminals authorized pursuant to paragraph three of subdivision a of section sixteen hundred seventeen-a of the tax law hosted within the Aqueduct video lottery terminal facility.

§ 503-a. Additional powers of the regional off-track betting corporations. 1. In addition to the powers enumerated in section five hundred three of this article, financially insolvent regional off-track betting corporations, as determined by the commission upon review of certified financial statements, are hereby authorized and may file any petition with any United States district court or court of bankruptcy under any provision of laws of the United States for the composition or adjustment of municipal indebtedness, provided such corporation is authorized by a resolution adopted by a majority of the participating counties to such region, or, for a corporation wholly contained within one county, by a resolution adopted by such county. The provisions of this subdivision shall not apply to the Suffolk regional off-track betting corporation until April first, two thousand fourteen.

§ 504. Policing off-track betting. 1. For the purpose of preserving order and preventing offenses against the laws prohibiting gambling and the rules and regulations promulgated pursuant to sections two hundred twenty-two through seven hundred five of this chapter, the officers or directors of each corporation subject to the provisions of this article are hereby authorized to appoint from time to time, special police officers, and the same to remove at pleasure, who, when appointed, shall within any office of a corporation and within five hundred feet therefrom be vested with the powers of peace officers, as set forth in section 2.20 of the criminal procedure law, whose duty, when appointed, shall be to preserve order within and around the offices of said corporation, to protect the property within, to eject or arrest all persons who shall be improperly within the office of such corporation or who shall be guilty of disorderly conduct, or who shall neglect or refuse to observe the rules prescribed by said corporation; and it shall be the further duty of said police officers, when appointed to prevent all violations of law with reference to pool-selling, bookmaking and other gambling and all violations of the rules and regulations promulgated pursuant to sections two hundred twenty-two through seven hundred five of this chapter having the force of law and to arrest any and all persons violating such provisions, and to convey such person or persons so arrested, with a statement of the cause of such arrest, before a magistrate having jurisdiction of such offense, to be dealt with according to law. The appointment of special police officers in pursuance of this section shall not be deemed to supersede in any way the authority of peace officers or police officers of the jurisdiction within which the offices of the corporation are located.

2. Any appointment of a special police officer under this section, shall be made only with the approval of the commission. Application for such approval shall be in such form as may be prescribed by the commission and shall contain such other information or material or evidence as the commission requires. In acting on an application for such approval the commission shall consider the background, experience, integrity, and competence of the candidate for appointment, the public interest, convenience or necessity and the interests of legalized wagering generally. The commission in its discretion may set the term of any such appointment, terminate any existing appointment at any time and prescribe conditions and rules for the conduct of such office.

§ 505. Acquisition or leasing of property. 1. A participating county may, in accordance with the provisions of law governing the acquisition or leasing of real property by such county, acquire real property in the name of such county by purchase or condemnation for use by the corporation, or lease real property from other owners for such purpose, and, by resolution of the governing body of such county, may through lease or contract made upon such terms and conditions, with or without consideration, and for such period of time as may be agreed upon by such county and the corporation, authorize the use or occupancy of such real property by the corporation for the carrying out of its corporate purpose.

2. Such county may, in accordance with the provisions of law governing

the acquisition or leasing of personal property by such county, acquire or lease personal property for use by the corporation and, acting by the governing body of such county, may by lease or contract made upon such terms and conditions, with or without consideration, and for such period of time as may be agreed upon by such county and the corporation authorize the use of such property by the corporation or transfer title to such property to it, for the carrying out of its corporate purpose.

3. Such county may, by resolution of the governing body of such county, or by an instrument authorized by such a resolution, authorize the corporation to use or occupy for its corporate purpose any real property then owned by or under lease to such county, upon such terms and conditions, with or without consideration, and for such period of time, as may be agreed upon by such county and the corporation; provided that, in the case of any such property then under lease to such county, the authorization granted by such county to the corporation shall be within and consistent with the rights of such county as lessee of such property.

4. Each corporation for the carrying out of its corporate purpose, may itself acquire real property in the name of the participating counties at the cost and expense of the corporation by purchase or condemnation pursuant to the laws governing the condemnation of real property by each county. The corporation shall have the use and occupancy of such real property so long as its corporate existence shall continue.

5. a. Contracts may be entered into by a participating county and the corporation containing undertakings by a participating county (i) to acquire or lease real or personal property and authorize the use or occupancy of same by the corporation, or (ii) to authorize the corporation to use or occupy real or personal property then owned by or under lease to a participating county, or (iii) to perform any other acts on the part of such county authorized by subdivisions one, two and three of this section, provided the acts of such county called for by such undertakings are in conformity with the provisions of, and within the powers granted to the county by, such subdivisions one, two and three of this section. The making of any such contract shall be

authorized, on behalf of the county, by the governing body or the county executive, or by both, as the case may be, in the same manner as the act or acts of the county called for by the undertaking or undertakings in such contract are required to be authorized under the applicable provisions of such subdivisions one, two and three of this section.

b. Any such contract between a county and the corporation may be pledged by the corporation to secure its bonds or notes and may not be modified thereafter except as provided by the terms of the pledge.

6. In case the corporation shall have the use or occupancy of any real property which it shall determine is no longer required for the carrying out of its corporate purpose, then, if such real property was acquired at the cost and expense of a county, the corporation shall have power to surrender its use or occupancy thereof to the county, or, if such real property was acquired at the cost and expense of the corporation, the corporation shall have the power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals or other moneys derived from the disposition thereof for its corporate purpose.

7. Notwithstanding the provisions of any general, special or local law to the contrary, each corporation may make purchases of materials, equipment or supplies, when available, through a participating county subject to any procedures or rules which may be established by such participating county prescribing the conditions under which, and the manner in which purchases may be made. All purchases shall be subject to audit and inspection by the corporation and the corporation shall accept sole responsibility for any payment due the vendor. The corporation shall make no purchase through the participating county when bids have been received for such purchase by the corporation, unless such purchase may be made upon the same terms, conditions and specifications at a lower price through the participating county.

§ 506. Loans and contributions by a participating county to a corporation. 1. A participating county shall have power to loan or contract to loan money to a corporation in such amounts, upon such terms and conditions and for such period or periods of time as in the judgment of the county are necessary or appropriate for the accomplishment of the corporate purpose of the corporation.

2. Subject to any prior pledge of or lien upon the revenues or moneys of the corporation, the county shall have a first lien upon such revenues or moneys for the repayment of any such loan, which lien:

a. Shall attach upon receipt of such revenues or moneys by the corporation, without any physical delivery thereof or further act, and

b. Shall have priority over any other claim or lien against such revenues or moneys, and

c. Shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice of such lien.

3. A participating county shall have power to contribute or contract to contribute money or personal property to a corporation, in such amounts, for such period or periods of time and upon such terms and conditions as in the judgment of such county are necessary or appropriate for the accomplishment of the corporate purpose of the corporation.

§ 507. Contracts of corporations. 1. Each corporation shall let contracts for construction or any other work, including the furnishing of materials or supplies incident thereto, and contracts for the purchase or procurement of equipment, materials or supplies: (i) in the manner provided by law with respect to the letting of such contracts by counties except that where the estimated expense of a contract does not exceed thirty-five thousand dollars, such contract may be entered into without public letting, provided, however, that where the corporation determines with respect to any contract that it would not be in the public interest to comply with this section and the governing body of each county, by resolution, rule or regulation adopted by the vote of two-thirds of the whole number of votes authorized to be cast by all of the members of such body, concurs in such determination, then it may enter into such contract without public letting as authorized by said resolution, rules and regulations; (ii) in conjunction with one or more regional off-track betting corporations pursuant to this section; or (iii) in the manner provided in section six hundred nine of this chapter if in conjunction with the New York city off-track betting corporation.

2. The corporation may make rules and regulations governing the qualifications of bidders entering into such a contract where the cost of such a contract exceeds ten thousand dollars. The bidding may be restricted to those who shall have qualified prior to the receipt of bids according to standards fixed by the corporation; provided, however, that notice or notices for the submission of qualifications shall be published in a newspaper with a general circulation in the region at least once, not less than ten days prior to the date fixed for the filing of qualifications.

3. It shall be a misdemeanor for a director of the corporation or an officer, agent, executive or other employee retained, employed or appointed by the corporation to be in any manner or way interested, directly or indirectly, as principal, surety or otherwise in a contract, the expense or consideration whereof is payable out of funds of the corporation.

§ 508. Issuance of bonds and notes by a corporation. 1. Each corporation shall have the power and is hereby authorized, from time to time, to issue negotiable bonds and notes in such aggregate principal amounts as shall, in the opinion of the corporation, be necessary together with such other moneys or funds as may be available to the corporation, to provide funds sufficient to enable the corporation to carry out its corporate purposes, including the acquisition, construction, maintenance and repair of personal and real property, the payment of interest on and amortization of or payment of such bonds and notes, the establishment of reserves or sinking funds to secure such bonds and notes, and all other expenditures of the corporation incident to and necessary or desirable for the carrying out of its corporate purposes and the exercise of its powers. Except as may otherwise be expressly provided by the corporation, every issue of its bonds and notes shall be general obligations of the corporation payable out of any revenues or moneys of the corporation, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Whether or not the bonds or notes are of such form and character as to be negotiable instruments under the provisions of article eight of the uniform commercial code, the bonds and notes shall be and are hereby made negotiable instruments within the meaning of and for all purposes of article eight of the uniform commercial code, subject only to the provisions of the bonds or notes for registration.

2. The corporation shall have the power and is hereby authorized, from time to time, to issue renewal notes, and to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds to pay notes or partly to refund bonds then outstanding.

3. The said bonds and notes shall be authorized by resolution or resolutions of the board of directors and shall mature as such resolution or resolutions may provide. Bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. Bonds and notes may be sold by the corporation at public or private sale at such price or prices as the corporation shall determine; provided, however, that no such bonds or notes may be sold at a private sale unless the sale and the terms thereof have been approved by the comptroller in writing.

4. Any resolution or resolutions authorizing any bonds or notes may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

a. Pledging all or any part of the moneys or revenues or other assets of the corporation to secure the payment of such bonds or notes;

b. The setting aside of reserves or sinking funds and the regulation or disposition thereof;

c. Limitations on the purposes to which the proceeds of the sale of any issue of bonds or notes then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or notes or any issue thereof;

d. Limitations on the issuance of additional bonds or notes; the terms upon which such additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes;

e. The procedures, if any, by which the terms of any contract with the holders of bonds or notes may be extended or abrogated, the amount of bonds or notes the holders of which must consent thereto and the manner in which such consent may be given;

f. The creation of special funds into which any moneys or revenues of the corporation may be deposited;

g. Limitations on the amounts that the corporation may expend for administrative or other expenses thereof;

h. Vesting in a trustee such properties, rights, powers and duties in trust as the corporation may determine which may include any or all of the rights, powers and duties of the trustees appointed by the holders of the bonds or notes pursuant to section five hundred twelve of this article and limiting or abrogating the right of the holders of the bonds or notes to appoint a trustee under such section of limiting the rights, duties and powers of such trustee;

i. Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the corporation to the holders of the bonds or notes and providing for the rights and remedies of the holders of the bonds or notes in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this article; and

j. Any other matters of like or different character that in any way affect the security or protection of the holders of the bonds or notes.

5. Any pledge of revenues, moneys or property made by the corporation shall be valid and binding from the time when the pledge is made; the revenues, moneys or property so pledged and thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation irrespective of whether such parties have notice thereof. Neither the resolution or resolutions nor any other instrument by which a pledge is created need be recorded.

6. Neither the directors of the corporation nor any other person executing such bonds or notes shall be subject to any personal liability or accountability by reason of the issuance thereof.

7. The corporation, subject to such agreements with the holders of bonds or notes as may then exist, shall have the power out of any funds available therefor to purchase any bonds or notes issued by it at a price not exceeding the redemption price thereof, which price shall be:

a. If the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon; or

b. If the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which bonds or notes become subject to redemption plus accrued interest to such date. All bonds or notes so purchased shall be cancelled.

§ 509. Reserve fund. 1. The corporation shall create and establish a special fund (herein referred to as the capital reserve fund), and shall pay into such capital reserve fund:

a. Any moneys appropriated and made available by participating counties for the purpose of such capital reserve fund;

b. Any proceeds of sale of bonds or notes to the extent provided in the resolution or resolutions of the corporation authorizing the issuance thereof; and

c. Any other moneys that may be made available to the corporation for the purpose of such capital reserve fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the corporation, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in such capital reserve fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year of the corporation on all bonds of the corporation then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing and becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred to other funds or accounts to the extent it does not reduce the amount of the capital reserve fund below the maximum amount of principal and interest maturing and becoming due in any such succeeding fiscal year on all bonds of the corporation then outstanding.

2. The corporation shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding fiscal year of the corporation on such bonds then to be issued and on all other bonds of the corporation then outstanding will

exceed the amount of the capital reserve fund at the time of issuance of such bonds, unless the corporation, at the time of issuance of such bonds, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such fund, will not be less than the maximum amount of principal and interest maturing and becoming due in any such succeeding fiscal year on such bonds then to be issued and on all other bonds of the corporation then outstanding.

3. For the purposes of computing the amount of the capital reserve fund, any securities in which any portion of such fund is invested shall be valued at the par value thereof or at the cost thereof to the corporation if such cost was less than said par value.

§ 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) the amounts specified pursuant to subdivision three-a of section five hundred thirty-two of this chapter; and (ii) contributions from the corporation's pari-mutuel wagering pools, subject to the following limitations:

a. 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. 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. 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-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. Notwithstanding any other provision of law or regulation to the contrary, from April first, two thousand twenty-three to March thirty-first, two thousand twenty-four, 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 one million 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 corporation for the purposes of expenditures necessary to accept authorized wagers; past due statutory obligations to New York licensed or franchised racing corporations or associations; past due contractual obligations due to other racing associations or organizations for the costs of acquiring a simulcast signal; past due statutory payment obligations due to the New York state thoroughbred breeding and development fund corporation, agriculture and New York state horse breeding development fund, and the Harry M. Zweig memorial fund for equine research; and past due obligations due the state.

d. Notwithstanding any other provision of law or regulation to the contrary, from April first, two thousand twenty-four to March thirty-first, two thousand twenty-five, 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 one million 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 corporation for the purposes of expenditures necessary to accept authorized wagers; past due statutory obligations to New York licensed or franchised racing corporations or associations; past due contractual obligations due to other racing associations or organizations for the costs of acquiring a simulcast signal; past due statutory payment obligations due to the New York state thoroughbred breeding and development fund corporation, agriculture and New York state horse breeding development fund, and the Harry M. Zweig memorial fund for equine research; and past due obligations due the state.

e. Notwithstanding any other provision of law or regulation to the contrary, from April first, two thousand twenty-five to March thirty-first, two thousand twenty-six, one million 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 corporation for the purposes of expenditures necessary to accept authorized wagers; past due statutory obligations to New York licensed or franchised racing corporations or associations; past due contractual obligations due to other racing associations or organizations for the cost of acquiring a simulcast signal; past due statutory payment obligations due to the New York state thoroughbred breeding and development fund corporation, agriculture and New York state horse breeding development fund, and the Harry M. Zweig memorial fund for equine research; and past due obligations due the state.

f. Notwithstanding any other provision of law or regulation to the contrary, from April first, two thousand twenty-six to March thirty-first, two thousand twenty-seven, one million 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 corporation for the purposes of expenditures necessary to accept authorized wagers; past due statutory obligations to New York licensed or franchised racing corporations or associations; past due contractual obligations due to other racing associations or organizations for the cost of acquiring a simulcast signal; past due statutory payment obligations due to the New York state thoroughbred breeding and development fund corporation, agriculture and New York state horse breeding development fund, and the Harry M. Zweig memorial fund for equine research; and past due obligations due the state.

g. Prior to a corporation being able to utilize the funds authorized by paragraph c, d, e or f of this subdivision, the corporation must attest that the surcharge monies from section five hundred thirty-two of this chapter are being held separate and apart from any amounts otherwise authorized to be retained from pari-mutuel pools and all surcharge monies have been and will continue to be paid to the localities as prescribed in law. Once this condition is satisfied, 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 necessary to detail such plan as determined by the commission. Upon review, the commission shall make a determination as to whether the requirements of this paragraph have been satisfied and notify the corporation of expenditure plan approval. In the event the commission determines the requirements of this paragraph have not been satisfied, the commission shall notify the corporation of all deficiencies necessary for approval. As a condition of such expenditure plan approval, the corporation shall provide a report to the commission no later than the last day of the calendar year for which the funds are requested, which shall include an accounting of the use of such funds.

At such time, the commission may cause an independent audit to be conducted of the corporation's books to ensure that all moneys were spent as indicated in such approved plan. The audit shall be paid for from money in the fund established by this section. If the audit determines that a corporation used the money authorized under this section for a purpose other than one listed in their expenditure plan, then the corporation shall reimburse the capital acquisition fund for the unauthorized amount.

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.

§ 510. State and participating counties not liable on bonds and notes. The bonds, notes or other obligations of a corporation shall not be a debt of either the state of New York or of any participating county and neither the state nor any county shall be liable thereon, nor shall they be payable out of any funds other than those of the corporation.

§ 511. State's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require a corporation to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating in the participating counties at least twice, the first publication to be at least thirty days before the date of redemption.

§ 512. Remedies of holders of bonds and notes. 1. In the event that a corporation defaults in the payment of the principal of or interest on any issue of bonds or notes after the same becomes due, whether at maturity or upon call for redemption, and such default continues for a period of thirty days, or in the provisions of this article, or defaults in any agreement made with the holders of any issue of the bonds or notes, the holders of twenty-five percent in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk of any county in which the corporation operates and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five percent in principal amount of such bonds or notes then outstanding shall, in his, her or its own name:

a. by suit, action or special proceedings enforce all rights of the holders of the bonds or notes, including the right to require the corporation to carry out any agreements with such holders and to perform its duties under this title;

b. bring suit upon such bonds or notes;

c. by action or suit, require the corporation to account as if it were the trustee of an express trust for the holders of such bonds or notes;

d. by action or suit, enjoin any acts or things that may be unlawful or in violation of the rights of the holders of such bonds or notes; and

e. declare all such bonds or notes due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five percent of the principal amount of such bonds or notes then outstanding, annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceedings by the trustee on behalf of such holders of bonds or notes. The venue of any such suit, action or proceeding shall be in the judicial district in which the principal office of the corporation is located.

4. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the corporation, the governor, the comptroller and the attorney general of the state.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of the revenues which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of the premises, equipment and property which the corporation is operating or is entitled to use or occupy, and shall take possession of all revenues of the corporation and other moneys to which the corporation is entitled, and shall proceed to conduct pari-mutuel, off-track betting pursuant to the provisions of this article in the place and stead of the corporations from which otherwise, under such article, would constitute revenues of the corporation and shall perform the public duties and carry out the agreements and obligations of the corporation under the direction of the court. In any action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements allowed by the court and shall be a first charge on any revenues of the corporation.

6. Such trustee shall in addition to the foregoing have and possess all the powers necessary or appropriate for the exercise of any function specifically set forth herein or incident to the general representation of the holders of such bonds or notes in the enforcement and protection

of their rights.

§ 513. Exemption from taxation. 1. The moneys and property of each corporation and any property under its jurisdiction, control or supervision, and all of its activities and operations shall be exempt from taxation. Provided, however, no exemption is granted from the taxes imposed under article five-a of this chapter and no exemption is granted from real property taxation on real property not owned by such a corporation. Where real property owned by the corporation is used partially for the corporate purpose of the corporation and partially for purposes unrelated to its corporate purpose, that portion used for such unrelated purposes shall be subject to real property taxes in accordance with the real property tax law and any other applicable provisions of law.

2. The state covenants with the purchasers of and with all subsequent holders and transferees of bonds and notes issued by a corporation pursuant to sections two hundred twenty-two through seven hundred five of this chapter, in consideration of the acceptance of and payment for the said bonds and notes, that the said bonds and notes and the income therefrom, and all moneys, funds and revenue pledged to pay or secure the payment of such bonds and notes shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 514. Notice of claim; action against corporation. 1. In every action against a corporation for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries, the complaint shall contain an allegation that at least thirty days have elapsed since notice of claim was presented to the corporation and that the corporation has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. The notice of claim shall be in writing, sworn to by or on behalf of the claimant, and shall set forth:

a. The name and post office address of each claimant, and of his or her attorney if any;

b. The nature of the claim;

c. The time when, the place where and the manner in which the claim arose; and

d. The items of damage or injuries claimed to have been sustained so far as then practicable to determine.

3. The notice shall be served on the corporation by delivering a copy thereof, in duplicate, personally or by registered mail, to an officer, director or to any other agent authorized by appointment to receive such service.

4. The corporation may require any person presenting a claim to be sworn before a person authorized by the laws of the state to administer oaths, and when so sworn, to answer orally as to any facts relative to the claim.

5. Except in an action for wrongful death, an action against a corporation shall not be commenced more than one year and ninety days after the cause of action thereof shall have accrued, nor unless a notice of claim as required in subdivisions one and two of this section and served as set forth in subdivision three of this section shall have been served upon the corporation within ninety days after such cause of action shall have accrued. An action against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

6. All actions against the corporation of whatever nature shall be brought and the place of trial shall be in the county in which the cause of action arose, in no event shall an action against a corporation be brought or the trial be held in a small claims part.

§ 515. Bonds and notes as legal investments. The bonds and notes of a corporation are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

§ 516. Moneys of corporations; disposition of net revenues. 1. The monetary transactions of the corporation and the keeping of its books and accounts shall be under the supervision of the board of directors who shall be subject to the general and specific jurisdiction of the state board and to audit by the comptroller.

2. After payment of all of the costs of the corporation's functions, net revenue remaining to the corporation shall be divided among the participating counties in accordance with the following provisions:

a. Fifty percent of such revenue distributed among the participating counties on the basis of the proportion of the total off-track pari-mutuel wagering accepted by the corporation during the previous period that originated in the branch offices located in each participating county;

b. Fifty percent of such revenue 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; and

c. A participating county containing a city electing to participate in the management and revenues of a corporation under subdivision two of section five hundred two of this article shall distribute revenue received under paragraphs a and b of this subdivision to such city according to the proportion such city's population bears to the county's population.

2-a. The net revenue remaining to the corporation shall be distributed quarterly, not more than thirty days after the close of the calendar quarter, unless, each off-track betting corporation's board shall determine once annually, that such net revenue remaining to the corporation shall be distributed to participating counties and cities on an annual, or bi-annual basis, to be distributed not more than thirty days after the close of the calendar year, or the close of the bi-annual year (January-June and July-December). No such determination shall be made prior to the board's receipt of an annual written approval, to such specified annual, or bi-annual payment schedule, between each off-track betting corporation and the governing bodies of each participating counties and cities within such applicable region.

3. The comptroller and his legally authorized representative are authorized to and shall from time to time but at least once annually, examine the accounts and books of the corporation, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

4. The corporation shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the corporation or any moneys held in trust or otherwise for the payment of bonds in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section.

5. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in

the same manner as moneys of the corporation, and all banks and trust companies are authorized to give such security for such deposits.

§ 517. Annual reports. In addition to the reports required by article five-a of this chapter, within one hundred twenty days after the end of the fiscal year of the corporation, the directors thereof shall submit to the participating counties, the commission, and the state comptroller a complete and detailed audited report setting forth:

1. its operations and accomplishments during such fiscal year;

2. its receipts and expenditures during such fiscal year in accordance with categories or classifications established by the corporation for its own operating and capital outlay purposes;

3. its assets and liabilities at the end of such fiscal year including a schedule of its bonds, notes or other obligations and the status of reserves, depreciations, special, sinking or other funds;

4. details of branch offices being planned or in the process of being constructed or otherwise established and branch offices that have been constructed or established; and

5. such other information relating to the operations of the corporation as shall be deemed pertinent by the directors, the participating counties, the commission, and the state comptroller.

ARTICLE V-a

OFF-TRACK PARI-MUTUEL BETTING

Section 518. Off-track pari-mutuel betting; objectives.
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530. Job security for track employees.
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532. Surcharge on off-track winnings; disposition of revenues.

§ 518. Off-track pari-mutuel betting; objectives. In the exercise of the power vested in it by subdivision one of section nine of article one of the state constitution, the legislature hereby prescribes that off-track pari-mutuel betting on horse races, conducted under the administration of the commission in the manner and subject to the conditions provided for in this article, shall be lawful, notwithstanding the provisions of any other law, general, special or local, including any law prohibiting or restricting lotteries, pool-selling or bookmaking or any other kind of gambling; it being the purpose of this article to derive from such betting, as authorized by this article, a reasonable revenue for the support of government, and to prevent and curb unlawful bookmaking and illegal wagering on horse races. It is also the intention of this article to ensure that off-track betting is conducted in a manner compatible with the well-being of the horse racing and breeding industries in this state, which industries are and should continue to be major sources of revenue to state and local government and sources of employment for thousands of state residents.

§ 519. Definitions. The following terms shall mean and include:

1. "Region." One or more of the following named regions comprised of the counties indicated:

a. Suffolk: Suffolk county;

b. Nassau: Nassau county;

c. New York city: the five counties comprising the city of New York;

d. Catskill: Broome, Chemung, Chenango, Delaware, Orange, Rockland, Sullivan, Tioga, Dutchess, Tompkins, Westchester, Putnam and Ulster counties;

e. Capital District: Albany, Clinton, Columbia, Cortland, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Madison, Montgomery, Oneida, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, St. Lawrence, Warren and Washington counties;

f. Central: Lewis and Onondaga counties;

g. Western: Allegany, Cattaraugus, Cayuga, Chautauqua, Erie, Genesee, Jefferson, Livingston, Monroe, Niagara, Ontario, Orleans, Oswego, Schuyler, Seneca, Steuben, Wayne, Wyoming and Yates counties;

h. Notwithstanding the other provisions of this subdivision, when and if the Central regional off-track betting corporation is established, it shall include, in addition to the counties listed in paragraph f, the following: Cayuga, Chenango, Cortland, Franklin, Herkimer, Jefferson, Madison, Oneida, Oswego, Otsego and Tompkins counties.

2. "Exotic bet" or "exotic wager." A single bet or wager on three or more horses, evidenced by a single ticket and representing an interest in a single betting pool.

3. "Multiple bet" or "multiple wager." A single bet or wager on two horses, evidenced by a single ticket and representing an interest in a single betting pool.

4. "Article". As used in this article may also refer to articles five and six.

§ 520. General jurisdiction. 1. The commission shall have general jurisdiction over the operation of all off-track betting facilities within the state. The commission shall issue rules and regulations in accordance with the provisions of this article in order to ensure the accomplishment of the purposes set out in section five hundred eighteen of this article.

2. The commission shall own or lease all communication and transmission facilities used to transmit wagering information between regions, as provided by and subject to the exceptions in section five hundred twenty-five of this article and may establish a data processing center, within the amounts appropriated therefor, and provide data processing services to regional corporations, on a transaction fee basis.

3. Without limiting the generality of the foregoing, the commission shall establish such general regulations to limit the access to off-track betting establishments of persons not permitted to bet therein, the availability or use of publications, written materials or communications equipment therein as the commission determines to be in the interest of public order and the furtherance of the objectives of this article and shall prohibit the sale of food and beverages in all facilities where bets may be placed. The commission shall also provide for the methods for the results of races to be communicated to regional corporations and disseminated thereby.

§ 521. Approval of plans of operation; amendments. In order to accomplish the objectives of this article, the commission shall have the power, subject to the provisions of this article but without limiting the generality of any provision of this chapter, to approve a plan of operation submitted by any regional corporation created under article five of this chapter.

1. Before the commission may grant such approval, the commission must review and approve a feasibility study submitted by such corporation,

including but not limited to the following subjects:

a. the overall practicability of establishing and operating an efficient and profitable system of off-track betting in such region or in such counties that have elected to participate in the corporation;

b. the potential market;

c. the estimated costs of operation;

d. the probable types of wagering and number of opportunities required for successful operation; and

e. the probable impact of the proposed operation upon on-track attendance and pari-mutuel betting within the region. The commission may, within the time provided for approval, request additional information from the corporation. Disapproval of the feasibility study shall be accompanied by a statement of the reasons therefor and shall be treated as disapproval of a plan under subdivision three of this section.

2. The plan of operation shall include the following:

a. the organizational structure of the corporation including the approximate number and compensation of employees;

b. a narrative description of the system;

c. the types and approximate cost of data processing, communication and transmission facilities that will be used, including back-up systems;

d. security measures;

e. the type and number of betting opportunities to be offered;

f. the race tracks and races for which bets will be taken;

g. the maximum and minimum number of retail outlets or betting offices to be established;

h. the proposed system of accounts; and

i. the amount and proposed sources of financing.

3. Within ninety days of receipt of the feasibility study and plan, the commission shall issue an order approving the plan, approving it with modifications or denying approval and stating its reasons therefor. Within such period the commission may request additional information or suggest amendments. If the commission fails to approve the plan without modification, the corporation may request a public hearing to be held within thirty days of the issuance of an order approving an application with modifications or denying it. The commission shall issue its final determination within ten days of such hearing. The corporation may submit an amended application no sooner than ninety days after a denial.

4. A plan of operation may be amended from time to time at the request of either the corporation or the commission. The corporation shall have the right to be heard concerning any amendment to the plan proposed after implementation and the commission shall dispose of such proposed amendments as expeditiously as practicable, but no later than thirty days following submission by the corporation or, in the case of amendments proposed by the commission, objection by the corporation.

5. Any arrangements for telecasts or broadcasts of running races pursuant to contracts with track operators shall constitute a part of the plan of operation, or an amendment thereto, as the case may be.

6. The plan of operation of the New York city off-track betting corporation in effect on July first, nineteen hundred seventy-three, shall be deemed approved by the commission, but shall thereafter be subject to the general jurisdiction of the commission in the same manner as are the plans of other regional corporations.

7. a. The city of Schenectady may continue to operate off-track pari-mutuel betting within such city, subject to the jurisdiction of the commission, until the commission approves a plan of operation submitted by the Capital District regional off-track betting corporation and such plan of operation is implemented; provided, however, that during any period that the city of Schenectady continues to operate off-track pari-mutuel betting within such city pursuant to this subdivision, it may accept off-track wagers on races at any harness track within the state which so agrees subject to the approval of the commission until such time as the harness track located within the Capital District and the city of Schenectady mutually agree on the provision of appropriate space and facilities at such track for such city and such agreement is implemented. Such plan of operation shall make due provision with respect to investments and obligations of the city of Schenectady made or incurred in the operation of off-track pari-mutuel betting. The county of Schenectady shall reimburse the city of Schenectady on account of lost revenues from the operation of off-track betting. The amount of reimbursement shall be calculated under the rules of the commission to guarantee that the city shall receive annually an amount equal to the net revenue received from off-track betting for the calendar year nineteen hundred seventy-three or a percent of the net revenues received by such county obtained by dividing the bets originating in such city by the bets originating in such county during the distribution period, whichever is less. Reimbursement shall continue for a period of ten years and shall be made in substantially equal quarterly payments.

b. Until such time as the Capital District regional off-track betting corporation's plan of operation has been approved by the commission and the county of Schenectady has enacted enabling legislation to join such corporations and such county's participation has been implemented, the city of Schenectady shall have all the rights, powers, duties and obligations of the county of Schenectady under this chapter, including but not limited to the right to participate in the formation of such corporation or subsequently to participate in the operation thereof, as the case may be, except that the geographical boundaries of such city's participation shall be limited to the city of Schenectady.

8. The commission may authorize and approve:

a. an application submitted by the New York city off-track betting corporation to amend its plan of operation, pursuant to the provisions of this section, to provide for the display in no more than two existing facilities within Richmond county of telecasts of live audio and visual signals of harness racing from any harness racing association or corporation within its region; provided, however, that

(i) the association or corporation conducting such racing has entered into a written agreement for such telecasts with the New York city off-track betting corporation pursuant to section five hundred twenty-seven of this chapter, which agreement shall terminate no later than the thirtieth day of June, nineteen hundred eighty-five,

(ii) all expenses incurred in the implementation of such amendment to its plan of operation for such telecasting shall be the responsibility of the New York city off-track betting corporation, and

(iii) the commission shall submit reports to the governor and the legislature evaluating the results of such experiment on the compatibility with the well-being of the horse racing and breeding industries in this state, and its effect on handle and attendance at off-track facilities within Richmond county, and including recommendations regarding the future authorization of the telecast of live audio and visual signals into off-track betting facilities; and

b. one other application submitted by an off-track betting corporation, other than the New York city off-track betting corporation, to amend its plan of operation, pursuant to the provisions of this section, to provide for the display in two existing facilities within its region of telecasts of live audio and visual signals of harness racing from any harness racing association or corporation within its region; provided however, that

(i) the association or corporation conducting such racing has entered into a written agreement for such telecasts with such off-track betting corporation pursuant to section five hundred twenty-seven of this chapter, which agreement shall terminate no later than the thirtieth day of June, nineteen hundred eighty-five,

(ii) all expenses incurred in the implementation of such amendment to its plan of operation for such telecasting shall be the responsibility of the off-track betting corporation, and

(iii) the commission shall submit reports to the governor and the legislature evaluating the results of such experiment on the compatibility with the well-being of the horse racing and breeding industries in this state, and at off-track facilities within its region, and including recommendations regarding the future authorization of the telecast of live audio and visual signals into off-track betting facilities.

c. provided, however, that such audio and visual telecasts into approved facilities shall commence no earlier than sixty days after such telecasts have been approved. During such time, the off-track betting corporation shall provide to the commission daily data, to include but not be limited to, wagers, separately by type of racing and wagers, attendance and promotion expenditures of such facilities in such manner as the commission may require. Such data shall be used as the pre-telecast base to evaluate the impact of such telecasts. In addition, such similar data and information shall also be supplied to the commission during the period that such telecasts are authorized. No change in the types of wagers offered to patrons may be made without prior written approval by the commission of at least thirty days in advance of such requested change.

§ 522. Suspension of approval. 1. The commission may suspend its approval of any plan of operation if the regional corporation whose plan of operation has been approved or its officers or directors fails to conduct off-track pari-mutuel betting on horse races in accordance with the provisions of the plan of operation, with the applicable rules of the commission or with the provisions of this article, article five and article six of this chapter, as the case may be; or if such corporation or its officers or directors shall knowingly permit on any of its premises lotteries, pool-selling or bookmaking or any other kind of gambling, in violation of this chapter or of the penal law. Suspension shall continue for the period necessary to remedy the situation or condition requiring such suspension.

2. If the commission suspends approval of any plan of operation the commission shall give the regional corporation involved notice of the time and place for a hearing before the commission, at which the commission shall hear such regional corporation in reference thereto. The commission may continue such hearing from time to time for the convenience of all parties. Any of the parties affected by such hearing may be represented by counsel, and the commission may be represented by its own counsel or by the attorney general. In the conduct of such hearing the commission shall not be bound by technical rules of evidence, but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission shall be permanently preserved and shall constitute the record of the commission in such case. Within thirty days after such hearing, the commission shall make a final determination. Such hearing may be presided over by the chair of the commission or by any member or an officer of the commission designated by the chair in writing to act as hearing officer and such person or persons may issue subpoenas for witnesses and administer oaths to witnesses. The hearing officer, at the conclusion of the hearing, shall make findings, which, if concurred in by a majority of a quorum of the commission, shall become the findings of the commission. If the commission determines that such approval is suspended, the commission shall make an order accordingly and shall cause such order to be entered on its minutes and a copy thereof served on such regional corporation. The action of the commission in suspending such approval shall be reviewable in the supreme court in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

3. The commission may suspend approval of any plan of operation for a reason set forth in subdivision one of this section as of the delivery to the regional corporation of the notice of hearing required by subdivision two of this section pending final determination of the commission following the hearing; provided, however, that no suspension of approval pursuant to this subdivision shall be for a period longer than twenty days.

4. The commission, in addition to its power to suspend or revoke plans of operation approved or licenses granted by it, is hereby authorized and empowered to impose monetary fines upon any corporation, association or person participating in any way in off-track betting on which pari-mutuel betting is conducted, other than as a patron, and whether licensed by the commission or not, for violation of any provisions of this chapter, or the rules promulgated by the commission pursuant thereto, or an approved plan of operation, not exceeding fifty thousand dollars for each violation. The commission is further authorized and empowered to impose monetary fines, not exceeding fifty thousand dollars for each violation, upon any such corporation, association or person for a violation of any order issued by the commission pursuant to the provisions of this chapter or the rules promulgated by the commission pursuant thereto, provided that a copy of such order shall have been served either personally or by certified mail, upon the corporation, association or person to whom the same was directed, prior to the occurrence of the violation for which such fine is imposed. The commission shall impose such monetary fines, subject to the notice and hearing provisions of the state administrative procedure act. Such fines shall be paid into the state treasury. The action of the commission in imposing any monetary fine shall be reviewable in the supreme court in the manner provided by and subject to the provisions of article seventy-eight of the civil practice law and rules.

§ 523. General limitations on off-track betting. The commission shall require that any regional corporation conduct off-track pari-mutuel betting in accordance with this section.

1. The system of off-track betting operated by such corporation, except as otherwise provided in this section, shall result in the combination of all off-track wagers with on-track wagers 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 off-track or on-track.

2. Exotic and multiple bets on races run within the state may be approved by the commission without a comparable on-track pool, provided that the corporation or association conducting such races shall have filed with the commission a written consent for such off-track exotic or multiple bets on races held at its track.

3. The commission may approve separate off-track pools on races run in other states subject to the limitations of this section and of subdivision eight of this section in particular.

4. No regional corporation authorized to conduct off-track betting by the commission shall accept off-track wagers on races run at any harness track located without its region while a harness track within its region is conducting a race meeting involving pari-mutuel betting without the approval of the regional operating harness track; provided, however, that for the purposes of this subdivision, the Suffolk region, the Nassau region, the New York city region, and the portion of the Catskill region outside a special betting district shall be considered a single region; and further provided, however, that for the purposes of this subdivision, there shall be created a harness special betting district, consisting of the counties of Cayuga, Chenango, Cortland, Franklin, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Otsego, St. Lawrence and Tompkins in which no off-track betting on races run at a harness track without such special betting district shall be permitted while a harness track within such special betting district is conducting a race meeting involving pari-mutuel betting.

4-a. Notwithstanding any inconsistent provision of subdivision four of this section, regional off-track betting corporations are hereby authorized and empowered in each year to accept wagers on the races known as the "Dr. Harry M. Zweig Memorial Trot" and "Empire Commission's Cup" (A pace) to be run under the auspices of the New York State Industrial Exhibit Authority.

5. Except for races conducted by a thoroughbred track in the Catskill region during a mixed meeting, no regional corporation shall accept wagers on any thoroughbred or steeplechase race run on any thoroughbred

or steeplechase track located without its region while a thoroughbred or steeplechase track within its region is conducting a race meeting involving pari-mutuel betting without the approval of the operating regional thoroughbred or steeplechase track, except that the Catskill and Suffolk regional corporations may accept wagers on any thoroughbred track outside its region while a thoroughbred track within the region is conducting such a race meeting provided the regional corporation accepts wagers on such track within the region; provided, however, that for the purposes of this subdivision, there shall be created a thoroughbred special betting district, consisting of the counties of Orleans, Genesee, Wyoming, Allegany, Monroe, Livingston, Steuben, Wayne, Ontario, Yates, Seneca, Schuyler, Cayuga, Tompkins, Onondaga and Cortland, in which no off-track betting on races run at a thoroughbred or steeplechase track without such special district including such a track within the Catskill region shall be permitted while a thoroughbred or steeplechase track within such special district is conducting a race meeting involving pari-mutuel betting without the approval of the operating regional thoroughbred or steeplechase track; provided, however, that within such district in the counties of Wyoming, Allegany, Steuben and Schuyler off-track betting on races run at a track by a franchised corporation without such special district shall be permitted. Notwithstanding any inconsistent provision in the foregoing, the regional off-track betting corporations are hereby authorized and empowered to accept all wagers on races known as the "Belmont Stakes", the "Travers Stakes", the "Breeders' Cup Series" and the "New York Derby"; and such corporation, outside of a harness special betting district, is hereby authorized and empowered to accept wagers on the races comprising the seven-day race meeting known as the "Syracuse Mile".

6. a. No regional corporation may accept wagers on races run at a thoroughbred or steeplechase track in another state or country while a thoroughbred or steeplechase track within this state is conducting a race meeting involving pari-mutuel betting; provided, however, that notwithstanding any inconsistent provision, the commission may designate no more than fifteen thoroughbred or steeplechase races per year as races of special interest on which off-track pari-mutuel betting may be

accepted by regional corporations, provided further that for purposes of this subdivision the acceptance of wagers on a series of races known as the "Breeders' Cup" shall be considered as a single thoroughbred or steeplechase race of special interest and all such races shall be determined in accordance with article nine of this chapter.

b. When a race meeting is not being conducted by a franchised corporation and a thoroughbred race meeting is being conducted at a track located within the thoroughbred special betting district, regional corporations and portions of regional corporations outside such district, shall, in addition to accepting wagers on races at such track, also be permitted to accept wagers on thoroughbred races run in another state. In the event that wagers are accepted on races run at both a track located in the thoroughbred special betting district and at a track located in another state, the balance of the amount payable to tracks within this state pursuant to paragraph f of subdivision one of section five hundred twenty-seven of this article, but (i) not less than one percent on regular and multiple wagering and two percent on exotic wagers, shall be paid to the track located within the thoroughbred special betting district running thoroughbred races, and (ii) not less than three-quarters of one percent of regular and multiple wagering and one and one-quarter percent on exotic wagers shall be paid to the harness track operator conducting racing within the region within which the wagers on such out-of-state races are placed.

c. If as a result of the authorization granted in paragraph b of this subdivision, the average daily distribution to harness track operators from regional off-track betting corporations and attributable to the conduct of off-track betting on thoroughbred races run concurrently by both an in-state and an out-of-state track operator during the period from June first, nineteen hundred seventy-eight through May thirty-first, nineteen hundred seventy-nine and each succeeding twelve-month period thereafter is less than the average daily distribution to such operators from off-track betting corporations and attributable to the conduct of racing by a thoroughbred racing association during the base period of June first, nineteen hundred seventy-seven through May thirty-first, nineteen hundred seventy-eight, such operators shall be entitled to a credit against the state tax imposed upon its pari-mutuel revenues. The tax credit for any twelve-month period shall be an amount calculated by multiplying the shortfall in the average daily distribution by the number of days in each twelve-month period that regional off-track betting corporations conduct betting on thoroughbred races run concurrently by both an in-state and an out-of-state track operator. The commission shall so certify to the department of taxation and finance the amount of credit applicable to each harness track operator no later than thirty days following the close of each twelve-month period.

7. No regional corporation may accept wagers on races run at a harness track in another state or country while a harness track within this state is conducting a race meeting involving pari-mutuel betting; provided, however, that notwithstanding any inconsistent provisions the commission may designate no more than fifty harness races per year as races of special interest on which off-track pari-mutuel betting may be accepted by regional corporations.

8. Pools permitted by subdivisions three, six and seven of this section shall be combined into a single statewide pool for the calculation of odds and the determination of payouts which shall be uniform throughout the state.

9. Notwithstanding any other provision of this article any regional corporation having a missed pool as defined in this subdivision shall dispose of such pool according to rules and regulations of the commission, which shall direct such regional corporations and such missed pools to the in-state track conducting the race on which the wager was placed to be used for the next available common pool.

§ 524. Reports, accounts, investigations. 1. The commission shall, consistent with the powers of the department of taxation and finance, prescribe uniform methods of keeping accounts, records and books to be observed by regional corporations. The commission shall, consistent with the powers of the department of taxation and finance, prescribe by order forms of accounts, records and memoranda to be kept by such corporations. The commission shall have power to visit, investigate, and place expert accountants, or such other persons as the commission may deem necessary, in the offices, or other places of business of any such corporation for the purpose of seeing that the provisions of this chapter and the rules and regulations issued by the commission thereunder are strictly complied with. Upon a finding by the commission of a reasonable basis to believe that any such off-track betting corporation is not complying with the rules and regulations of the commission or with applicable provisions of law, the commission, after providing a written report setting forth its findings, may by a majority vote direct such corporation to cause such corporation's business and managerial practices to be audited at such corporation's own expense to ensure that such corporation complies with the rules and regulations of the commission or any applicable provision of law.

2. Each regional corporation approved by the commission to conduct off-track pari-mutuel betting shall submit daily accounting reports to the commission, within forty-eight hours after each racing day, accounting for all tickets sold and winning tickets cashed or refunds and such other information as the commission may require. Copies of such daily reports shall be submitted to each racing association or corporation conducting races on which off-track wagers were accepted by such regional corporation.

3. Quarterly financial statements shall be submitted by each corporation to the commission within fifteen days after the end of each calendar quarter and shall include a balance sheet, a statement of revenue net of expenses, statement of cash flow, a breakdown of operating and administrative expenses for the quarter preceding submission of the report and for the year to date. All such reports shall be subject to audit by the state comptroller and shall be public records.

4. The reports required under this section shall be in such form and contain such other matters as the commission may determine from time to time to be necessary to disclose accurately the financial condition and

operation of such corporations. Each regional corporation shall submit a copy of the corporation's annual budget to the commission no later than twenty days following approval of such budget by the corporation's board of directors. The commission may for good cause shown grant a reasonable extension of time for the filing of any such report.

§ 525. Statewide transmission. Subject to the general limitations of this article, the provisions of its plan of operation and the rules and regulations of the commission, each regional corporation may provide for direct transmission of off-track wagering information to a track within its region for the purpose of creating a joint or combined pool as required by section five hundred twenty-three of this article.

§ 526. Use of track facilities; combined pools. In order to effectuate the general policy of this article that off-track and on-track wagers be combined into single pools to provide uniform odds and payouts, track operators shall be subject to the requirements of this section.

1. a. At the request of a regional corporation, a track operator conducting a race meeting at a track in this state, shall, upon such terms and conditions as may be agreed upon by such operator and the corporation subject to the approval of the commission, provide appropriate space and facilities at its track whereby the corporation may perform the functions hereinafter described with respect to the transmission and reception of wagering and racing information; provided, however, that payments to the track operator pursuant to section five hundred twenty-seven of this article shall be deemed adequate consideration for the occupancy of vacant space at such track or the use of existing facilities. The terms and conditions shall provide that the corporation shall bear the cost of any additional office space or the installation, leasing, operation, maintenance and servicing of additional facilities or equipment.

b. In the event that a corporation and such operator shall be unable to agree upon the space and facilities of such track to be provided to the corporation by such operator, or the terms and conditions of the use and occupancy thereof by the corporation, the commission shall, upon application in writing made either by the corporation or by such operator, determine the appropriate space and facilities to be provided to such corporation and the terms, conditions and costs of its use and occupancy by such corporation.

c. Upon the decision of the commission, the corporation shall be entitled to use and occupy immediately the space and facilities prescribed by the commission, upon the terms and conditions established by the commission.

2. No track operator shall prevent a regional corporation from using and occupying the space and facilities prescribed according to subdivision one of this section, nor fail to cause off-track wagers to be combined with on-track wagers into single pools, provided off-track wagering information is transmitted to the track in an accurate and timely fashion, nor prevent such transmission of racing information by the regional corporation to its offices as may be consistent with the regulations of the commission.

3. The commission shall be entitled to the use and occupancy of space and facilities upon reasonable terms in like manner as a regional corporation whenever the commission shall so require in order to perform its statewide transmission function pursuant to section five hundred twenty-five of this article. Any claim arising from such occupancy and use shall be determined by the court of claims.

4. The commission, on its own behalf or on behalf of a regional corporation, may apply to the supreme court for an injunction directing any track operator to comply with this section. In any such action the commission shall not be required to post bond or security.

5. Nothing contained in this section shall be construed as requiring the commission or any regional corporation to pay or deliver to any track operator any sum received from any bettor as a wager or otherwise, but the net amount due from the commission or such regional corporation

to the operator, in the event that payments to winning bettors at the track exceed the portion of the pari-mutuel pool attributable to such bettors, or the net amount due from the operator to the commission or regional corporation, in the event that payments to winning bettors off the track exceed the portion of the pari-mutuel pool attributable to such bettors, as the case may be, shall be paid within seven days of a race.

§ 527. Disposition of off-track pools; state tax. Each regional corporation conducting off-track betting shall distribute all sums deposited in any pari-mutuel pool through such corporation to the holders of winning tickets therein, providing such tickets be presented for payment prior to April first of the year following the year of their purchase, less an amount that it shall retain at the same rate established by the track accepting wagers from each such regional corporation.

1. The disposition of the retained commission from pools resulting from regular, multiple or exotic bets, as the case may be, whether placed on races run within a region or outside a region, conducted by racing corporations, harness racing associations or corporations, quarter horse racing associations or corporations or races run outside the state shall be governed by the tables in paragraphs a and b of this subdivision. There shall be paid by each regional corporation conducting off-track betting, as a reasonable tax imposed upon the retained commission for the privilege of conducting off-track pari-mutuel betting, which tax is hereby levied, a percentage of all money wagered on live races through such corporation, which shall be payable in the manner set forth in this section and in subdivision one of section one hundred thirty-six of this chapter. Each off-track betting corporation shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of the total daily pools of such corporation. Each corporation shall also pay twenty percent of the breaks derived from bets on out-of-state harness races and fifty percent of the breaks derived from bets on all other out-of-state races to the agriculture and New York State horse breeding

and development fund and to the thoroughbred breeding and development fund, the total of such payments to be apportioned fifty percent to each such fund. For the purposes of this section, the New York city, Suffolk, Nassau, and the Catskill regions shall constitute a single region and any thoroughbred track located within the Capital District region shall be deemed to be within such single region. A "regional meeting" shall refer to either harness or thoroughbred meetings, or both, except that a franchised corporation shall not be a regional track for the purpose of receiving distributions from bets on thoroughbred races conducted by a thoroughbred track in the Catskill region conducting a mixed meeting. With the exception of a harness racing association or corporation first licensed to conduct pari-mutuel wagering at a track located in Tioga, Saratoga or Westchester county after January first, two thousand five, racing corporations first licensed to conduct pari-mutuel racing after January first, nineteen hundred eighty-six or a harness racing association or corporation first licensed to conduct pari-mutuel wagering at a track located in Genesee County after January first, two thousand five, and quarter horse tracks shall not be "regional tracks"; if there is more than one harness track within a region, such tracks shall evenly divide payments made pursuant to the tables in paragraphs a and b of this subdivision when neither track is running. In the event a track elects to reduce its retained percentage from any or all of its pari-mutuel pools, the payments to the track holding the race and the regional track required by paragraphs a and b of this subdivision shall be reduced in proportion to such reduction. Nothing in this section shall be construed to authorize the conduct of off-track betting contrary to the provisions of section five hundred twenty-three of this article.

a. Regular and multiple bets:

	Track holding race	Regional track
Pools on races run by:		
Franchised corporations:		
in region;.....................	3.50	N/A

out-region, during a regional		
meeting;......................	1.00	2.50
out-region, no regional		
meeting;......................	1.75	1.75
Racing corporations		
in special		
betting district:		
in-special betting district;...	3.80	N/A
out-district, during a regional		
meeting;......................	1.00	2.80
out-district, no regional		
meeting;......................	1.90	1.90
Harness racing associations or		
corporations within Suffolk,		
Nassau, or Catskill regions:		
in region;....................	4.00	N/A
out-region, during a regional		
meeting;......................	1.00	3.00
out-region, no regional		

meeting;	2.00	2.00
Harness racing associations or corporations:		
in-special betting district;	4.00	N/A
out-district, during a regional meeting;	1.00	3.00
out-district, no regional meeting;	2.00	2.00
Other harness racing associations or corporations:		
in region;	4.00	N/A
out-region, during a regional meeting;	1.00	3.00
out-region, no regional meeting;	2.00	2.00
Quarter horse racing associations or corporations;	3.50	N/A
Out-of-state tracks:	3.50 divided pursuant to paragraph g of this subdivision	

b. Exotic bets:

	Track holding race	Regional track
Pools on races run by:		
Franchised corporations:		
in region;......................	6.50	N/A
out-region, during a regional meeting;......................	2.00	4.50
out-region, no regional meeting;......................	3.25	3.25
Racing corporations in special betting district:		
in-special betting districts;..	6.80	N/A
out-district, during a regional meeting;......................	2.00	4.80
out-district, no regional meeting;......................	3.40	3.40
Harness racing associations or corporations within Suffolk, Nassau, or Catskill		

regions:		
in region;.....................	7.00	N/A
out-region, during a regional		
meeting;.......................	2.00	5.00
out-region, no regional		
meeting;.......................	3.50	3.50
Harness racing associations		
or corporations:		
in-special betting		
district;......................	7.00	N/A
out-district, during a		
regional meeting;..............	2.00	5.00
out-district, no regional		
meeting;.......................	3.50	3.50
Other harness racing associa-		
tions or corporations:		
in-region;.....................	7.00	N/A
out-region, during a		
regional meeting;..............	2.00	5.00

out-region, no regional meeting;......................	3.50	3.50
Quarter horse racing associations or corporations;.........	6.50	N/A
Out-of-state tracks:............	6.50 divided pursuant to paragraph g of this subdivision	

c. Super Exotic Bets:

	Track holding race	Regional track
Pools on races run by:		
Franchised corporations:		
in region;....................	12.00	N/A
out-region, during a regional meeting;......................	3.00	10.00
out-region, no regional meeting;......................	6.00	6.00
Racing corporations in special betting district:		
in-special betting districts;..	12.00	N/A
out-district, during a regional		

meeting;......................	3.00	10.00
out-district, no regional		
meeting;......................	6.00	6.00
Harness racing associations or		
corporations within Suffolk,		
Nassau, or Catskill regions:		
in-region;....................	12.00	N/A
out-region, during a regional		
meeting;......................	3.00	10.00
out-region, no regional		
meeting;......................	6.00	6.00
Harness racing associations		
or corporations:		
in-special betting		
district;.....................	12.00	N/A
out-district, during a		
regional meeting;.............	3.00	10.00
out-district, no regional		
meeting;......................	6.00	6.00
Other harness racing associations		

or corporations:

in-region;.....................	12.00	N/A
out-region, during a regional meeting;..............	3.00	10.00
out-region, no regional meeting;.......................	6.00	6.00

d. For the portion of the Western region included within a thoroughbred special betting district and not within a harness special betting district, when no thoroughbred race meeting is conducted by a racing corporation located within such thoroughbred special district, the distribution of the retained commission to "regional tracks" by such regional corporation derived from wagers placed within such special betting district shall be divided as follows:

(i) when a harness corporation located in such district is conducting a meet the full amount to such harness corporation; and when a harness corporation in the region but not located in such district is conducting a meet, forty percent to the thoroughbred racing corporation and sixty percent to the harness corporation conducting a meet;

(ii) when no racing is being conducted, forty percent to the thoroughbred racing corporation and the balance divided equally between the harness racing corporations located in such region; and

(iii) when no racing is being conducted and no more than one harness racing association is licensed during the calendar year to conduct a race meeting, fifty percent to the thoroughbred racing corporation and fifty percent to the harness racing association located in such region.

e. For the portions of the Capital District, Catskill, Central and Western regions included within a harness racing special betting district, except those portions described in paragraph e of this subdivision, the harness track located in such special district shall be the "regional track" for the purposes of the distributions made pursuant to paragraphs a and b of this subdivision.

f. For the portions of the Catskill, Central and Western regions included in both a thoroughbred special betting district and a harness special betting district, the distribution of the retained commission to "regional tracks" by such regional corporations derived from wagers placed within such portions of such regions shall be divided as follows:

(i) when a harness corporation located in the harness special betting district is conducting a meet and no thoroughbred race meeting is being conducted by a racing corporation located in the thoroughbred special betting district, the full amount to such harness association;

(ii) when a thoroughbred corporation located in the thoroughbred special betting district is conducting a meet and no harness race meeting is being conducted by a harness association located in the harness special betting district, the full amount to such thoroughbred corporation;

(iii) when no racing is being conducted the amount to be divided evenly between the thoroughbred track located in such thoroughbred special betting district and the harness track located in such harness special betting district.

g. With respect to the amounts payable to track operators from the retained commission on pools resulting from thoroughbred or harness races outside this state, the regional corporation shall first pay any contractual obligation owed to the out-of-state track operator, or to another state or entity thereof, as the case may be. The balance of such amounts shall be divided as follows:

(i) for the betting region composed of the New York city, Suffolk and Nassau regions and the portion of the Catskill region outside a special betting district: when both harness and thoroughbred meets are in progress in such betting region, the balance to the association or corporation holding the same type of meet as the out-of-state race; when only a harness meet is in progress in such betting region, the balance to the harness track operator; when only a thoroughbred meet is in progress in such betting region, the balance to the thoroughbred track operator; when no meet is in progress, fifty percent of the balance to the franchised corporation and the remainder divided among harness racing corporations or associations within such betting region;

(ii) for the Capital District region and the portion of the Western region outside a special betting district: when a harness meet is in progress in such region and a thoroughbred meet is in progress outside a special betting district, the balance to whichever operator is conducting the same type of meet as the out-of-state race; when no harness meet is in progress, the balance to the racing association outside a special betting district; and when no meet is in progress within such region and no thoroughbred meet is in progress outside a special betting district, fifty percent of the balance to the racing association outside a special betting district and the remainder to the licensed harness racing corporations or associations within such region;

(iii) for the portion of the Western region within a thoroughbred special betting district but not within a harness special betting district: when a harness meet and a thoroughbred meet are in progress within such region and the district, the balance to the association or corporation conducting the same type of meet as the out-of-state or out-of-region race; when a harness meet is in progress in such region but no thoroughbred meet is in progress in the special betting district, the balance to the harness track operator within such region; when only a thoroughbred meet is in progress in such betting region, the balance to the thoroughbred track operator; and when no meet is in progress within such region the balance is divided, forty percent to the thoroughbred racing corporation within the district and the remainder divided between the harness racing associations or corporations within the region provided, however, that if no more than one harness racing association or corporation is licensed to conduct a race meeting, fifty percent to the thoroughbred racing corporation within the district and fifty percent to the licensed harness racing association within the region;

(iv) for the portions of the Capital District, Catskill, Central and Western regions included in a harness special betting district: when a harness meeting is in progress in such harness special betting district and a thoroughbred meeting is in progress outside the thoroughbred special betting district, the balance to the association or corporation holding the same kind of race; when no harness meet is in progress, the balance to the racing corporation holding a thoroughbred race meeting outside the thoroughbred special betting district; when a harness meeting is in progress in the harness special betting district and no thoroughbred meeting is in progress outside the thoroughbred special betting district, the balance to the harness track operating in such harness special betting district; when no harness meet is being held within such harness special betting district and no thoroughbred meet is being held outside the thoroughbred special betting district, fifty percent of such amount to the harness racing corporation in such harness special betting district and fifty percent to the thoroughbred track operator outside the thoroughbred special betting district;

(v) for the portions of the Catskill and Western regions included in both a thoroughbred special betting district and a harness special betting district: when a harness meet and a thoroughbred meet are in progress within both such districts the balance to the association or corporation conducting the same type of meet as the out-of-state race; when a harness meet is in progress but no thoroughbred meet the balance to the harness track operator within such district; when a thoroughbred meet is in progress but no harness meet the balance to the thoroughbred track operator in the district; and when no meet is in progress the balance to be divided evenly between the harness track operator in the harness special betting district and the thoroughbred operator located within the thoroughbred special betting district;

(vi) notwithstanding any contrary provision contained in this section, the portion of retained commissions from off-track pools distributable to the track holding the race shall be for regular and multiple bets: five and three-quarters percent and for exotic bets: seven and three-quarters percent for the three races commonly referred to as the Triple Crown consisting of the Kentucky Derby, the Preakness and the Belmont Stakes, run respectively at Churchill Downs, Kentucky, at Pimlico, Maryland and at Belmont Park, New York; additionally the same commissions shall apply to the series of races known as the Breeders' Cup and the portion distributable from retained commissions shall be paid to the Breeders' Cup, ltd. irrespective of whether the races are held at a track within or without the state; provided, however, that as a condition precedent to the obligation of a regional corporation to make the foregoing distributions as required in this subparagraph with respect to wagers on the Belmont Stakes, such regional corporation shall have accepted wagers on at least one or both of the immediately preceding Kentucky Derby and Preakness races; and provided further that the distributable portion of such retained commissions with respect to the Belmont Stakes shall be deemed to include the additional amounts payable pursuant to the provisions of paragraph b of subdivision three of this section; and provided further, notwithstanding the foregoing provisions of this subparagraph, that of the retained commissions resulting from off-track wagers placed in a special betting district on the Belmont Stakes, the track holding the race shall receive one per centum from regular and multiple bets and two percent from exotic bets, and the thoroughbred track conducting racing within such district shall receive four and three-quarters percent from regular and multiple bets, and five and three-quarters percent from exotic bets.

2. Payment of the state tax imposed by this section shall be made to the commissioner by each such regional corporation on the last business day of each month and shall cover taxes due for the period from the sixteenth day of the preceding month through the fifteenth day of the current month provided, however, that such payments required to be made on March thirty-first shall include all taxes due and accruing through the last full week of racing in March of the current year or as otherwise determined by the commissioner and shall be accompanied by a report under oath, showing such information as it 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 the payment of the tax, shall be payable in case any tax imposed by this section is not paid when due. If the commissioner determines that any moneys received by the commissioner under this section were paid in error, the commissioner may cause the same to be refunded without interest out of any moneys collected thereunder, provided an application therefor is filed with the commissioner within one year from the time the erroneous payment is made. Such taxes, interest and penalties when collected, after the deduction of refunds of taxes erroneously paid, shall be paid by the commissioner into the general fund of the state treasury.

3. a. Of the portion of retained commission on off-track pools

distributed to racing corporations, one-half shall be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes, awarded to horses in races conducted by such associations or corporations and any portion of said fraction not so used during any year shall be used during the following year, failing which it shall be returned to the regional off-track betting corporations on or before April first in the year following the year in which it is not so used to be distributed prior to June first to participating local governments in the same proportions as the distributions to such governments in the prior calendar year, provided, however, in a harness special betting district the portion of retained commissions to be used for purses or the methodology for calculating the amount to be used for purses may be specified in a written contract between a harness racing association or corporation and its representative horsemen's association.

* b. In addition to any other amount required by this section, of the portion of commissions retained by a regional corporation, an amount equal to one and eighty-five hundredths percent of regular pools and an amount equal to two and thirty-five hundredths percent of multiple pools and two and thirty-five hundredths percent of exotic pools derived from wagers on races conducted by a franchised corporation shall be paid to such corporation to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes. An additional two and sixty-five hundredths shall be paid to the regional harness track. When there is no regional meeting, an amount equal to four and sixty-five hundredths shall be paid to such nonprofit racing association of which two and nine tenths shall be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes. An additional one and eighty-five hundredths shall be paid to the regional harness track. In addition to any other amounts required to be paid to a franchised corporation, for the period July twenty-first, nineteen hundred ninety-five through July twenty-fourth, two thousand one, an additional one and twenty-five hundredths percent of multiple pools derived from wagers on races conducted by a franchised corporation shall be paid to such association for its own use and purposes. Any portion of said amount not so used during any year shall be used during the following year, failing which it shall be returned to the regional corporation on or before April first in the year following the year in

which it is not so used to be distributed to the participating local governments.

* NB Effective until July 1, 2026

* b. In addition to any other amount required by this section, of the portion of commissions retained by a regional corporation, an amount equal to one and one-quarter percent of regular and multiple pools and three-quarters of one percent of exotic pools derived from wagers on races conducted by a nonprofit racing association shall be paid to such nonprofit racing association to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes. An additional two and sixty-five hundredths shall be paid to the regional harness track. When there is no regional meeting, an amount equal to four and sixty-five hundredths shall be paid to such nonprofit racing association of which two and nine-tenths shall be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes. An additional one and eighty-five hundredths shall be paid to the regional harness track. Any portion of said amount not so used during any year shall be used during the following year, failing which it shall be returned to the regional corporation on or before April first in the year following the year in which it is not so used to be distributed to the participating local governments.

* NB Effective July 1, 2026

c. In addition to any other amount required by this section, of the portion of commissions retained by a regional corporation, an amount equal to one and one-tenth percent of regular and multiple pools and six-tenths of one percent of exotic pools derived from wagers on races conducted by a thoroughbred racing corporation, licensed by the commission, other than a franchised corporation, shall be paid to such thoroughbred racing corporation to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes. Any portion of such amount not so used during any year shall be used during the following year, failing which such amount shall be returned to the regional corporation on or before April first in the year following the year in which it is not so used to be distributed to the participating local governments.

4. a. Of the portion of retained commission on off-track pools distributed to harness racing associations or corporations authorized to conduct racing in Westchester or Nassau county, one-half shall be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes awarded to horses in races conducted by such associations or corporations.

b. The portion of retained commission on off-track pools distributed to other harness or quarter horse racing associations or corporations shall be deemed to be part of the on-track commission for purposes of calculating purses, including stakes, premiums and prizes, awarded to horses in races conducted by such associations or corporations.

5. a. One percent of daily pools derived from bets on harness races shall be paid to the agriculture and New York state breeding and development fund except that for super exotic betting pools such amount shall be three percent of such bets.

b. An amount equal to one-half of one percent of total daily off-track pari-mutuel pools resulting from regular, multiple and exotic bets and three percent of super exotic bets on thoroughbred or steeplechase races shall be paid to the New York state thoroughbred breeding and development fund.

c. From the total breaks retained by a regional corporation, an amount equal to ten percent of the breaks derived from bets on out-of-state quarter horse races shall be paid to the New York state quarter horse breeding and development fund.

5-a. Notwithstanding any other provision of law, a regional corporation shall retain, in addition to those amounts described in the opening paragraph of this section, from regular and multiple bets on races run at tracks electing to withhold pursuant to section two hundred thirty-seven or section three hundred nineteen of this chapter, an amount equal to one percent of pools resulting from total wagering at such tracks, one-half of which shall be paid to such tracks or non-profit county agricultural society, except that the full one percent shall be paid to a thoroughbred track in the Catskill region conducting a mixed meeting, to be used exclusively for capital improvements pursuant to sections two hundred thirty-seven and three hundred nineteen of this chapter and subject to the rules and regulations of the commission and one-half to be retained by the regional corporation for its own corporate purposes.

6. The net amount remaining to each regional corporation after payment of taxes and distributions pursuant to this section and after payment of operating expenses and principal and interest on any obligations shall, in the case of the New York city off-track betting corporation, be retained by the corporation, and in the case of other regional corporations shall accrue and be payable to participating counties pursuant to section five hundred sixteen of this chapter; provided, however, that the New York city off-track betting corporation, after payment of all current taxes and distributions shall use such net amount to pay all liabilities of such corporation as of the effective date of the chapter of the laws of two thousand eight which amended this subdivision, and at such time as all liabilities have been paid such corporation shall pay remaining amounts to the comptroller of the state of New York for deposit in the general fund of the state.

7. In addition to any other amount required by this section, of the portion of commissions retained by a regional corporation, an amount equal to one percent of multiple pools derived from wagers on races conducted by a thoroughbred racing corporation, licensed by the board, other than a franchised corporation, shall be paid to such thoroughbred racing corporation and held by such corporation for its own use and purposes, except that an amount equal to one-half percent shall be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes, awarded to horses in races conducted by such corporation. Any portion of said amount not so used during any year shall be used during the following year, failing which it shall be returned to the regional corporation on or before April first in the year following the year in which it is not so used to be distributed to the participating local governments.

8. From the nineteen percent of the total deposits in pools resulting from multiple bets on thoroughbred races outside this state, two percent shall be paid to a franchised corporation to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes. Any portion of said amount not so used during any year shall be used during the following year, failing which it shall be returned to the regional corporation on or before April first in the year following the year in which it is not so used to be distributed to the participating local governments. Notwithstanding the provisions of section fifteen of chapter three hundred sixty-three of the laws of nineteen hundred eighty-four, the provisions of this subdivision shall not expire.

§ 528. Agreements involving other states. 1. The commission shall be empowered to conclude agreements with another state or a racing corporation or association in another state, as the case may be, on behalf of any or all regional corporations for the purpose of conducting off-track betting on races run in another state, subject to the other provisions of this article.

2. No regional corporation shall conclude such an agreement without the express approval of the commission, which shall be withheld upon a finding that such agreement would be contrary to the purposes of this article or upon the commission's determination to act directly, pursuant to this section.

3. Subdivisions one and two of this section shall apply in like manner to any agreements with another state or any agency, subdivision or entity thereof concerning off-track pari-mutuel betting conducted in another state on races run in this state. No franchised corporation, nor any racing corporation or association licensed by the commission shall enter into such an agreement without the commission's express approval.

§ 529. Unclaimed winnings and refunds. The commission shall require each regional corporation to establish a non-escrowed account for payment of outstanding winning tickets and for payment of refunds to ticket holders entitled thereto under the rules of the commission.

1. All tickets must be presented for payment to the regional corporation from which purchased prior to April first of the year following the year of purchase.

2. Ninety-five percent of the balance of such account remaining unclaimed as of the last day of February of such year shall be paid to the department of taxation and finance by March fifteenth. On or before April tenth of each year the balance of such account and any other unclaimed amounts received in the course of conducting off-track betting shall be paid by such corporation to the department of taxation and finance. A penalty of five percent and interest at the rate of one percent per month from the due date to the date of payment of the unclaimed balance due March fifteenth or April tenth, as the case may be, shall be payable in case such balance is not paid when due. Such amounts, interest and penalties when collected by the department of taxation and finance shall be deposited into the general fund of the state treasury.

§ 530. Job security for track employees. Plans of operation of regional off-track betting corporations shall include provision for job security for employees of racetracks within each region compatible with and in furtherance of the objectives of this article and subject to the approval of the commission. Job security agreements that may be concluded from time to time after July first, nineteen hundred seventy-three between track employee organizations and the New York city off-track betting corporation or any other regional off-track betting corporation shall be subject to the approval of the commission and when approved shall be deemed a part of the plan of operation of such corporation and any other regional corporation; provided, however, that nothing in this article or any other provision of this chapter shall be construed to require or empower the commission to abrogate job security agreements between the New York city off-track betting corporation and any track employee organization, in effect on July first, nineteen hundred seventy-three and any such contracts shall be deemed to be a part of the plan of operation of such corporation.

§ 531. Reduction of local admissions taxes as a pre-condition of off-track betting. 1. Notwithstanding article eight of this chapter and subdivision twenty-four of section sixty-four of the town law, no locally imposed taxes on admissions to harness or running races shall be in the aggregate more than three percent of such admissions on and after the first day that off-track pari-mutuel betting is conducted or continues to be conducted in such locality imposing the tax by a regional corporation, pursuant to this article, established for the region in which such races are conducted.

2. A regional corporation, except for such corporations consisting of only one participating county or one city, shall annually reimburse any city or town within such region for any reduction in admissions tax revenues equal to the difference between such revenues for:

a. the twelve months immediately preceding the reduction required by this section, and

b. each twelve-month period subsequent to July thirty-first, nineteen hundred seventy-eight.

§ 532. Surcharge on off-track winnings; disposition of revenues. 1. Notwithstanding any other provision of law, each regional off-track betting corporation, or off-track betting operator, including the New York city off-track betting corporation, conducting off-track betting shall impose a surcharge of five percent on the portion of pari-mutuel wagering pools distributable to persons having placed bets at off-track betting facilities located within such region. The revenues derived from such surcharge shall be held separate and apart from any amounts otherwise authorized to be retained from pari-mutuel pools. Such surcharge is hereby levied subject to the conditions set forth in this subdivision and article ten of this chapter.

3. The revenues received from any surcharge imposed by subdivision one of this section shall be distributed monthly, as follows:

a. fifty percent to such city, or to the counties and cities entitled to receive revenues from the regional corporation pursuant to section five hundred sixteen of this chapter and in the same proportion as provided therein, or to an off-track betting operator; and

b. the balance as follows:

(i) where the track conducting the race on which the bet was placed is located within a city with a population in excess of one hundred thousand, to such city;

(ii) where the track conducting the race on which the bet was placed is not located within a city with a population in excess of one hundred thousand, to the county in which such track is located;

(iii) where the track conducting the race on which the bet was placed is located partially within a city with a population in excess of one million and partially within a county, twenty-five percent of such balance to the city and the remainder to the county;

(iv) where the track conducting the race on which the bet was placed is located outside the state, in the same manner as described in paragraph a of this subdivision;

(v) where the track conducting the race is located in a thoroughbred special betting district and is simulcasting pursuant to section one thousand eight of this chapter outside such special betting district, ninety percent to the off-track betting operator and ten percent to the county in which such track is located; and

(vi) for the period of September first, two thousand twenty-two until August thirty-first, two thousand twenty-seven and where the track conducting the race on which the bet was placed is a harness track located in the county of Erie, to such track.

3-a. Such five percent surcharge herein provided is hereby increased by a supplemental one percent surcharge on the portion of pari-mutuel wagering pools of multiple, exotic and super exotic bets distributable to persons having placed bets at off-track betting facilities to be distributed in accordance with the provisions of section five hundred nine-a or six hundred nine-a of this chapter, whichever may be applicable to the corporation with which such bets originated.

4. The commission shall issue regulations providing for monthly distribution to cities and counties of the revenues received under this section, through the regional off-track betting corporation in which such cities or counties are located; provided, however, in the event that such cities or counties otherwise entitled to receive such revenues are not participating cities or counties with a regional off-track betting corporation then such monthly distributions shall be payable directly to such cities or counties. Regional off-track betting corporations that receive payments under this subdivision shall distribute such payments to appropriate participating cities and counties within three business days following receipt of such payments. The commission shall also provide for periodic reports by regional off-track betting corporations to ensure that the purposes of this section are carried out.

5. Notwithstanding any other provision of law, moneys distributable to the county of Saratoga pursuant to subparagraph (ii) of paragraph b of subdivision three of this section shall be distributed as follows:

a. The first one million six hundred fifty-eight thousand one hundred fifty-four dollars and sixty-four cents of distributable revenues shall be paid to the county of Saratoga.

b. The next three hundred twenty-two thousand nine hundred fourteen dollars and twenty-one cents of distributable revenues shall be paid to the city of Saratoga.

c. If any surplus moneys are available after the payments are made pursuant to paragraphs a and b of this subdivision such surplus moneys shall be paid as follows:
(i) 83.7% of such surplus shall be paid to the county of Saratoga.
(ii) 16.3% of such surplus shall be paid to the city of Saratoga.

Upon the release of the federal census figures for the census conducted in nineteen hundred eighty, the allocation of such revenues shall be apportioned between the county of Saratoga and the city of Saratoga and shall be determined by the percentages of the total population of the county of Saratoga and the city of Saratoga in relation to each other.

6. Notwithstanding any provision herein or in section one thousand nine of this chapter to the contrary where the track conducting the race is a thoroughbred track located in the Catskill region conducting a mixed meeting such surcharge shall be collected on all wagers placed in branch offices or simulcast theaters of a regional off-track betting corporation. The revenues received from any such surcharge imposed in accordance with this section shall be distributed monthly as follows:

a. one-fifth to the county in which such track is located;

b. three-fifths to a regional track located in the region in which the bet is placed in accordance with provisions of section five hundred twenty-seven of this article, one-half thereof to be used for purses at such regional track, except that in any region containing two or more regional tracks such tracks shall be entitled to an equal share;

c. one-fifth to be retained by the off-track betting operator with whom such bet originated as operating revenues.

7. Notwithstanding any other provision of this section, any payments otherwise payable to a city with a population of one million or more, pursuant to this section, other than payments pursuant to subparagraphs (i) and (iii) of paragraph b of subdivision three of this section, shall be payable to the corporation and shall be available for its corporate purposes.

ARTICLE VI
NEW YORK CITY OFF-TRACK BETTING CORPORATION

Section 601. Declaration of policy and statement of purposes.
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§ 601. Declaration of policy and statement of purposes. It is hereby found, determined and declared:

1. That the New York state off-track pari-mutuel betting law was created by a chapter of the laws of nineteen hundred seventy;

2. That the New York state off-track pari-mutuel betting commission, established by such law, was authorized to approve the operation of off-track pari-mutuel betting systems by public benefit corporations in participating municipalities;

3. That the operation of an off-track pari-mutuel betting system by a public benefit corporation in New York city, in accordance with the provision of the New York state off-track pari-mutuel betting law, is deemed to be a matter of state concern and a public purpose which cannot be adequately attained except by the powers of government, and that such public benefit corporation in the exercise of the powers conferred upon it by this article, will perform a governmental function.

§ 602. Definitions. As used in this article, the following terms shall mean and include:

1. "Administrative code." The administrative code of the city.

2. "Board." The board of directors of the corporation as such board is constituted pursuant to section six hundred three of this article.

3. "Bonds" and "notes." Bonds and notes respectively, authorized and issued by the corporation pursuant to this article.

4. "Branch office." An establishment maintained and operated by the corporation, where off-track, pari-mutuel bets on horse races may be placed in accordance with the terms and conditions of this article and the regulations promulgated pursuant thereto.

5. "Charter." The New York city charter.

6. "City." The city of New York.

8. "Corporation." The New York city off-track betting corporation established by section six hundred three of this article.

9. "Cost of corporation's functions." All costs and expenses incurred by the corporation in connection with the performance of the functions of the corporation, including, but not limited to, operating expenses of the corporation, the cost of acquiring, constructing or equipping branch offices and other facilities and premises of the corporation, and

interest and principal on bonds, notes or other obligations of the corporation issued to finance the acquisition, construction or equipment of such offices, facilities or premises.

10. "Commissioner of finance." The commissioner of finance of the city.

11. "Mayor." The mayor of the city.

12. "State." The state of New York.

13. "Track." The grounds or enclosure within which horse races are conducted by any person, corporation or association lawfully authorized to hold such races.

14. "Site selection board." The site selection board shall be composed of the commissioner of general services, the chief executive officer of the urban development corporation, the director of the division of the budget, and a designee of the mayor of the city of New York; and with respect to a branch office located wholly or partly within a borough, of the city, the president or presidents of the borough or boroughs in which the proposed site is located.

§ 603. New York city off-track betting corporation. 1. A corporation to be known as the "New York city off-track betting corporation" is hereby created. Such corporation shall be a body corporate and politic constituting a public benefit corporation. It shall be administered by a board of directors consisting of five members, who may be public officers, appointed by the governor for fixed terms as hereinafter provided, one of whom shall be appointed on the recommendation of the temporary president of the senate, and one of whom shall be appointed on the recommendation of the speaker of the assembly.

2. Of the directors, one shall be appointed for a term ending on December thirty-first, two thousand nine, one for a term ending on December thirty-first, two thousand ten, one for a term ending on

December thirty-first, two thousand twelve, and the two directors appointed on the recommendation of the temporary president of the senate and the speaker of the assembly, for a term ending December thirty-first, two thousand fourteen. Upon the expiration of such terms, the terms of office of their successors shall be six years. Vacancies occurring otherwise than by expiration of term shall be filled for the unexpired term.

3. The governor shall designate one of the directors to be chairman of the board of directors and may at his pleasure, change his designation of any such director to be chairman.

4. Each director shall continue to serve until the appointment and qualification of his successor.

5. The directors shall be removable for cause by the governor, upon charges and after a hearing.

6. The powers of the corporation shall be vested in and exercised by the board at a meeting duly held at a time fixed by any by-law adopted by the board, or at any duly adjourned meeting of such meeting or at any meeting held upon reasonable notice to all of the directors, or upon written waiver thereof, and a majority of the whole number of directors shall constitute a quorum; provided that neither the business nor the powers of the corporation shall be transacted or exercised except pursuant to the favorable vote of at least a majority of the directors present at a meeting at which a quorum is in attendance.

7. The board may delegate to one or more of the directors, officers, agents or employees of the corporation such powers and duties as it may deem proper.

8. The directors shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

9. The directors may engage in outside employment or in a profession or business unless otherwise prohibited from doing so by virtue of

holding another public office subject to the provisions of section seventy-three of the public officers law.

10. The board shall hold an annual meeting.

11. The fiscal year of the corporation shall be the same as that of the city, provided, however, that the corporation shall have a nine month fiscal year from July first, two thousand eight through March thirty-first, two thousand nine, and then the fiscal year of the corporation shall be the same as the state.

§ 604. Powers of the corporation. The corporation shall have power:

1. To sue and be sued;

2. To have a seal and to alter the same at its pleasure;

3. To acquire, hold, lease, rent and dispose of personal property for its corporate purpose;

4. To acquire, in the name of the state, by purchase, condemnation, gift, grant or devise or otherwise, and to use, real property which is necessary or convenient for carrying out its corporate purpose; provided that the corporation shall not condemn any real property without first having obtained the consent of the mayor. All real property acquired by the corporation by condemnation shall be acquired in the manner provided by law for the condemnation of real property by the state;

5. To make by-laws for the management and regulation of its affairs;

6. With the consent of the state, to use agents, officers, employees, and facilities of the state, paying to the state its agreed proportion of the compensation or costs;

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation; subject, however, to the

provisions of section six hundred six of this article;

8. To make contracts and leases, including joint ventures with third parties or entities, and to execute all instruments necessary or convenient to accomplish its corporate purpose; provided, however, that the corporation may only enter into agreements for the purchase or lease of any property to be used in whole or in part as an off-track betting branch office which is conditioned upon the location thereof being approved by the site selection board; and further provided, that such location prior to its use as such off-track betting branch office shall have been approved by the site selection board;

9. To construct such buildings, structures and facilities as may be necessary;

10. To accept grants, loans and contributions from the United States, the state or any agency or instrumentality of either of them, or the city, or any person, including gifts or transfers by bequest or otherwise, and to use same or expend the proceeds thereof for its corporate purpose;

11. In the manner and subject to the terms and conditions set forth in this article, and article five-a of this chapter to establish and conduct a system of off-track pari-mutuel betting in the city on horse races;

12. a. To promulgate, amend and repeal such rules and regulations, consistent with the provisions of this article, as it may deem necessary or desirable for the carrying out of the purposes of this article. Such rules and regulations shall have the force and effect of law.

b. No rule or regulation promulgated by the corporation pursuant to the provisions of this subdivision shall be effective until a copy thereof is filed with the commission.

c. Any violation of any rule or regulation, filed with the commission and designated by the letter "R" by resolution of the board of directors of the corporation, shall be an offense triable by a judge of the criminal court of the city, and shall be punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars, or by both such imprisonment and fine. All such fines collected shall be paid into the general fund of the state. Any such rule or regulation shall be effective, notwithstanding that any act or omission made an offense or punishable thereby may be a crime or offense or punishable under any other provision of law;

13. To perform such other acts and engage in such other activities as may be necessary and proper for exercising its powers and performing its duties under this article.

§ 605. Policing of off-track betting. 1. The corporation shall, at its own expense, provide such policing as may be necessary to preserve order in branch offices and other facilities and premises of the corporation and enforce the provisions of this article and the rules and regulations promulgated pursuant thereto.

2. Such policing shall be provided through employees of the corporation designated as: (i) special patrol officer by the police commissioner of the city and serving pursuant to the provisions of section 14-106 of the administrative code of the city of New York, or (ii) special police officers designated in a manner consistent with section five hundred four of this chapter. When so designated, such special patrol officers or special police officers shall, in the branch offices and the other facilities and premises of the corporation, and in the areas within five hundred feet therefrom:

a. Be empowered to perform all functions and to enforce all laws, rules and regulations mentioned in subdivision one of this section and

b. Possess all of the powers and discharge all of the duties of regular members of the police force of the city.

§ 606. Personnel administration; pension, retirement and other benefits. 1. For the purposes of this section, all employees of the New York city off-track betting corporation on or after the effective date of the chapter of the laws of two thousand eight which amended this section shall remain employees of such corporation after such effective date.

2. The corporation shall administer its personnel pursuant to the civil service law and the rules and regulations promulgated thereunder, and classification and compensation schedules of the state department of civil service, and all other applicable provisions of general laws relating to civil service administration. The corporation shall retain all personnel, payroll and associated employee records and shall ensure that the New York city employees' retirement system has access to such records for retirement purposes consistent with current records retention requirements.

3. Any officer or employee of the corporation who heretofore acquired or shall hereafter acquire such position status by transfer and who at the time of such transfer was a member of the New York city employees' retirement system shall, with respect to such retirement system, continue to have the rights, privileges, obligations and status which would have applied to him if he had continued to hold the office or position which entitled him to such membership prior to such transfer. Employment by the corporation shall constitute city-service for the purposes of chapter one of title thirteen of the administrative code of the city of New York.

4. All employees and officers of the corporation in classes or positions whose incumbents, in equivalent classes or positions of the city, are eligible, as of the effective date hereof, to participate in, and receive benefits from any city authorized health insurance or welfare benefit program, shall be eligible to participate in, and receive benefits from any such health insurance or welfare benefit program; provided, however, that the corporation shall reimburse the city or its designee for the actual cost of benefits under this subdivision.

§ 607. Acquisition or leasing of property by the state or corporation; agreements between the state and corporation as to use or occupancy of property. 1. The state may, in accordance with the provisions of law governing the acquisition or leasing of real property by the state, acquire real property in the name of the state by purchase or condemnation for use by the corporation, or lease real property from other owners for such purpose, and may through lease or contract made upon such terms and conditions, with or without consideration, and for such period of time as may be agreed upon by the state and the corporation, authorize the use or occupancy of such real property by the corporation for the carrying out of its corporate purpose.

2. The state may, in accordance with the provisions of law governing the acquisition or leasing of personal property by the state, acquire or lease personal property for use by the corporation and may by lease or contract made upon such terms and conditions, with or without consideration, and for such period of time as may be agreed upon by the state and the corporation authorize the use of such property by the corporation or transfer title to such property to it, for the carrying out of its corporate purpose.

3. Contracts may be entered into by the state and the corporation containing undertakings by the state (i) to acquire or lease real or personal property and authorize the use or occupancy of same by the corporation, or (ii) to perform any other acts on the part of the state authorized by subdivisions one and two of this section, provided the acts of the state called for by such undertakings are in conformity with the provisions of, and within the powers granted to the state by, subdivisions one and two of this section. The making of any such contract shall be authorized in the same manner as the act or acts of the state called for by the undertaking or undertakings in such contract are required to be authorized under the applicable provisions of subdivisions one and two of this section.

4. If such real property was acquired at the cost and expense of the

corporation, the corporation shall have power to sell, lease or otherwise dispose of said real property at public or private sale, and shall retain and have the power to use the proceeds of sale, rentals, or other moneys derived from the disposition thereof for its corporate purpose.

5. The site selection board, as defined in section six hundred two of this article shall operate pursuant to the following procedures:

a. Every act of the board shall be by resolution adopted by a majority of the votes cast by all the members. No resolution shall be adopted except after a public hearing, notice of which shall be published in the state register for six consecutive business days and in a newspaper of general circulation in the city for two consecutive business days immediately preceding said hearing.

b. Meeting of the site selection board shall be called either:
(i) as directed by the board upon notice thereof published in the state register for six consecutive business days and in a newspaper of general circulation in the city for two consecutive business days; or
(ii) upon written notice to the board by the president of the corporation, that a site for an off-track betting branch office is under consideration by the corporation for lease or acquisition. A copy of such written notice shall be published in the state register for six consecutive business days and in a newspaper of general circulation in the city for two consecutive business days. All meetings of the board shall be within seven consecutive business days of the date on which notice of said meeting is first printed in the state register for six consecutive business days and in a newspaper of general circulation in the city for two consecutive business days.

c. The site selection board shall have power and authority to adopt and amend rules and regulations for the conduct of its business and to carry out its powers and duties; provided, however, that the board shall adopt rules which require board action on a proposed site within thirty days of the board's public hearing provided for herein and that by its failure to act within thirty days the board shall be deemed to have approved the site.

§ 609. Contracts of corporation. 1. The corporation shall let contracts for construction or any other work, including the furnishing of materials or supplies incident thereto, and contracts for the purchase or procurement of equipment, materials or supplies: (i) in the manner provided by law with respect to the letting of such contracts by the state, except that where the estimated expense of a contract does not exceed ten thousand dollars, such contract may be entered into without public letting, provided however, that where the corporation determines with respect to any contract that it would not be in the public interest to comply with this section and the office of general services, concurs in such determination, then it may enter into such contract without public letting as authorized; or (ii) in the manner provided in section five hundred seven of this chapter, if in conjunction with one or more regional off-track betting corporations.

2. The corporation may make rules and regulations governing the qualifications of bidders entering into such a contract where the cost of such a contract exceeds ten thousand dollars. The bidding may be restricted to those who shall have qualified prior to the receipt of bids according to standards fixed by the corporation; provided, however, that notice or notices for the submission of qualifications shall be published in the state register and in an appropriate trade journal published in the state, at least once, not less than ten days prior to the date fixed for the filing of qualifications.

3. It shall be a misdemeanor for a director of the corporation or an officer, agent, executive or other employee retained, employed or appointed by the corporation to be in any manner or way interested, directly or indirectly, as principal, surety or otherwise in a contract, the expense or consideration whereof is payable out of funds of the corporation. The corporation shall be subject to procurement lobbying as provided in sections one hundred thirty-nine-j and one hundred thirty-nine-k of the state finance law.

§ 609-a. Capital acquisition fund. 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) the amounts specified pursuant to subdivision three-a of section five hundred thirty-two of this chapter; and (ii) contributions from the corporation's pari-mutuel wagering pools, subject to the following limitations:

(1) 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;

(2) 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

(3) 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.

§ 610. Moneys of corporation. 1. The monetary transactions of the corporation and the keeping of its books and accounts shall be under the supervision of the director of the division of the budget. The chair of the commission may at any time request and shall be provided for review such books and accounts.

2. All moneys due the city pursuant to article five-A of this chapter shall be paid to the New York city comptroller.

3. The state comptroller and his legally authorized representative are authorized to examine the accounts and books of the corporation, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

4. The corporation shall have power, notwithstanding the provisions of

this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the corporation or any moneys held in trust or otherwise for the payment of bonds in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section.

5. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the corporation, and all banks and trust companies are authorized to give such security for such deposits.

§ 611. Issuance of bonds and notes by corporation. 1. The corporation shall have the power and is hereby authorized, from time to time, to issue negotiable bonds and notes in such aggregate principal amounts as shall, in the opinion of the corporation, be necessary together with such other moneys or funds as may be available to the corporation, to provide funds sufficient to enable the corporation to carry out its corporate purposes, including the acquisition, construction, maintenance and repair of personal and real property, the payment of interest on and amortization of, or payment of such bonds and notes, the establishment of reserves or sinking funds to secure such bonds and notes, and all other expenditures of the corporation incident to and necessary or desirable for the carrying out of its corporate purposes and the exercise of its powers. Except as may otherwise be expressly provided by the corporation, every issue of its bonds and notes shall be general obligations of the corporation payable out of any revenues or moneys of the corporation, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Whether or not the bonds or notes are of such form and character as to be negotiable instruments under the provisions of article eight of the uniform commercial code, the bonds and notes shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of article eight of the uniform commercial code, subject only to the provisions of the bonds or notes for registration.

2. The corporation shall have the power and is hereby authorized, from time to time, to issue renewal notes, and to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds to pay notes or partly to refund bonds then outstanding.

3. The said bonds and notes shall be authorized by resolution or resolutions of the board, and shall mature as such resolution or resolutions may provide. Bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. Bonds and notes may be sold by the corporation at public or private sale at such price or prices as the corporation shall determine; provided, however, that no such bonds or notes may be sold at a private sale unless the sale and the terms thereof have been approved by the comptroller in writing.

4. Any resolution or resolutions authorizing any bonds or notes may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

a. pledging all or any part of the moneys or revenues or other assets of the corporation to secure the payment of such bonds or notes;

b. the setting aside of reserves or sinking funds and the regulation or disposition thereof;

c. limitations on the purposes to which the proceeds of the sale of any issue of bonds or notes then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or notes or any issue thereof;

d. limitations on the issuance of additional bonds or notes; the terms upon which such additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes;

e. the procedures, if any, by which the terms of any contract with the holders of bonds or notes may be extended or abrogated, the amount of bonds or notes the holders of which must consent thereto and the manner in which such consent may be given;

f. the creation of special funds into which any moneys or revenues of the corporation may be deposited;

g. limitations on the amounts that the corporation may expend for administrative or other expenses thereof;

h. vesting in a trustee such properties, rights, powers and duties in trust as the corporation may determine and limiting or abrogating the right of the holders of the bonds or notes to appoint a trustee under section six hundred sixteen of this chapter;

i. defining the acts or omissions to act that shall constitute a default in the obligations and duties of the corporation to the holders of the bonds or notes and providing for the rights and remedies of the holders of the bonds or notes in the event of such default, including as a matter of right the appointment of a receiver; providing, however, that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this article; and

j. any other matters, of like or different character, that in any way affect the security or protection of the holders of the bonds or notes.

5. Any pledge of revenues, moneys or property made by the corporation shall be valid and binding from the time when the pledge is made; the revenues, moneys or property so pledged and thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation irrespective of whether such parties have notice thereof. Neither the resolution or resolutions nor any other instrument by which

a pledge is created need be recorded.

6. Neither the directors of the corporation nor any other person executing such bonds or notes shall be subject to any personal liability or accountability by reason of the issuance thereof.

7. The corporation, subject to such agreements with the holders of bonds or notes as may then exist, shall have the power out of any funds available therefor to purchase any bonds or notes issued by it at a price not exceeding the redemption price thereof, which price shall be:

a. if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or

b. if the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which bonds or notes become subject to redemption plus accrued interest to such date. All bonds or notes so purchased shall be cancelled.

§ 612. Reserve fund. 1. The corporation shall create and establish a special fund herein referred to as the capital reserve fund, and shall pay into such capital reserve fund:

a. any moneys appropriated and made available by the state for the purpose of such capital reserve fund,

b. any proceeds of sale of bonds or notes to the extent provided in the resolution or resolutions of the corporation authorizing the issuance thereof, and

c. any other moneys that may be made available to the corporation for the purpose of such capital reserve fund from any other source or sources. All moneys held in the capital reserve fund, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the corporation, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided, however, that moneys in such capital reserve fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding fiscal year of the corporation on all bonds of the corporation then outstanding, except for the purpose of paying principal of and interest on such bonds of the corporation maturing and becoming due and for the payment of which other moneys of the corporation are not available. Any income or interest earned by, or increment to, the capital reserve fund due to the investment thereof may be transferred to other funds or accounts to the extent it does not reduce the amount of the capital reserve fund below the maximum amount of principal and interest maturing and becoming due in any such succeeding fiscal year on all bonds of the corporation then outstanding.

2. The corporation shall not issue bonds at any time if the maximum amount of principal and interest maturing and becoming due in a succeeding fiscal year of the corporation on such bonds then to be issued and on all other bonds of the corporation then outstanding will exceed the amount of the capital reserve fund at the time of issuance of such bonds, unless the corporation, at the time of issuance of such bonds, shall deposit in the capital reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which together with the amount then in such fund, will not be less than the maximum amount of principal and interest maturing and becoming due in any such succeeding fiscal year on such bonds then to be issued and on all other bonds of the corporation then outstanding.

3. For the purposes of computing the amount of the capital reserve fund, any securities in which any portion of such fund is invested shall be valued at the par value thereof or at the cost thereof to the corporation if such cost was less than said par value.

§ 613. Agreement of the state. The state does pledge to and agree with the holders of any and all bonds and notes of the corporation that the state will not authorize any officer or agency of government, other than the corporation, or any private person, to conduct off-track betting in the city on horse races, nor in any manner limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the said holders, or in any way impair the rights and remedies of such holders until the bonds and notes, together with the interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

§ 614. State and city not liable on bonds and notes. The bonds, notes or other obligations of the corporation shall not be a debt of either the state or the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the corporation.

§ 616. Remedies of holders of bonds and notes. 1. In the event that the corporation shall default in the payment of the principal of or interest on any issue of bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the provisions of this article, or shall default in any agreement made with the holders of any issue of the bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the city clerk of the city and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five percent in principal amount of such bonds or notes then outstanding shall, in his, her or its own name:

a. by suit, action or special proceedings enforce all rights of the holders of the bonds or notes, including the right to require the corporation to carry out any agreements with such holders and to perform its duties under this article;

b. bring suit upon such bonds or notes;

c. by action or suit, require the corporation to account as if it were the trustee of an express trust for the holders of such bonds or notes;

d. by action or suit, enjoin any acts or things that may be unlawful or in violation of the rights of the holders of such bonds or notes; and

e. declare all such bonds or notes due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five percent of the principal amount of such bonds or notes then outstanding, annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any suit, action or proceedings by the trustee on behalf of such holders of bonds or notes. The venue of any such suit, action or proceeding shall be in the county of New York.

4. Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the corporation.

5. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of the revenues which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of the premises, equipment and property which the corporation is operating or is entitled to use or occupy, and shall take possession of all revenues of the corporation and other moneys to which the corporation is entitled, and shall proceed to conduct pari-mutuel, off-track betting pursuant to the provisions of this article in the place and stead of the corporations from which otherwise, under such

article, would constitute revenues of the corporation and shall perform the public duties and carry out the agreements and obligations of the corporation under the direction of the court. In any action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements allowed by the court and shall be a first charge on any revenues of the corporation.

6. Such trustee shall in addition to the foregoing have and possess all the powers necessary or appropriate for the exercise of any function specifically set forth herein or incident to the general representation of the holders of such bonds or notes in the enforcement and protection of their rights.

§ 617. Exemption from taxation. 1. The moneys and property of the corporation and any property under its jurisdiction, control or supervision, and all of its activities and operations shall be exempt from taxation.

2. The state covenants with the purchasers of and with all subsequent holders and transferees of bonds and notes issued by the corporation pursuant to this article, in consideration of the acceptance of and payment for the said bonds and notes, that the said bonds and notes and the income therefrom, and all moneys, funds and revenue pledged to pay or secure the payment of such bonds and notes shall at all time be free from taxation, except for estate and gift taxes and taxes on transfers.

§ 618. Notice of claim; action against corporation. 1. In every action against the corporation for damages, for injuries to real or personal property, or for the destruction thereof, or for personal injuries, the complaint shall contain an allegation that at least thirty days have elapsed since notice of claim was presented to the corporation and that the corporation has neglected or refused to make an adjustment or payment thereof for thirty days after such presentment.

2. The notice of claim shall be in writing, sworn to by or on behalf of the claimant, and shall set forth:

a. The name and post office address of each claimant, and of his attorney if any;

b. The nature of the claim;

c. The time when, the place where and the manner in which the claim arose; and

d. The items of damage or injuries claimed to have been sustained so far as then practicable to determine.

3. The notice shall be served on the corporation by delivering a copy thereof, in duplicate, personally or by registered mail, to an officer, director or to any other agent authorized by appointment to receive such service.

4. The corporation may require any person presenting a claim to be sworn before a person authorized by the laws of the state to administer oaths, and when so sworn, to answer orally as to any facts relative to the claim.

5. Except in an action for wrongful death, an action against the corporation shall not be commenced more than one year and ninety days after the cause of action thereof shall have accrued, nor unless a notice of claim as required in subdivisions one and two of this section and served as set forth in subdivision three of this section shall have been served upon the corporation within ninety days after such cause of action shall have accrued. An action against the corporation for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of the public authorities law.

6. All actions against the corporation of whatever nature shall be brought and the place of trial shall be in the county within the city in

which the cause of action arose, or if it arose outside of the city, in the county of New York. In no event shall an action against the corporation be brought or the trial be held in the small claims part of the New York city civil court.

§ 619. Civil actions against employees of the corporation. 1. As used in this section the following terms shall mean and include:

a. "Corporation counsel." The corporation counsel of the city.

b. "Employee." Any officer, director or employee of the corporation, a former officer, director or employee of the corporation, his or her estate or judicially appointed personal representative. The term employee shall not include an independent contractor.

2. At the request of the employee and upon compliance by the employee with the provisions of subdivision four of this section, the corporation shall provide for the defense of an employee in any civil action or proceeding in any state or federal court including actions under sections nineteen hundred eighty-one through nineteen hundred eighty-eight of title forty-two of the United States code arising out of any alleged act or omission which the corporation counsel finds occurred while the employee was acting within the scope of his employment and in the discharge of his duties and was not in violation of any rule or regulation of the corporation at the time the alleged act or omission occurred. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the corporation, the city or state or any agency of either.

3. The corporation shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court, or in the amount of any settlement of a claim approved by the corporation counsel and the comptroller, provided that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his employment and in the discharge of his duties and was not in violation of any rule or

regulation of the corporation at the time the alleged damages were sustained, the duty to indemnify and save harmless prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee. Any judgment or settlement pursuant to this section shall be a cost of the corporation's functions and shall be payable from the moneys of the corporation.

4. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon:

a. delivery to the corporation counsel at the office of the law department of the city by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within ten days after he or she is served with such document, and

b. the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the corporation based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the corporation provide for his or her defense pursuant to this section. In the event that the corporation counsel shall assume an employee's defense and thereafter the employee fails to or refuses to cooperate in the formation or presentation of his or her defense, the court shall permit the corporation counsel to withdraw his or her representation ten days after giving written notice to the employee of his or her intention to discontinue such representation.

5. In the event that the act or omission upon which the court proceeding against the employee is based was or is also the basis of a disciplinary proceeding by the corporation against the employee, representation and indemnification pursuant to this section may be withheld:

a. until such disciplinary proceeding has been resolved, and

b. unless the resolution of the disciplinary proceeding exonerated the employee as to such act or omission.

6. Every action or proceeding instituted against an employee, including an action brought to enforce a provision of sections nineteen hundred eighty-one through nineteen hundred eighty-eight of title forty-two of the United States code, shall be commenced pursuant to the provisions of section six hundred eighteen of this chapter and within one year and ninety days. No action or proceeding instituted against an employee other than one instituted pursuant to sections nineteen hundred eighty-one through nineteen hundred eighty-eight of title forty-two of the United States code shall be prosecuted or maintained against the corporation or an employee unless notice of claim shall have been made and served upon the corporation in compliance with section six hundred eighteen of this chapter and within ninety days after the claim arises.

7. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

8. The provisions of this section shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted, except that the provisions of subdivision six of this section shall apply only to actions and proceedings instituted on or after the effective date of this section.

9. The provisions of this section shall not be construed in any way to impair, alter, limit, modify, or abrogate or restrict any immunity available to or conferred upon the corporation or any employee, or any right to defense indemnification provided in accordance with, or by reason of, any other law.

10. Notwithstanding any inconsistent provision of this section, the provisions of this section shall not apply to any civil action or proceeding commenced after the effective date of this subdivision. Further, the corporation counsel may continue representation in any action or proceeding brought by or against such corporation prior to such effective date. The corporation counsel and the corporation shall

be empowered to agree to the transfer of the defense or prosecution of any such action or proceeding to such other counsel as shall be agreed upon.

§ 620. Bonds and notes as legal investments. The bonds and notes of the corporation are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

§ 621. Annual and special reports. Within one hundred twenty days after the end of the fiscal year of the corporation, the directors thereof shall submit to the governor, the legislature, the commission and the state comptroller a complete and detailed report setting forth:

1. Its operations and accomplishments during such fiscal year;

2. Its receipts and expenditures during such fiscal year in accordance with categories or classifications established by the corporation for its own operating and capital outlay purposes;

3. Its assets and liabilities at the end of such fiscal year including a schedule of its bonds, notes or other obligations and the status of reserves, depreciation, special, sinking or other funds;

4. Details of branch offices being planned or in the process of being constructed or otherwise established and branch offices that have been constructed or established;

5. Such other information relating to the operations of the corporation as shall be requested by any party receiving such report.

§ 622. Separability. If any section, provision or part of this article, or the application thereof to any person or circumstances shall be held invalid by any court of competent jurisdiction, the remainder thereof or the application of such section, provision or part to any other person or circumstances shall not be affected thereby.

§ 623. Inconsistent provisions of other laws superseded. Insofar as the provisions of this article are inconsistent with the provisions of any other law, general, special or local, the provisions of this article shall be controlling.

§ 624. Termination of the corporation. The corporation and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the corporation shall have bonds, notes or other obligations outstanding. Upon termination of the existence of the corporation all of its rights, property, assets and funds shall thereupon vest in and be possessed by the state.

ARTICLE VII

EQUINE RESEARCH

Section 701. Research fund created.
702. Committee.
703. Finances of fund.
704. Research proposals.
705. Research grants.

§ 701. Research fund created. A fund for the promotion of equine research is hereby created in the New York state veterinary college at Cornell, as a regents approved veterinary college facility of a land grant university within this state. The fund is hereby designated the "Harry M. Zweig memorial fund" for equine research in honor of the late Harry M. Zweig, D.V.M. The monetary assets of the fund shall be used for equine research conducted by the state veterinary college.

§ 702. Committee. The Harry M. Zweig memorial fund for equine research committee is established for the purpose of administering the funds. The committee shall consist of not less than nine and not more than fifteen members including but not limited to:

1. the chair of the commission, or his or her designee;

2. the dean of New York state veterinary college at Cornell, or his or her designee;

3. a member or the executive director of the agriculture and New York state horse breeding development fund to be nominated by such fund;

4. a member or the executive director of the New York state thoroughbred breeding and development fund to be nominated by such fund; and

5. other bona fide residents of the state who have a cogent interest in the racing and breeding industry in the state of which at least five shall be New York breeders, owners, trainers or veterinarians in equine practice.

The committee as so constituted pursuant to rules and regulations of the commission is hereby continued, and shall establish its own by-laws which will include a system for electing its own officers and for perpetuating its membership, providing for the terms of its members, their replacement and succession, and such other administrative details as it deems necessary to effectuate the purposes of this article. The commission shall review such by-laws and amendments thereto prior to their implementation.

§ 703. Finances of fund. 1. Two percent of all moneys accruing respectively to the agriculture and New York state horse breeding development fund and the New York state thoroughbred breeding and development fund, for the purpose of conducting equine research, shall be deposited by such funds in a special interest bearing account, title to which shall be in New York state veterinary college at Cornell and control over which shall be in the committee subject to audit by the state comptroller. Withdrawals from such accounts shall be made only upon the authorization of the committee and the signatures of two of the committee's members as designated by the committee. All moneys transferred by such funds to special accounts pursuant to rules and regulations of the commission, prior to the date on which this article shall have become law, shall be deemed to have been deposited as provided in this subdivision. Moneys accrued subsequently shall be deposited monthly within one month of their accrual by such funds and notice thereof shall be forwarded to the committee and the commission.

* 1-a. All amounts necessary to conduct the research project specified in subdivision seven of section seven hundred four of this article shall be appropriated or transferred to the fund from the general fund of the state treasury. Such funds shall be used for the purposes contained in the agreement established pursuant to subdivision seven of section seven hundred four of this article, provided that such amount shall not exceed what is necessary to cover all expenses as contained in such agreement.

* NB Repealed September 1, 2028

2. On or before January first and July first, of each subsequent calendar year, such funds shall provide to the committee and the commission a certified statement of amounts then deposited to the credit of the committee and a projection of funds to be deposited to the credit of such committee for the subsequent six-month period.

3. Upon the authorization through a resolution by the committee, the fund may acquire moneys by the acceptance of conditional gifts, grants, devises or bequests given in furtherance of the mission of the fund to

the extent that any such gift, grant, devise, or bequest is in the form of cash, securities, or other form of personal property that is readily convertible to cash, and only if the condition of the gift is that it be used for the unrestricted purpose of equine research. The fund may not accept a conditional gift, grant, devise, or bequest if the condition would require the fund to undertake to acquire property, construct, alter, or renovate any real property, or alter or suspend the research that the fund is already conducting or supporting. All moneys accepted shall be deposited into a segregated account subject to the requirements and conditions of subdivision one of this section. The fund shall provide notice of the acceptance of such moneys to the commission.

§ 704. Research proposals. 1. The committee shall consider the need, priority and potential success of research proposals in determining those bearing the most potential benefit to the equine industry in this state.

2. Individuals and institutions eligible for research grants from such funds shall submit to the committee their proposals for the conduct of research projects to be supported by such grants.

3. Each such proposal shall include a complete description of the proposed project, a detailed budget for the same, the personnel conducting the project, and a time schedule for the project with an explanation of any contingencies included in the description.

4. The committee shall cause all such proposals to be transmitted within five days of receipt, to the commission.

5. The committee may, in its discretion, cause such proposals to be reviewed by one or more experts in the field or related research and may approve, disapprove or recommend changes to such projects.

6. The committee's approval, disapproval and/or recommendations with regard to each proposal or its adoption of a budget shall be sent to the commission.

* 7. (a) The moneys appropriated or transferred to the fund from the general fund of the state treasury pursuant to subdivision one-a of section seven hundred three of this article shall be expended for a three-year research project conducted pursuant to an agreement between the dean of the Cornell University College of Veterinary Medicine and the executive director of the commission. Such agreement shall, at a minimum, require the following:

(i) proposed research to identify the incident of fetlock fractures and pre-fracture pathology in thoroughbred racehorses, with and without lameness;

(ii) proposed research to determine the sensitivity and specificity of standing computed tomography, positron emission tomography, and magnetic resonance imaging of thoroughbred racehorses compared to that of digital radiographs;

(iii) use of photo-counting computed tomography and high field magnetic resonance imaging to further define early bone pathology in thoroughbred racehorses that suffer fatal fractures of the fetlock joint, to further characterize blood biomarker findings in healthy and clinically lame horses in a large population of thoroughbred racehorses;

(iv) attempted refinement of a risk factor index for fatal musculoskeletal injury for thoroughbred racing based on epidemiological findings, preliminary scanning technology, clinical examination, and advance imaging; and

(v) that an annual update shall be provided to the governor, temporary president of the senate, and speaker of the assembly regarding the progression of the research project. Such annual update to the governor, temporary president of the senate, and speaker of the assembly shall be due no later than December first each year. The final report outlined in paragraph (c) of this subdivision shall satisfy the annual report requirement outlined in this subparagraph for the last year of the study.

(b) The moneys appropriated or transferred to the fund from the general fund of the state treasury pursuant to subdivision one-a of section seven hundred three of this article may be used to purchase equipment and fund staffing needs necessary to carry out the research tasks specified in paragraph (a) of this subdivision.

(c) A final report that describes the results of the research project shall be provided to the governor, the temporary president of the senate, the speaker of the assembly, the commission, the franchised corporation, and any entity licensed pursuant to article two of this chapter. Such final report shall include, at a minimum:

(i) an accounting of all expenditures related to the research project outlined in this subdivision, including expenditures for equipment, supplies, personnel, operations, and administration;

(ii) a description of the procedures for selecting horse participants in the research project outlined in this subdivision, including criteria for selection and any screening or eligibility requirements; and

(iii) a summary of findings gathered from the research project outlined in this subdivision, including an analysis of risk factors contributing to racehorse injuries and conclusions drawn regarding safety protocols.

(d) The researcher may also make recommendations for changes to any existing rules or regulations that the researcher may determine would be helpful toward maintaining the health of the equine athlete.

(e) To the extent practicable, screenings and advanced imaging services conducted pursuant to this agreement may be conducted near racetracks at both Belmont and Saratoga.

(f) (i) Screenings and advanced imaging services of horses enrolled in the research project shall be offered to horsemen free of charge.

(ii) Subject to availability, Cornell Ruffian may provide screenings and imaging services for New York horses that are not enrolled in the research project. Cornell Ruffian may only charge such owners and trainers its actual costs for any screening or imaging service provided to such non-enrolled horse.

(iii) Cornell Ruffian shall have no responsibility to interpret or analyze the results of any scan or advanced image provided to an owner or trainer of a non-enrolled horse.

(iv) For purposes of this paragraph, a New York horse is a horse that has been stabled in New York for four of the six months immediately preceding the date of the screening or advance imaging.

(v) The costs charged associated with screenings and advanced images authorized pursuant to this subparagraph shall be included in the annual update outlined in subparagraph (v) of paragraph (a) of this subdivision.

(g) Any screening and imaging equipment purchased pursuant to this subdivision shall be owned by the Cornell University College of Veterinary Medicine.

* NB Repealed September 1, 2028

§ 705. Research grants. 1. Upon approval of a proposal by the committee, the committee shall then enter into a contractual relationship with the applicant for the research grant within the limit of the funds available therefor and subject to the following limitations:

a. All grants so provided shall be used for the direct cost of approved projects and shall not be used to supplant funds otherwise available to the applicant or to the institution with which the applicant is affiliated, or for the general cost recoveries that are rightfully the prior obligation of the institution to which the research grant is made.

b. No funds shall be expended for the acquisition, construction or renovation of capital facilities without specific prior written approval by the committee.

c. Payments shall be made upon certified vouchers submitted to the committee, prepared in a format satisfactory to the committee.

2. Copies of grant contracts shall be furnished to the commission, and each of the funds named in section seven hundred three of this article.

ARTICLE VIII

LOCAL TAX ON ADMISSIONS

Section 801. Authority of counties, towns and cities to impose tax on admissions to harness horse race meetings.
802. Amount of tax; collection; payment to municipality; disposition of proceeds.
803. Administration and enforcement.

804. Review; assessment of additional tax.
805. Meetings exempted from tax.
806. Authority of counties and cities to impose tax on admissions at running horse race meetings.
807. Amount of tax; liability on failure to collect.
808. Administration and enforcement.
809. Review; assessment of additional tax.
810. Disposition of revenues.
811. Local tax on admissions.

§ 801. Authority of counties, towns and cities to impose tax on admissions to harness horse race meetings. 1. Notwithstanding the provisions of any other general, special or local law:

a. Any county, except a county wholly within a city, is hereby authorized and empowered to adopt and amend local laws imposing, in accordance with the provisions of this article, a tax on admissions to harness horse race meetings conducted in such county; and

b. Any city having a population in excess of one hundred thousand is hereby authorized and empowered to adopt and amend local laws imposing, in accordance with the provisions of this article, a tax on admissions to harness horse race meetings conducted in such city; and

c. Any city having a population of one hundred thousand or less is hereby authorized and empowered to adopt and amend local laws imposing, in accordance with the provisions of this article, a tax on admissions to harness horse race meetings conducted wholly or partly in such city; and

d. A town is hereby authorized and empowered to adopt and amend local laws imposing in accordance with the provisions of this article, a tax on admissions to pari-mutuel harness horse race meetings conducted in such towns where the site and facilities of the harness horse race meetings are leased from a tax exempt organization.

2. For the purposes of this section, the term "admissions" shall mean the admission charge required to be paid by patrons for admission to a harness race meeting including any charge required to be paid by such patrons for admission to the clubhouse or other special facilities within the race meeting grounds or enclosure at which the harness race meeting is conducted.

§ 802. Amount of tax; collection; payment to municipality; disposition of proceeds. In cities or counties adjacent to a city having a population in excess of two million, any local law adopted pursuant to section eight hundred one of this chapter shall require every corporation, association or person holding a harness horse race meeting within the area to which such law is applicable, to collect in addition to the admission price of tickets sold or otherwise disposed of to patrons for admission, for each such meeting held by such corporation or association, a tax not in excess of thirty per centum of such admission price; provided that in any such county containing a city having a population in excess of one hundred thousand, which city has adopted a local law imposing a tax on admissions to harness horse race meetings conducted in such city, any local law adopted by such county in accordance with the provisions of this article shall require the collection of an additional tax not in excess of five per centum on admissions to such harness horse race meetings conducted in such city. In all other cities, having a population in excess of one hundred thousand, or counties, any local law adopted pursuant to section eight hundred one of this chapter shall require every corporation or association holding a harness horse race meeting within the area to which such law is applicable, to collect in addition to the admission price of tickets sold or otherwise disposed of to patrons for admission, for each such meeting held by such corporation or association, a tax not in excess of fifteen per centum of such admission price. In all cities having a population of one hundred thousand or less, any local law adopted pursuant to section eight hundred one of this chapter shall require every corporation or association holding a harness horse race meeting wholly or partly within the area to which such law is applicable, to collect in addition to the admission price of tickets sold or otherwise disposed of to patrons for admission for each such meeting held by such corporation or association, a tax, which will not be in excess of fifteen per centum of such admission price. In any town, any local law adopted pursuant to section eight hundred one of this chapter shall require every corporation or association holding a harness horse race meeting wholly or partially within the area to which such law is applicable, to collect in addition to the admission price of tickets sold or otherwise disposed of to patrons for admission, for each such meeting held by such corporation or association, a tax, which will not be in excess of fifteen per centum of such admission price. In case of failure to collect such tax the same shall be imposed upon the corporation or association holding such meeting. Such tax shall be paid to the county, town or city within ten days after the close of each such meeting. The amount so collected shall be deposited in the general fund of the county, town or city and, unless restricted by local law to a specified purpose or purposes, shall be available for any lawful county, town or city purpose.

§ 803. Administration and enforcement. Any local law adopted pursuant to this article, to the extent consistent with this article, provisions necessary and appropriate for the proper imposition, collection and administration of the tax herein authorized, including, but not limited to, provisions:

1. For the filing of periodic returns;

2. For the making of refunds;

3. For the maintenance, retention and inspection of records;

4. For the subpoena of persons and records and the administration of oaths;

5. For the enforcement of collection by execution and sale by the sheriff or otherwise;

6. For the promulgation by the officer administering the tax of regulations for the effective administration and enforcement of the tax;

7. For the payment of interest and penalties in the case of delinquency;

8. For the enforcement of such local law by appropriate proceedings; and

9. For making violations thereof misdemeanors and prescribing the punishment for such violations by civil penalty, fine, forfeiture, or imprisonment, or by two or more of such punishments.

§ 804. Review; assessment of additional tax. Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if the proceeding is commenced within ninety days after the giving of the notice of such final determination, provided, however, that any such proceeding shall not be instituted unless the amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law, shall first be deposited and an undertaking filed, in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the proper officer or officers, and such officer or officers shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules if the proceeding is commenced within ninety days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper officer or officers in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

Except in the case of a wilfully false and fraudulent return with intent to evade the tax, no assessment of additional tax shall be made with respect to the tax imposed under this article, after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as provided by local law, the tax may be assessed at any time.

§ 805. Meetings exempted from tax. The provisions of this article shall not apply to a harness horse race meeting conducted by any state, county or other agricultural association except as provided in paragraph d of subdivision one of section eight hundred one of this chapter.

§ 806. Authority of counties and cities to impose tax on admissions at running horse race meetings. 1. Notwithstanding the provisions of any other general, special or local law:

a. Any county, except a county wholly within a city, is hereby authorized and empowered to adopt and amend local laws imposing, in accordance with the provisions of this article, a tax on admissions to running horse race meetings conducted wholly within such county; and

b. Any city having a population in excess of one million is hereby authorized and empowered to adopt and amend local laws imposing, in accordance with the provisions of this article, a tax on admissions to running horse race meetings conducted wholly within such city.

2. Where the race meeting grounds or enclosure is situated in two counties, one of which is wholly within a city, such city is hereby authorized and empowered to adopt and amend local laws imposing, in accordance with the provisions of this article, a tax on admissions to

running horse race meetings conducted at or in such race meeting grounds or enclosure. In the event the city shall fail to adopt by March twenty-sixth, nineteen hundred fifty-two, a local law imposing such tax, then such county outside such city is authorized and empowered to impose such tax.

3. For the purposes of this section, the term "admissions" shall mean the admission charge required to be paid by patrons for admission to a running race meeting, including any charge required to be paid by such patrons for admission to the clubhouse or other special facilities within the race meeting grounds or enclosure at which the running race meeting is conducted.

§ 807. Amount of tax; liability on failure to collect. Any local law adopted pursuant to section eight hundred six of this chapter shall require every corporation or association holding a running horse race meeting to collect in addition to the admission price of tickets sold or otherwise disposed of to patrons for admission, for each such meeting held by such corporation or association, a tax not in excess of fifteen per centum of such admission price. In case of failure to collect such tax the same shall be imposed upon the corporation or association holding such meeting.

§ 808. Administration and enforcement. Any local law adopted pursuant to this article may contain, to the extent consistent with this article, provisions necessary and appropriate for the proper imposition, collection and administration of the tax herein authorized, including, but not limited to, provisions:

1. For the filing of periodic returns;

2. For the making of refunds;

3. For the maintenance, retention and inspection of records;

4. For the subpoena of persons and records and the administration of oaths;

5. For the enforcement of collection by execution and sale by the sheriff or otherwise;

6. For the promulgation by the officer administering the tax of regulations for the effective administration and enforcement of the tax;

7. For the payment of interest and penalties in the case of delinquency;

8. For the enforcement of such local law by appropriate proceedings; and

9. For making violations thereof misdemeanors and prescribing the punishment for such violations by civil penalty, fine, forfeiture, or imprisonment, or by two or more of such punishments.

§ 809. Review; assessment of additional tax. 1. Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if the proceeding is commenced within four months after the giving of the notice of such final determination, provided, however, that any such proceeding shall not be instituted by a person liable for the tax unless the amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law, shall first be deposited and an undertaking filed, in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, such person will pay all costs and charges which may accrue in the prosecution of such proceeding.

2. Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund

thereof duly made to the proper officer or officers, and such officer or officers or, in the case of a city of one million or more which has established a tax appeals tribunal, such tax appeals tribunal, shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules if the proceeding is commenced within four months after the giving of the notice of such denial, provided that a final determination of tax due was not previously made, and that an undertaking is filed with the proper officer or officers in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the person liable for the tax will pay all costs and charges which may accrue in the prosecution of such proceeding.

3. Except in the case of a wilfully false and fraudulent return with intent to evade the tax, no assessment of additional tax shall be made with respect to the tax imposed under this article, after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as provided by local law, the tax may be assessed at any time.

§ 810. Disposition of revenues. 1. Revenues resulting from the imposition of taxes authorized by this article shall be paid into the treasury of the county or city, as the case may be, and shall be credited to and deposited in the general fund of the county or city and, unless restricted by local law to a specified purpose or purposes, shall be available for any lawful county or city purpose.

2. Where the race meeting grounds or enclosure is situated in two counties, one of which is wholly within a city, then:

a. If the tax is imposed by such city, the fiscal officers of such city shall deposit the revenues of such taxes in a special fund and shall pay to the county, not located in such city, within sixty days after collection thereof, seventy-five percent of the moneys in such special fund, for deposit in the general fund of such county as hereinbefore provided, less the expenses for the collection of such tax, and except that the sum of five thousand dollars shall be retained at all times in such special fund for the purpose of making refunds or any necessary adjustments. The fiscal officers of such city shall pay the balance then remaining in such special fund into the general fund of such city as hereinbefore provided.

b. If the tax is not imposed by such city, but is imposed by such county, the fiscal officers of such county shall deposit the revenues of such taxes in a special fund and shall pay to such city within sixty days after collection thereof, twenty-five percent of the moneys in such special fund, for deposit in the general fund of such city as hereinbefore provided, less the expenses for the collection of such tax and except that the sum of five thousand dollars shall be retained at all times in such special fund for the purpose of making refunds or any necessary adjustments. The fiscal officers of such county shall pay the balance remaining in such special fund into the general fund of such county as hereinbefore provided.

§ 811. Local tax on admissions. 1. Notwithstanding the provisions of any general, special or local law or ordinance, Suffolk and Tioga counties are hereby authorized and empowered to adopt and amend laws imposing a tax on admissions to quarter horse racing meetings authorized pursuant to this chapter. The county, pursuant to any local law adopted pursuant to this section shall require every corporation or association holding a quarter horse racing meeting, wholly or partially within the county, to collect regularly a tax on admission for each such meeting held by such corporation or association. In case of failure to collect such taxes the same shall be imposed upon the corporation or association holding such meeting. Such taxes shall be paid to the county within ten days after the close of such meeting. The amount so collected shall be deposited in the general fund of the county and unless restricted by local law to a specified purpose or purposes, shall be available for any lawful county purpose.

2. The tax on admissions shall not exceed fifteen per centum of the

admission fee. If an off-track betting corporation is established either in Suffolk or Tioga county, or any region Suffolk or Tioga county is in, then the tax to be collected by the county of Suffolk or Tioga shall not exceed three per centum of the revenues from admissions.

3. The term "admission" shall mean the charge required to be paid by patrons for admission to a quarter horse racing meeting including any charge required to be paid by such patrons for admission to the clubhouse or other special facilities, except parking lots, within the race meeting grounds or enclosure at which the quarter horse racing meeting is conducted.

ARTICLE IX
MISCELLANEOUS

Section 901. Reduction in retained commission.
902. Equine drug testing and expenses.
902-a. Standardbred total carbon dioxide (TCO2) on-track drug testing program.
903. Simulcasting rights; Breeders' Cup Ltd.
904. On-track wagers on the Kentucky Derby, the Preakness and the Breeders' Cup.
905. Combination of New York wagers with wagers made in other states or foreign countries.
906. Handicapping tournaments.
910. Reciprocity of licenses.
911. Advance deposit wagering.
912. Prohibition of online sweepstakes games and revenue from illegal markets.

§ 901. Reduction in retained commission. 1. Notwithstanding the provisions of subdivision two of section five hundred twenty-three of this chapter, the commission shall authorize regional off-track betting corporations to accept additional wagers on multiple betting opportunities on races conducted by any franchised corporation.

A franchised corporation may elect to offer such similar additional daily double and quinella wagering opportunities. If such franchised corporation offers two or more quinellas, as defined herein, the provisions of section five hundred twenty-three of this chapter, as modified by the provisions of subdivisions one, two and three of this section, with respect to combined pools shall apply with respect to such wagering opportunities. At any time such a franchised corporation does not offer at least two quinellas, the provisions of this subdivision with respect to separate authorizations for regional corporations shall remain in effect with respect to such quinella wagers.

At any time such franchised corporation does not offer such an additional daily double, the provisions of this subdivision with respect to separate authorizations for regional corporations shall remain in effect with respect to such an additional daily double wager.

Whenever regional off-track betting corporations offer wagers pursuant to this subdivision that are not combined in a common pool with similar on-track wagers, the provisions of subdivision eight of section five hundred twenty-three of this chapter shall apply to such wagers.

2. a. In addition to the authority granted under subdivision one of this section, the commission shall require, under conditions subject to its approval, the franchised corporation to provide direct transmissions into selected regional off-track facilities of a current "live call of the race," defined as the current positions of the horses at specified places on the track during the race. The track operator itself may perform the broadcast; or, provide appropriate space and facilities to enable a single, alternative broadcast to be performed solely for the use of regional off-track betting corporations, the expense of such alternative broadcast to be borne by such regional corporations, at the discretion of such regional corporations. In either case, all incremental transmission costs are to be borne by such regional corporations.

b. The regional off-track betting facilities, each of which shall have been in operation for six months or more prior to receiving such transmissions and at least forty percent of which shall have had a total pool on races of such franchised corporation during such period equal to or greater than the median pool on such races in all such facilities in such county, that shall receive such transmissions are authorized as follows, provided that such requirements with respect to duration of operation and total pool shall not apply to facilities in the New York city region:

(i) for the New York city region, any facility, located more than five miles from any thoroughbred racetrack operated by a franchised corporation, for which the New York city off-track betting corporation requests such transmissions of such franchised corporation.

(ii) for the Nassau region, one facility located at least ten miles from any thoroughbred racetrack operated by a franchised corporation.

(iii) for the Suffolk region, one facility.

(iv) for the Catskill and Western regions, six facilities each, provided, however, that no such transmissions are authorized into the portion of the Western and Catskill regions in the thoroughbred special betting district on those days that a thoroughbred track is conducting racing in such special betting district.

(v) for the Capital District region, six facilities, provided, however, that no such transmissions are authorized into the Capital District region on those days that a franchised corporation is conducting races at a track located within such region. Nothing in this subparagraph shall prohibit such region and a franchised corporation from entering into an agreement to provide such transmissions in additional facilities subject to the restrictions in this subparagraph.

c. The commission shall approve the request of each such regional off-track betting corporation to transmit the call of the race, beginning January first, nineteen hundred seventy-nine, into an additional, like number of facilities as specified in paragraph b of this subdivision and subject to the conditions in such paragraph. Provided, however, that nothing shall prohibit such franchised corporation from entering into agreements with such regional off-track betting corporations designating additional facilities within the regions of such regional off-track betting corporations that may offer a "live call of the race", except that no such transmissions are authorized into the portion of the Western and Catskill regions in the thoroughbred special betting district on those days that a thoroughbred track is conducting racing in such special betting district.

d. Notwithstanding any provisions to the contrary in this subdivision, during and only during the period that such franchised corporation shall conduct races at a racetrack not within the counties of Suffolk, Nassau and the five counties comprising the city of New York, the track operator for such franchised corporation shall provide direct transmissions into all of the facilities operated by off-track betting corporations, except those within the Capital District region and any facilities within a thoroughbred special betting district, other than those facilities authorized to accept wagers on races conducted by such franchised corporation, on those days that a thoroughbred racetrack is conducting racing in such special betting district, of a current "live call of the race" as defined, and subject to the conditions provided for, in paragraph a of this subdivision. Provided, however, nothing shall prohibit such franchised corporation from entering into an agreement with the Capital District regional corporation designating specific facilities within the Capital District region that may offer a "live call of the race".

3. A franchised corporation shall make available such space and facilities as may be required to enable regional off-track betting corporations to obtain the information specified in section two hundred thirty-four of this chapter for transmission to patrons in the facilities of such corporations. In addition, such associations shall cooperate with such corporations in order to develop a system whereby off-track wagers are combined with on-track wagers in a common pool, and the odds or potential payoff reflecting or based upon that pool are displayed at off-track facilities periodically during the time preceding the race on which such wagers are made. The purpose of the system is to enable wagers placed off-track to be combined concurrently with wagers placed on-track until as close to the beginning of the race as is technically feasible, with due regard for the security and accuracy of such system. The costs of the changes adopted pursuant to this section shall be borne by those regional off-track betting corporations electing

to receive such information or to combine the on-track and off-track pools on a more timely basis.

4. Notwithstanding any other provision of law, the Western region off-track betting corporation is hereby authorized to develop a system, subject to approval of the board, whereby off-track wagers are combined on a current basis with on-track wagers on races conducted by a corporation licensed to conduct thoroughbred races at a track located within the Western region. Such corporation shall cooperate in the provision of such wagers and shall also provide on such races direct transmission into the facilities of such regional corporation of a current "live call of the race" as defined in paragraph a of subdivision two of this section.

§ 902. Equine drug testing and expenses. 1. In order to assure the public's confidence and continue the high degree of integrity in racing at the pari-mutuel betting tracks, equine drug testing at race meetings shall be conducted by a state college or at a land grant university within this state. The commission shall promulgate any rules and regulations necessary to implement the provisions of this section, including administrative penalties of loss of purse money, fines, or denial, suspension or revocation of a license for racing drugged horses.

2. Notwithstanding any inconsistent provision of the law, all costs and expenses of the gaming commission for equine drug testing and research shall be paid from an appropriation from the state treasury, on the certification of the executive director of the commission, upon the audit and warrant of the comptroller and pursuant to a plan developed by the commission as approved by the director of the budget; provided, however, the commission may direct the assessment imposed pursuant to subdivision three of this section to be paid directly to the laboratory authorized to conduct equine drug testing pursuant to subdivision one of this section, provided however, upon direction of the commission, any amounts directly paid to such laboratory shall constitute an encumbrance of appropriation.

3. (a) The commission may impose an assessment on each race track licensed or franchised pursuant to this chapter, and an additional per start fee, for any additional costs and expenses of equine drug testing and research conducted at a laboratory authorized pursuant to subdivision one of this section, after all other funds for such purpose have been expended.

(b) (i) The commission shall establish an assessable amount by May first of each year based on the projected deficit of revenues deposited into the racing regulation account established by section ninety-nine-i of the state finance law, including funds deposited pursuant to sections one hundred fifteen, two hundred thirty-six, two hundred thirty-eight, three hundred seven, three hundred eight, three hundred eighteen, five hundred twenty-seven, one thousand seven, one thousand eight, one thousand nine, one thousand fourteen, one thousand fifteen, one thousand sixteen, and one thousand eighteen of this chapter in relation to the conduct of racing, the amount of funds paid for equipment pursuant to subdivision two of section two hundred twenty-eight of this chapter, the amount of funds received by the commission from the purse enhancement account for equine health and safety pursuant to paragraph two of subdivision b of section sixteen hundred twelve of the tax law in relation to video lottery terminal facilities at race tracks licensed pursuant to articles two and three of this chapter, and by the amount of funds generated by any other existing fees, taxes and assessments paid by race tracks or owners licensed pursuant to articles two and three of this chapter for the purpose of equine drug testing, compared to expenses in the racing regulation account. The commission shall impose the assessable amount as an assessment upon each race track, and as an additional per start fee on each owner. In no event shall the total assessable amount exceed the total expense projected by the commission for equine drug testing and research conducted at a laboratory authorized pursuant to subdivision one of this section during that year.

(ii) The total value of the assessment imposed upon all race tracks shall be fifty percent of the assessable amount calculated by subparagraph (i) of this paragraph, and shall be assessed in a manner that is proportional to the number of starts at each race track during the previous year. In no event shall any race track impose the cost of such assessment, in part or in whole, on any owner or trainer.

(iii) The total value of the additional per start fee imposed on owners licensed pursuant to this chapter as an additional per start fee shall be fifty percent of the assessable amount calculated by subparagraph (i) of this paragraph divided by the total number of starts in the previous year, and shall be assessed and paid in the same manner, and in addition to, the fee for the start of a horse in New York state pari-mutuel races provided by section one hundred fifteen-a of this chapter.

4. Payment of the assessment imposed by this section shall be made to the commission, or to the laboratory authorized to conduct equine drug testing if directed by the commission, by each entity required to make such payments. Payments of such assessment shall be made on the last business day of each month and shall cover one-twelfth of the annual assessment, provided however that all such payments required to be made on the last day of April shall be due with the May payment. A penalty of five percent, and interest at the rate of one percent per month from the date the assessment, is due to the date of the payment of the assessment, and shall be payable in case any assessment imposed by this chapter is not paid when due. If the commission determines that any payment received under this section was paid in error, the commission may cause the same to be refunded without interest out of any monies collected thereunder, provided an application therefor is filed with the commission within one year from the time the erroneous payment is made.

5. Any deficit in the racing regulation account on March thirty-first of each year, excluding any deficit attributed to the negative fund balance as of March thirty-first, two thousand seventeen, shall be added to the assessable amount for the following year. Fifty percent of any surplus in such account as of March thirty-first of each year, not to exceed the amount of the assessment imposed on race tracks in that year, shall be used to reduce the assessment imposed on each race track in the following year in proportion to the amount paid by each race track in the year of the surplus. Fifty percent of any surplus in such account as of March thirty-first of each year, not to exceed the total amount of the additional start fees in that year, shall be used to reduce the additional per start fee in the following year. Such reduction shall be

calculated in the same manner as the additional per start fee.

6. Not later than May first, each year, the commission shall submit to the director of the budget, the temporary president of the senate and the speaker of the assembly a report on the revenue generated by the assessment, the total cost of equine drug testing, and any projected deficit or surplus in the racing regulation account. The commission shall also publish such report on the commission's website as soon as practicable.

7. A franchised racing corporation may, in its discretion and at its expense, fund for the exclusive use or utilization of the commission, the construction and equipping of an equine drug testing and research laboratory pursuant to subdivision one of this section. Such corporation shall consult with the commission and relevant industry stakeholders regarding the proper scope and equipping of a laboratory. The siting and use of such laboratory shall be pursuant to a long-term lease between the corporation and the commission. The commission shall operate or contract for the operation of such laboratory. The franchised corporation shall prepare an initial report for the year two thousand twenty-one, provided, however, the franchised corporation has elected to fund the construction and equipping of such laboratory. Such report shall be submitted to the governor, the speaker of the assembly, and the temporary president of the senate, no later than the first day of April two thousand twenty-one. The gaming commission shall also make the report public on their website. Such initial report shall include, but not be limited to, information related to the siting and initial and ongoing financing of the laboratory.

§ 902-a. Standardbred total carbon dioxide (TCO2) on-track drug testing program. 1. Program. The commission shall establish and administer a program to conduct on-track drug testing for excess levels of TCO2 in standardbred horses entered to race at licensed harness tracks in this state. Such program shall include on-track pre-race testing done by the commission or its employees or representatives in accordance with this section and regulations promulgated by the commission. For the purposes of this section, the term "TCO2" shall mean total carbon dioxide.

2. Recurring annual expenses. (a) The commission shall mandate an additional amount to be added to start fees, outlined in subdivision one of section one hundred fifteen-a of this chapter, necessary to cover fifty percent of the costs to support the program established by this section for the applicable calendar year.

(b) The commission shall mandate corporations or associations authorized under this chapter to conduct pari-mutuel betting at a standardbred race meeting or standardbred races run thereat to make payment, or payments, to the racing regulation account in the amount necessary to cover fifty percent of the costs to support the program established by this section for the applicable calendar year. The commission shall determine the frequency and manner of such payments.

(c) (i) No later than January thirty-first of the applicable year, the commission shall notice the applicable organization representing at least fifty-one percent of the owners and trainers using the facilities of the applicable corporation or association authorized under this chapter to conduct pari-mutuel betting at a standardbred race meeting or standardbred races run thereat of the additional amount to be included in the start fees outlined in paragraph (a) of this subdivision during the applicable calendar year.

(ii) No later than January thirty-first of the applicable year, the commission shall notice corporations or associations authorized under this chapter to conduct pari-mutuel betting at a standardbred race meeting or standardbred races run thereat of the amount, frequency and manner of the payment or payments outlined in paragraph (b) of this subdivision during the applicable calendar year.

3. Pre-race testing. (a) Blood or other biologic samples shall be taken from at least three of the horses programmed to race or fifty percent of horses programmed to race, whichever is higher, prior to the race in which such horse is programmed, at a time and location specified by the commission. Horses selected for such samples shall be selected at random by the commission or its employees or representatives.

(b) The trainer or such trainer's representative shall accompany such horse at the prescribed time and location and shall manage the horse as directed. Willful failure to be present at, refusal to permit, or interference with the taking of any sample pursuant to this subdivision shall constitute a violation of this section and may subject the person responsible to disciplinary action by the commission pursuant to this chapter.

(c) Blood samples shall be taken by a veterinarian or veterinary technician authorized by the commission and licensed to practice in this state.

(d) Urine samples may be collected by a commission inspector or other person authorized by the commission.

(e) Whenever an on-track test indicates the presence of excess TCO2 levels, in a sample taken from a horse, the judges shall scratch the horse from the race.

(f) Unless specifically permitted in writing by the presiding judge, a horse from which a pre-race sample has been taken shall not be removed from the grounds except for transport to the racecourse where such horse is scheduled to race if such racecourse is not located on the grounds where the sample was taken.

§ 903. Simulcasting rights; Breeders' Cup Ltd. Notwithstanding any inconsistent provision of this chapter and upon the approval of the commission, a franchised corporation is authorized to enter into an agreement with the Breeders' Cup Ltd. for the disposition of all revenues derived by such franchised corporation from and limited to the live transmission of the audio/visual signals of and from pari-mutuel wagering on races run by such franchised corporation to be known as the "Breeders' Cup Event Day", in such manner as such franchised corporation shall determine.

§ 904. On-track wagers on the Kentucky Derby, the Preakness and the Breeders' Cup. 1. Notwithstanding any inconsistent provision of this chapter, whenever a regional off-track betting corporation accepts wagers on and displays the simulcast of the Kentucky Derby, the Preakness or races known as the "Breeders' Cup", any corporation or association conducting pari-mutuel betting pursuant to this chapter may elect to accept wagers on and display the simulcast of the Kentucky Derby, the Preakness and the races known as the Breeders' Cup. Upon such election:

a. The applicable state tax provided for in paragraphs a and b of subdivision one of section five hundred twenty-seven of this chapter shall be one-half percent for regular, multiple and exotic bets. 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.

b. The system of on and off-track betting shall result in the combination of all off-track wagers with on-track wagers so as to produce common pari-mutuel betting pools. Provided, however, that the commission may authorize separate pari-mutuel wagering pools for any corporation or association electing to accept such wagers, if the commission determines that a common on and off-track pari-mutuel betting pool, due to limitations in existing computer systems and information transmission and receiving capacities cannot practically be accomplished so as to maximize a reasonable number of separate wagering interests. The resulting separate pools for regional off-track betting corporations shall be subject to the limitations set forth in subdivision eight of section five hundred twenty-three of this chapter.

c. Every association and corporation shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, providing such tickets be presented for payment before April first of the year following the year of their purchase, less an amount that it shall retain at the same rate established by the sending track.

d. For a franchised corporation, the applicable state tax and distributions to purses and the New York state thoroughbred breeding and development fund shall be the same amounts as provided in section two hundred thirty-eight of this chapter provided, however, that upon election of any corporation to accept such wagers, no additional amounts may be withheld as provided in section two hundred thirty-seven of this chapter.

e. For any corporation licensed pursuant to article two of this chapter, the applicable state tax shall be one percent of all wagers, the amount payable to the thoroughbred breeding and development fund shall be one-half of one percent and distribution to purses shall be fifty percent of the amount retained by the track after all statutory and contracted payments are made. No additional amounts may be withheld as provided in section two hundred thirty-seven of this chapter.

f. For any association or corporation licensed pursuant to article three of this chapter, the applicable state tax shall be one percent of all wagers, the amount payable to the thoroughbred breeding and development fund shall be one-half of one percent and distributions to purses shall be one and three-quarters percent. No additional amounts may be withheld as provided in section three hundred nineteen of this chapter. For the purposes of purse distributions, any association or corporation located in the Western Off-Track Betting Region shall remit said distributions to the thoroughbred track located within said region and all other corporations or associations shall remit said purse distributions to a franchised corporation.

Notwithstanding any other provision of law, any such association or corporation conducting pari-mutuel wagering on races run by a franchised corporation on the days when they are accepting wagers on the Kentucky Derby, the Preakness or the Breeders' Cup shall pay a state pari-mutuel tax of one percent of all such wagers in lieu of the tax imposed by paragraph a of subdivision three of section one thousand seven of this chapter.

2. The commission shall approve an application from any racing corporation or association pursuant to subdivision one of this section to accept on-track wagers and display the simulcast of the Kentucky Derby or the Preakness provided, however, that no application shall be approved by the board that it determines may cause a reduction of the total number of racing events normally conducted at the track on a daily

basis.

2-a. The commission shall approve an application from any racing corporation or association pursuant to subdivision one of this section to accept on-track wagers on the Breeders' Cup races, and, in instances where the application contemplates the on-track display of simulcasts of and wagering on the entire card of Breeders' Cup races, the commission shall authorize, for that day, a reduction of the total number of racing events normally conducted at the track on a daily basis provided that the total number of live racing events conducted at the track shall not be less than two.

3. Every racing association or corporation authorized to accept wagers on the Kentucky Derby, the Preakness or the Breeders' Cup 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.

4. Notwithstanding any other provision of law, whenever a harness racing association or corporation is receiving the simulcast of races run at a thoroughbred racing corporation, such harness racing association may also receive the telecast of and accept wagers on any out of state races which are telecast to the thoroughbred racing corporation. Pools resulting from wagers in the out of state races shall be combined with the appropriate pools resulting from wagers on such races at the thoroughbred racing corporation.

§ 905. Combination of New York wagers with wagers made in other states or foreign countries. 1. The combination of New York wagers with wagers of the same type made in other states or foreign countries is hereby authorized pursuant to rules and regulations of the commission so as to produce a common pari-mutuel pool for the calculation of odds and the determination of pay-outs from such pool, which payout shall be, as far as may be consistent herewith, the same for all winning bets of such type irrespective of whether a wager is placed in this state or in another state or foreign country.

2. The combination of wagers on New York races. a. The commission may authorize the combination of out-of-state or foreign wagers on horse races in New York state with the same type of wagers made in New York state at the site of the statewide interface designated by the commission for the combination of on-track and off-track wagers made in New York state.

b. In this regard the commission shall enact rules and regulations including but not limited to insuring the following standards: that the out-of-state or foreign wagering operator is duly authorized to conduct such wagering by the laws of the applicable out-of-state or foreign government and is of satisfactory ethical and financial repute; that all such wagers are made in a format consistent with the format for such wagers in New York state as to number of betting entries and the combination of such entries into coupled entries and fields; that if the laws of such other state or foreign country permit, that such wagers shall be subject to the identical retention and breakage rates as pertain at the site of the New York interface; that if the laws of such other state or foreign country prescribe a retention or breakage rate different from that in New York state it would not be contrary to the public interest to compute odds and payouts for such out-of-state or foreign wagers consistent with such law; that if it is consistent with the public interest to compute odds and payouts for such out-of-state or foreign wagers according to retention or breakage rates different from those in New York state, that the site of the New York interface is ready and able to carry out such computations consistent with the formulas hereinafter prescribed; that in regard to foreign wagers, that for computational purposes all foreign wagers to be combined shall be converted into American dollars at the prevailing exchange rates established by a money center bank on the date of the race (although breakage shall be computed consistent with foreign currency denominations); that other than the variations caused by retention or breakage computations that all odds and pay-outs shall be computed and calculated, refunds or cancellations awarded or allowed, and overpayments or underpayments corrected solely in accordance with the applicable rules in New York state whose laws shall govern all disputes pertinent thereto; that the means, methods and times of transmission of wagering data necessary to the proper implementation of this subdivision shall be as prescribed and approved by the commission; that all entities whose wagers are so combined have agreed that the odds and final pay-offs shall be computed in accordance with the data available for computation at the site of the statewide interface at the start of the race and that pay-off computations in accordance therewith shall be final regardless of mistakes in transmission or failures to transmit or receive all wagers and that the out-of-state or foreign operators shall be solely responsible for claims asserted in that regard for wagers made through such operators; that the out-of-state or foreign operator consents to be subject to audit by the commissioner of taxation and finance or his or her designee to verify the accuracy and completeness of all wagers required to be transmitted by it hereunder; and such other rules and regulations as may be deemed necessary and appropriate by the commission.

c. If different retention or breakage rates than those prevailing at the site of the New York interface are prescribed by the laws governing such out-of-state or foreign betting operator, and the commission is satisfied that it would not be contrary to the public interest to accept such wagers for combination with New York wagers, calculations of the current odds and final pay-off prices shall be made as follows:

(i) All New York state and out-of-state and foreign wagers of the same type shall be combined into single pools for calculation.

(ii) As many tentative payout prices as there are different retention and breakage rates applicable (including the prevailing New York retention rate) shall be calculated on the basis of returning the appropriate rate of return, less breaks after imposition of each such rate of retention and breaks.

(iii) To each such out-of-state or foreign operator shall be allocated an amount sufficient for it to pay the appropriate pay-off to holders of winning wagers placed with it together with the applicable retention amount on its total wagers.

(iv) To each New York operator shall be allocated an amount sufficient for it to pay the appropriate pay-off to holders of winning wagers placed with it together with the applicable New York retention amount on its total wagers.

(v) The total amount of the combined pool less the combined total of all allocations as determined in subparagraphs (iii) and (iv) of this paragraph shall be credited to a special breakage account. The amount in such account giving appropriate weight to rates established for breakage shall be allocated as breaks among all operators in the combined pool in accordance with the rules and regulations of the commission. Should a minus pool eventuate in which the total combined pool is insufficient to reimburse each operator for the allocation due to it then the allocation due to each such operator shall be reduced as may be appropriate and such operator shall be responsible for satisfying its liability from its own operating capital.

d. No tax or surcharge shall be imposed by this state on any out-of-state or foreign wagering operator participating in any combined pool herein. Nothing in this paragraph, however, shall impair the imposition of any tax or charge by this state on the consideration received from an out-of-state or foreign operator by a New York operator for its consent to wagering on its races, transmitting the simulcast thereof, or the agreeing to combination of bets into its pools.

e. The operator of the site of the statewide interface shall be responsible for the actual collection or transmittal of funds in settlement of the liabilities of all operators participating in the combined pool.

f. Nothing herein shall entitle any operator or person claiming therefrom to participation in any share of the retention or payouts allocated to another operator participating in the combined pool.

g. Nothing herein shall affect the validity of any surcharge imposed upon the winning pay-offs computed herein as may be prescribed by the laws of this state or another state or foreign country.

h. Nothing herein shall be construed to authorize or prescribe any act contrary to federal law.

3. Combining New York wagers on horse races conducted in other states or foreign countries with wagers on such races made elsewhere.

a. The commission may authorize the combination of wagers made in New York state upon the outcome of out-of-state or foreign horse races with wagers made upon such races elsewhere in accordance with rules and regulations of the commission which shall include but not be limited to the following provisions:

(i) that if such combination is authorized that all New York state operators must participate therein to assure uniform New York odds and pay-outs;

(ii) that if the out-of-state or foreign computation is made on the basis of different retention or breakage rates and (A) such out-of-state or foreign laws do not permit New York wagers to be computed in accordance with New York retention and breakage rates, that such variation does not exceed twenty percent and shall be allocated pro rata among winning wagers in New York state and recipients of such retention and breakage rates in New York state, or (B) if such out-of-state or foreign laws do permit New York bets to be computed in accordance with New York retention and breakage rates that such rates shall be applied and that the out-of-state or foreign operator doing such calculations is willing and able to properly perform such function;

(iii) that the out-of-state or foreign rules governing such wagers are understandable to New York wagerers and in the best judgment of the commission shall not deviate substantially from customary and standard pari-mutuel practice in general;

(iv) that the New York operators are able to perform such transmission and computer retrieval functions as may be required;

(v) that such combination will enhance the best interest of racing generally; and

(vi) such other rules and regulations as may be deemed necessary and appropriate by the commission.

b. Nothing herein shall be construed to authorize or prescribe any act contrary to federal law.

4. In those instances in which the retention rates of the out-of-state

track are different from the retention rates authorized in this section, distribution to each of the entities entitled to receive payment under section five hundred twenty-seven or article ten of this chapter after payment of state taxes and regulatory fees shall be adjusted proportionately in an appropriate manner to account for higher or lower retention rates. For purposes of determining payment on out-of-state wagers the retention rate shall be the amount sufficient to pay holders of winning wagers plus any payments required to be made to the out-of-state track which exceeds two percent of handle.

§ 906. Handicapping tournaments. 1. Notwithstanding any other provision of law, a thoroughbred racing corporation, a harness racing corporation or association, a regional off-track betting corporation or a combination thereof, may operate a handicapping tournament at which the participants may be charged an entry fee if the tournament is conducted in accordance with the provisions of this section.

2. (a) The operator of a handicapping tournament shall distribute all of the entry fees as prizes to the winners of the tournament. Nothing herein shall preclude an operator from providing additional prizes or promotions.

(b) The commission shall approve the rules and the payment of prizes of a handicapping tournament. No operator of a handicapping tournament may accept an entry fee for a tournament until the commission has approved the rules and the payment of prizes of a handicapping tournament.

(c) The horse races which are the subject of the tournament must be races on which the operator of the tournament is authorized to conduct wagering. At least fifty percent of the races which are the subject of the tournament must be races run in New York state.

3. A handicapping tournament operated in accordance with the provisions of this section shall be considered a contest of skill and shall not be considered gambling.

§ 910. Reciprocity of licenses. All license denials, suspensions and revocations imposed by the pertinent racing and gambling authorities of other jurisdictions, including states, United States territories, and Canadian provinces shall be recognized and enforced by the commission unless application is made for a hearing at which time the applicant may show cause as to why such penalty should not be enforced against the applicant in this state. If a hearing is granted, the commission may delay the imposition of the suspension or revocation of the license. The commission must take reasonable steps to make the licensee aware of the availability of a hearing for example by listing it on the official website, in the license instructions or in the racing program.

§ 911. Advance deposit wagering. The commission shall study the impact of advance deposit wagering on horse racing and pari-mutuel handle in New York state. The study shall include but not be limited to the impact of out-of-state entities accepting wagers from New York state residents, the annual dollar amount wagered by New York state residents through out-of-state advance deposit wagering accounts, the number of out-of-state advance deposit wagering accounts held by New York state residents, and information concerning New York state residents who utilize out-of-state advance deposit wagering accounts, including, but not limited to, residency. The commission shall submit the study, together with any recommendations, to the governor and legislature no later than September fifteenth, two thousand twelve.

§ 912. Prohibition of online sweepstakes games and revenue from illegal markets. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Online sweepstakes game" shall mean any game, contest, or promotion that is available on the internet and/or accessible on a mobile phone, computer terminal, or similar access device, that utilizes a dual-currency system of payment allowing the player to exchange the currency for any cash prize, cash award or cash equivalents, or any chance to win any cash prize, cash award or cash equivalents, and simulates casino-style gaming, including but not limited to, slot machines, video poker, table games, lottery games, bingo, or sports wagering. The state gaming commission shall determine what constitutes a dual-currency system pursuant to this paragraph.

(b) "Table games" shall include, but not be limited to, blackjack, roulette, craps, and poker.

(c) "Lottery games" shall include, but not be limited to, draw games, instant win games, and keno.

2. Prohibition. (a) It shall be unlawful for any applicant, licensed entity, gaming employee, key employee, individual investor or investment firm, board member, or any other person or entity to operate, conduct, or promote online sweepstakes games within the state of New York.

(b) It shall be unlawful for any applicant, licensed entity, financial institution, payment processor, geolocation provider, gaming content supplier, platform provider, or media affiliate to support the operation, conduct, or promotion of online sweepstakes games within the state of New York.

3. Penalties. (a) Any applicant, licensed entity, gaming employee, key employee, individual investor or investment firm, board member, or any other person or entity found in violation of this section shall be subject to a fine of not less than ten thousand dollars and not more than one hundred thousand dollars for each violation and shall be subject to the loss of a gaming license and/or be ineligible for a gaming license.

(b) All fines resulting from violations of this section shall be collected by the state gaming commission and deposited into the commercial gaming revenue fund, established in section ninety-seven-nnnn of the state finance law, to be distributed for problem gambling education and treatment purposes pursuant to paragraph a of subdivision four of such section.

4. Enforcement. (a) The state gaming commission, the state police, or the attorney general's office shall have the authority to enforce the provisions of this section.

(b) The state gaming commission, state police or attorney general's office may conduct investigations, hold hearings, issue cease and desist letters, and issue subpoenas to ensure compliance with the provisions of this section.

ARTICLE X

SIMULCAST OF HORSE RACES

Section 1000. Legislative intent.
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1016. Simulcasting of out-of-state thoroughbred races.
1017. Out-of-state or out-of-country races.
1018. Distribution.

§ 1000. Legislative intent. The legislature finds that the racing, breeding and pari-mutuel wagering industry is an important sector of the agricultural economy of this state, provides substantial revenue for state and local governments, and employs tens of thousands of state residents.

The legislature further determines that simulcasting, the simultaneous telecast of live audio and visual signals of horse races on which pari-mutuel betting is permitted, holds the potential to strengthen and further these economic contributions and that it is in the best interest of the state to encourage experimentation with such live telecasts.

The purpose of such experimentation shall be to determine if that technology can promote the overall growth of the industry resulting in additional revenues for the support of the racing associations and corporations, purses, breeders, off-track betting corporations, labor and government.

No simulcasts shall be authorized which jeopardize present racing or employment opportunities or which infringe on current operations or markets of the racetracks and the regional off-track betting corporations which generate significant revenues for local governments in the state.

Accordingly, the legislature hereby authorizes experimentation with the telecasts of horse races, on which pari-mutuel wagering shall be permitted, under the regulation of the commission in the manner and subject to the conditions provided in this article.

§ 1001. Definitions. As used in this article, in addition to the definitions set forth in section one hundred one of this chapter, the following terms shall have the following meanings:

a. "Simulcast" means the telecast of live audio and visual signals of running, harness or quarter horse races for the purposes of pari-mutuel wagering;

b. "Track" means the grounds or enclosures within which horse races are conducted by any person, association or corporation lawfully authorized to conduct such races in accordance with the terms and conditions of this chapter or the laws of another jurisdiction;

c. "Sending track" means any track from which simulcasts originate;

d. "Receiving track" means any track where simulcasts originated from another track are displayed;

e. "Applicant" means any association, corporation or business entity applying for a simulcast license in accordance with the provisions of this article;

f. "Operator" means any association, corporation or business entity operating a simulcast facility in accordance with the provisions of this article;

g. "Regional track or tracks" means any or all tracks located within a region defined as an off-track betting region, except that for the purposes of section one thousand eight of this article any track located in New York city, or Nassau, Suffolk and Westchester counties, shall be deemed a regional track for all regions located in district one, as defined in this section;

h. "Branch office" means an establishment maintained and operated by an off-track betting corporation, where off-track pari-mutuel betting on horse races may be placed in accordance with the terms and conditions of this chapter and rules and regulations issued pursuant thereto;

i. "Simulcast facility" means those facilities within the state that are authorized pursuant to the provisions of this article to display simulcasts for pari-mutuel wagering purposes;

j. "Off-track betting region" means those regions as defined in section five hundred nineteen of this chapter;

k. "Simulcast theater" means a simulcast facility that is also a public entertainment and wagering facility, which may include any or all of the following: a large-screen television projection and display unit, a display system for odds, pools, and payout prices, areas for viewing and seating, a food and beverage facility, and any other convenience currently provided at racetracks and not inconsistent with local zoning ordinances;

l. "Simulcast districts" means one or more of the following named districts comprising the counties within which pari-mutuel racing events are conducted as follows:

District 1	New York City, Suffolk, Nassau, and Westchester counties
District 2	Sullivan county
District 3	Saratoga county
District 4	Oneida county
District 5	Erie, Genesee and Ontario counties

m. "Initial out-of-state thoroughbred track" means the track commencing full-card simulcasting to New York prior to any other out-of-state thoroughbred track after 1:00 PM on any calendar day.

n. "Second out-of-state thoroughbred track" means the track (or subsequent track or tracks where otherwise authorized by this article) conducting full-card simulcasting to New York after the race program from the initial out-of-state thoroughbred track that has commenced simulcasting on any calendar day.

o. "Mixed meeting" means a race meeting that has a combination of thoroughbred, quarter horse, Appaloosa, paint, and/or Arabian racing on the same race program.

p. "Account wagering" means a form of pari-mutuel wagering in which a person establishes an account with an account wagering licensee and subsequently communicates via telephone or other electronic media to the account wagering licensee wagering instructions concerning the funds in such person's account and wagers to be placed on the account owner's behalf.

q. "Account wagering licensee" means racing associations, and corporations; franchised corporations, off-track betting corporations, and commission-approved multi-jurisdictional account wagering providers that have been authorized by the commission to offer account wagering.

r. "Dormant account" means an account wagering account held by an account wagering licensee in which there has been no wagering activity for three years.

s. "Multi-jurisdictional account wagering provider" means a business entity domiciled in a jurisdiction, other than the state of New York, that does not operate either a simulcast facility that is open to the public within the state of New York or a licensed or franchised racetrack within the state, but which is licensed by such other jurisdiction to offer pari-mutuel account wagering on races such provider simulcasts and other races it offers in its wagering menu to persons located in or out of the jurisdiction issuing such license.

§ 1002. General jurisdiction. 1. The commission shall have general jurisdiction over the simulcasting of horse races and account wagering within the state, and the commission may issue rules and regulations in accordance with the provisions of this article.

2. The commission shall annually submit reports on or before July first following each year in which simulcasting and account wagering is conducted to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee evaluating the results of such simulcasts and account wagering on the compatibility with the well-being of the horse racing, breeding and pari-mutuel wagering industries in this state and make any recommendations the commission deems appropriate. Such reports may be submitted together with the reports required by subdivision two of section two hundred thirty-six and subparagraph (iii) of paragraph a and subparagraph (i) of paragraph b of subdivision one of section three hundred eighteen of this chapter.

§ 1003. Licenses for simulcast facilities. 1. (a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license shall be issued by the commission authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility and for account wagering licensees that do not operate either a simulcast facility that is open to the public within the state of New York or a licensed racetrack within the state, twenty thousand dollars per year payable by the licensee to the commission for deposit into the general fund. Except as provided in this section, the commission shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The commission may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with sections one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the commission. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand twenty-seven; provided, however, that any party to such agreement may elect to terminate such agreement upon conveying written notice to all other parties of such agreement at least forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the commission to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand twenty-seven; and (iv) no in-home simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

(b) Any agreement authorizing in-home simulcasting pursuant to this section shall be in writing, and upon written request, a copy shall be provided to the representative horsemen's group of the racing association or corporation that is party to said agreement. Such agreement shall include a categorical statement of new and incremental expenses directly related and attributable to the conduct of in-home simulcasting. The representative horsemen's group may, within thirty days of receiving the agreement, petition the commission for a determination as to the appropriateness and reasonableness of any expenses attributed by either the racing association or corporation or the off-track betting corporation.

2. Before the commission may grant such license, the commission shall review and approve a plan of operation submitted by such applicant including, but not limited to the following information:

a. A feasibility study denoting the revenue earnings expected from the simulcast facility and the costs expected to operate such facility. No feasibility study shall be received for a simulcast facility that is applying to renew its license. The form of the feasibility study shall be prescribed by the commission and may include:

(i) the number of simulcast races to be displayed;

(ii) the types of wagering to be offered;

(iii) the level of attendance expected and the area from which such attendance will be drawn;

(iv) the level of anticipated wagering activity;

(v) the source and amount of revenues expected from other than pari-mutuel wagering;

(vi) the cost of operating the simulcast facility and the identification of costs to be amortized and the method of amortization of such costs;

(vii) the amount and source of revenues needed for financing the simulcast facility;

(viii) the probable impact of the proposed operation on revenues to local government;

b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of the simulcast signals and to control the transmission of wagering data to effectuate common wagering pools;

c. The type of data processing, communication and transmission equipment to be utilized;

d. The description of the management groups responsible for the operation of the simulcast facility;

e. The system of accounts to maintain a separate record of revenues collected by the simulcast facility, the distribution of such revenues and the accounting of costs relative to the simulcast operation;

f. The location of the facility and a written confirmation from appropriate local officials that the location of such facility and the number of patrons expected to occupy such facility are in compliance with all applicable local ordinances;

g. The written agreements and letters of consent between specified parties pursuant to sections one thousand seven, one thousand eight and one thousand nine of this article.

3. Within forty-five days of receipt of the plan of operation provided in subdivision two of this section, the commission shall issue an order approving the plan, approving it with modifications or denying approval, in which latter case the commission shall state its reasons therefor. Within such period the commission may request additional information or suggest amendments. If the commission fails to approve the plan, the applicant may request a public hearing to be held within thirty days of the issuance of an order denying it. The commission shall issue its final determination within ten days of such hearing. The applicant may submit an amended application no sooner than thirty days after a denial.

4. No racing association, franchised corporation or corporation or regional off-track betting corporation shall be allowed to operate a simulcast facility except according to the provisions of an approved plan of operation. No change in such plan of operation may occur until an amendment proposing a change to the plan is approved by the commission. A plan of operation may be amended from time to time at the request of either the operator or the commission. The operator shall have the right to be heard concerning any amendment to the plan and the commission shall dispose of such proposed amendments as expeditiously as practicable, but no later than thirty days following submission by the operator or, in the case of amendments proposed by the commission, objection by the operator.

5. For the purpose of maintaining proper control over simulcasts conducted pursuant to this article, the commission shall license any person, association or corporation participating in simulcasting, as the commission may by rule prescribe, including, if the commission deem it necessary so to do, any or all persons, associations or corporations who create, distribute, transmit or display simulcast signals. In the case of thoroughbred racing simulcasting or harness racing simulcasting, such licenses shall be issued in accordance with and subject to the provisions governing licenses for participants and employees in article two or article three of this chapter as may be applicable to such type of racing.

§ 1004. Suspension of simulcast licenses. 1. The commission may suspend any license authorizing the operation of a facility as a simulcast facility, granted to an operator, if such operator fails to conduct operations in accordance with the provisions of the plan of operation, with the applicable rules of the commission or with the provisions of this article.

2. If the commission determines to suspend any license to operate a simulcast facility, the commission shall give the operator involved notice of the time and plan for a hearing before the commission at which the commission will hear such operator in reference thereto. The commission may continue such hearing from time to time for the convenience of all parties. Any of the parties affected by such hearing may be represented by counsel, and the commission may be represented by its own counsel or by the attorney general. In the conduct of such hearing the commission shall not be bound by technical rules of evidence, but all evidence offered before the commission shall be reduced to writing, and such evidence together with the exhibits, if any, and the findings of the commission shall be permanently preserved and shall constitute the record of the commission in such case. The commission may by order, if occasion shall require, refer to one or more of its members or officers the duty of taking testimony in such matter and to report thereon to the commission, but no determination shall be made thereon except by the commission. Within thirty days after such hearing, the commission shall make a final determination. If the commission determines that such license be suspended, the commission shall make an order accordingly, and shall cause such order to be entered on its minutes and a copy thereof served on such operator. The action of the commission in suspending such license shall be reviewable in the supreme court in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

3. The commission may immediately suspend any license to operate a simulcast facility for a reason set forth in subdivision one of this section as of the delivery to the affected operator of the notice of hearing required by subdivision two of this section pending final

determination of the commission following the hearing. Such emergency suspension shall be followed by a hearing as provided in subdivision two of this section within twenty days following suspension.

§ 1005. Power of the commission to impose fines and penalties. In addition to its power to suspend or revoke licenses granted by it, the commission is hereby authorized and empowered to impose monetary fines upon any corporation, association or person participating in any way in simulcasts on which pari-mutuel betting is conducted, other than as a patron, and whether licensed by the commission or not, for a violation of any provision of this chapter or the rules promulgated by the commission pursuant thereto, not exceeding the amounts set forth in section one hundred sixteen of this chapter. The commission is further authorized and empowered to impose monetary fines, not exceeding the amounts set forth in section one hundred sixteen of this chapter, upon any such corporation, association or person for a violation of any order issued by the commission pursuant to the provisions of this chapter or the rules promulgated by the commission pursuant thereto, provided that a copy of such order shall have been served, either personally or by registered mail, upon the corporation, association or person to whom the same was directed, prior to the occurrence of the violation for which such fine is imposed. Such fines shall be paid into the state treasury. The action of the board in imposing any monetary fine shall be reviewable in the supreme court in the manner provided by and subject to the provisions of article seventy-eight of the civil practice law and rules.

§ 1006. Refunds. 1. Moneys received by the commission pursuant to this article may be refunded to the party for whose account the same were received on proof satisfactory to the commission that:

a. such moneys were in excess of the amount required by law;

b. the license for which application was made has been refused by the commission;

c. such moneys were received as a fine and the commission has after review reduced or remitted the amount of such fine; or

d. upon appeal, the court reduced or remitted the fine imposed.

2. Such refunds shall, upon approval by the commission and after audit by the comptroller, be paid from any moneys received pursuant to this article.

§ 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.

§ 1008. Simulcasts to off-track branch offices. 1. The commission may in accordance with the provisions of section one thousand three of this article and section five hundred twenty-three of this chapter authorize and approve an application for licenses submitted by any off-track betting corporation to display the simulcasts of racing from any thoroughbred or harness racing association or corporation located in the state.

2. Such application shall include, but not be limited to, a copy of a written agreement between the sending track and such regional off-track betting corporation and the following:

a. The location of each branch office to display the simulcast;

b. Any remuneration the sending track will receive in addition to the provisions of section five hundred twenty-seven of this chapter; and

c. (i) Except as provided in section one thousand thirteen of this article, if such sending track is not a thoroughbred track in the Catskill region conducting a mixed meeting, letters of consent to such agreement by the regional track or tracks conducting a meeting or meetings of the same type of racing during the period for which simulcasting is proposed. For purposes of this article, a track first licensed to conduct pari-mutuel racing after January first, nineteen hundred eighty-five, shall not be considered a regional track for purposes of applicable letters of consent as required in this section and section one thousand nine of this article. 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 counties of Westchester or Nassau, such period shall be limited to the same time of day, defined as afternoon against afternoon, twilight against twilight and evening against evening, the hours for which shall be as further specified by the commission.

(ii) For any simulcasting facility located within an area of a circle whose radius is forty miles, the center of which shall be measured from a regional track, and as provided in section one thousand thirteen of this article, the commission shall not approve such application unless such regional track, as described in subparagraph (i) of this paragraph, has given its written authorization, provided however, that between thirty-one and forty miles such approval shall not be unreasonably withheld. Such approval shall not be required if the simulcasting facility is located without the forty mile radius or if the sending track is a thoroughbred track in the Catskill region conducting a mixed meeting. Such written authorization shall not be required nor shall the provisions of section five hundred twenty-three of this chapter apply to those races that such regional track may elect to receive as a simulcast race during its regularly scheduled race meeting.

2-a. In the interest of providing maximum distribution of the simulcast signal of New York pari-mutuel races among regional off-track betting corporations, whenever a sending track makes its simulcast signal available to an off-track betting region authorized to accept its wagers, such sending track shall make its simulcast signal available to all such regions authorized to accept its wagers in accordance with section five hundred twenty-three of this chapter, and subdivision two of this section. In the event the sending track and the off-track betting corporations are unable to agree upon terms, including the identification of branch offices required to receive the signal, such terms, conditions and consideration shall be determined by binding arbitration as provided in section one thousand thirteen of this chapter.

3. Off-track betting simulcast pools shall be distributed according to the provisions of section five hundred twenty-seven of this chapter, except that:

a. The share so retained by the off-track betting corporation may be divided in a manner determined by contractual agreement; and

b. Of the sums received by the sending track, fifty percent shall be distributed to purses in addition to moneys distributed pursuant to section five hundred twenty-seven of this chapter. The off-track betting corporation shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of the total daily pools.

4. a. Notwithstanding any other provision of law to the contrary, the commission may authorize a regional off-track betting corporation to amend its plan of operation to provide for the sale of food and non-alcoholic beverages within its simulcasting facilities. For such

facilities when facilities of a hotel or restaurant as defined in section three of the alcoholic beverage control law are used, and table service for at least twenty-four persons is provided, the commission may, in its discretion, authorize a regional off-track betting corporation to amend its plan of operation to provide for the sale of beer, wine and liquor, in accordance with all applicable state and local licensing requirements. The commission shall promulgate rules and regulations to carry out the provisions of this subdivision with the intent that such sale of food, alcoholic and non-alcoholic beverages shall be in accordance with appropriate health and sanitary codes, and shall not include sales on credit except such sales using a third-party credit card. With respect to the sale of beer, wine and liquor, said rules and regulations shall provide requirements for seating capacity and the minimum number of tables, which in no event shall be less than six.

b. (i) Regional off-track betting corporations shall have the option of charging an admission fee to simulcasting facilities authorized to sell food, alcoholic or non-alcoholic beverages pursuant to paragraph a of this subdivision. The amount of such fee shall be subject to the approval of the commission.

(iii) Any county (except a county wholly within a city) or city, or both, in which such simulcasting facility is located, is hereby authorized and empowered to adopt and amend local laws imposing a tax on such admission fee at a rate not to exceed fifteen percent of the admission fee. The provisions of article eight of this chapter relating to the administration and collection of the taxes authorized to be imposed by such article (including the provisions relating to judicial review) shall apply to a tax imposed pursuant to the authority of this subparagraph, in the same manner and with the same force and effect as if the language of such provisions had been incorporated in full into this subparagraph and expressly referred to a tax authorized to be imposed pursuant to this subparagraph, except to the extent that any such provision is either inconsistent with a provision of this subparagraph or is not relevant to this subparagraph.

5. a. As a condition to receiving simulcasts in any branch office from

any sending track a regional off-track betting corporation located in a city with a population of one million shall simulcast the thoroughbred and quarter horse races of a thoroughbred track located in the Catskill region conducting a mixed meeting in all such branches that will receive the simulcasts of any other thoroughbred or harness horse races on any day that such thoroughbred track in the Catskill region may be conducting a mixed meeting and offers such simulcasts of its races to such corporation, provided, however, that the costs associated with the transmission and receipt of the simulcast signal of such thoroughbred track located in the Catskill region shall be borne by such track.

b. Any branch office that receives such simulcast signal for forty-five days may cease receiving such signal if the off-track betting operator justifies to the commission that the opening of such branch office has sustained economic loss during such forty-five day period. Provided, however, the track and off-track betting operator may waiver this provision by contract.

§ 1009. Simulcast theaters. 1. The commission may authorize and approve eight licenses, except that any approval of a license for a franchised corporation shall not decrease the number of licenses available, as of July first, nineteen hundred ninety to any other eligible operator under subdivision two of this section, for the operation of simulcast theaters as defined in section one thousand one of this article. One such license shall only be approved for the regional off-track betting corporation defined by paragraph b of subdivision one of section five hundred nineteen of this chapter.

2. Such a simulcast theater, pursuant to a license issued in accordance with the provisions of this section and section one thousand three of this article may be owned or leased, and operated, (a) by one or more racing associations or corporations; (b) by the regional off-track betting corporation of the region where such simulcast theater facility is to be located; (c) jointly by one or more racing associations or corporations and the regional off-track betting corporation of the region where such simulcast theater facility is to be

located; or (d) by a franchised corporation; provided, however, that for the purposes of paragraph (a) of subdivision two-a of this section, an entity authorized by paragraph (b) or (c) of this subdivision to own, lease or operate a simulcast theater may, pursuant to a competitive bidding procedure carried out in accordance with rules and regulations issued by the commission, select another person, firm or corporation to operate or jointly own or lease such facility and enter into a written agreement with such person, firm or corporation provided that such party shall be subject to the licensing requirements of the commission.

2-a. Notwithstanding the provisions of subdivision one of this section, the commission may authorize one or more licenses, as provided in paragraphs (b) and (c) of subdivision two of this section, to enter into a written agreement with another person, firm or corporation to jointly operate or lease such facility for the operation of simulcast at entertainment theaters as special demonstration projects for purposes of stimulating economic development, employment opportunities and state and local revenues. Such demonstration projects shall be licensed in accordance with all applicable laws, rules and regulations of this article.

(a) In Sullivan, Greene and Ulster counties the commission shall determine the number of such projects to be located in privately owned hotels in such counties for the exclusive use of the hotel guests.

(b) The commission may additionally authorize one special demonstration project within the city of New York.

(c) The commission may authorize a special demonstration project to be located in any facility licensed pursuant to article thirteen of this chapter in Schenectady county. Notwithstanding the provisions of paragraph a of subdivision five of this section, an admission fee shall not be required for a demonstration project authorized in this paragraph. On any day when a regional harness track conducts a live race meeting, a demonstration facility within that region shall predominantly display the live video of such regional harness track.

The regional off-track betting corporations operating such demonstration facilities within New York city may elect to apply the provisions of section five hundred thirty-two of this chapter in lieu of any admission charges.

3. Any application for such license shall be subject to those conditions set forth in section one thousand three and shall also include:

a. A written agreement between the sending tracks and the applicant;

b. Letters of consent to the application from any regional track that is not a party to the operation of the proposed theater unless such track is located more than forty miles from the proposed simulcast theater; and a copy of any agreement between the applicant and such corporation pursuant to which such consent has been given, subject to the provision of subdivision two of section one thousand seven of this article. Notwithstanding the foregoing, the Nassau region may apply to locate one simulcast theater within Nassau County without a letter of consent from the operator of the regional track provided the proposed simulcast theater is not within fifteen miles of the closest border of any racing facility operated by a franchised corporation.

c. Except for an application from a franchised corporation to operate within the Suffolk region, Nassau region, New York City region, or Westchester county in the absence of enabling legislation, a letter of consent to the application from the regional off-track betting corporation of the region where such simulcast theater facility is to be located if such corporation is not a party to the operation of the proposed theater.

d. If such theater is to be jointly operated by one or more racing associations or corporations or by one or more racing associations or corporations and the regional off-track betting corporation of the region where such simulcast theater is to be located or if the costs, revenues and/or net profits from the operation of such facility are to be allocated among more than one such party, a copy of a written agreement among such corporations or associations as to the rights and responsibilities of each such party and the provisions pursuant to which costs, revenues and/or net profits are to be allocated.

e. A copy of a resolution adopted by the governing body of the city, town or village in which the proposed simulcast theater is to be located, approving the application and requesting that the application for the proposed simulcasting theater be approved. In a city of one million or more, approval of the mayor shall also be required. Approval of the governing body of the county and the county executive within which such municipality is located shall also be required. If the proposed facility is to be located wholly within a village, approval by the governing body of the town or towns within which such village is located shall also be required.

f. An application from a franchised corporation shall not be considered by a city of one million or more, earlier than eighteen months after this provision shall have become law.

4. Notwithstanding any inconsistent provisions of this chapter, the sums retained by any associations or corporations from the total deposits in pools wagered on simulcast racing events at a simulcast theater as provided in subdivision one of this section shall be equal to the rates of retained percentage applicable to the sending track.

a. Of the sums retained by the operator as provided in this subdivision, 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 operator 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 horse breeding 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. 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, the commissioner may cause the same to be refunded without interest out of any moneys collected thereunder, provided an application therefor is filed with the 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.

d. The operator shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of the total daily pools.

4-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.

5. a. An admission fee to simulcast theaters shall be charged and the amount of such admission fee shall be subject to the approval of the commission.

c. Any county (except a county wholly within a city) or city, or both, in which a simulcast theater is located, is hereby authorized and empowered to adopt and amend local laws imposing a tax on such admission fee at a rate not to exceed fifteen percent of the admission fee. The provisions of article eight of this chapter relating to the administration and collection of the taxes authorized to be imposed by such article (including the provisions relating to judicial review) shall apply to a tax imposed pursuant to the authority of this paragraph, in the same manner and with the same force and effect as if the language of such provisions had been incorporated in full into this paragraph and had expressly referred to a tax authorized to be imposed pursuant to this paragraph, except to the extent that any such provision is either inconsistent with a provision of this paragraph or is not relevant to this paragraph.

6. The size, location and operation of a simulcast theater shall be subject to local zoning ordinances and the approval of the commission.

7. The sale of food and beverages shall be subject to the applicable state and local alcoholic beverage control laws and sales taxes.

8. All wagers resulting from the simulcast of racing events pursuant to this section shall be combined with wagers 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 simulcast theater.

9. Each license to operate a simulcast theater is subject to suspension as provided in section one thousand four of this article.

10. The operator may contract with the city, town or village in which the simulcast theater is located to pay to such municipality a sum not to exceed one percent of pools generated from all wagers at such theater in lieu of any other local tax.

11. The provisions of section one thousand thirteen of this chapter shall apply to any disputes with regard to the requirements of subdivision three of this section provided, however, that binding arbitration shall not be a remedy if the proposed simulcast theater is less than forty miles from a regional track.

§ 1010. Job security for employees. 1. Plans for operation of simulcast facilities shall include provision for job security for employees of racetracks and off-track betting corporations within the district where the facility is located, compatible with and in furtherance of the objectives of this article and subject to the approval of the commission. Job security agreements that have been or may be concluded from time to time after July first, nineteen hundred seventy-three between employee organizations and the operators of simulcast facilities shall be subject to the approval of the commission and when approved shall be deemed a part of the plan of operation of such simulcast facility.

2. Notwithstanding any provision to the contrary, no job security agreement shall apply to any employee not included on the active track or off-track betting employment roster maintained as of the effective date of a job security agreement currently in effect between an operator and an employee organization. If such job security agreement is not currently in effect, the effective date of such active employment roster shall be January first, nineteen hundred ninety.

§ 1011. Certain credit to off-track betting corporations. a. During the days that a franchised corporation is simulcasting from a racetrack facility operated by such franchised corporation and located in the first zone to a racetrack facility operated by such franchised corporation located wholly within a city of one million or more, one percent of the total wagers placed at such receiving facility shall be paid to such city.

b. During the days that a franchised corporation is simulcasting from a facility located wholly within a city in the first zone to a racetrack facility operated by such franchised corporation located partially within a city with a population in excess of one million and partially within a county, one-half percent of the total wagers placed at such receiving facility shall be paid to such city and one-half percent of such wagers shall be paid to such county.

§ 1012. Account wagering. Racing associations and corporations, franchised corporations, off-track betting corporations and multi-jurisdictional account wagering providers may apply to the commission to be licensed to offer account wagering.

1. Racing associations and corporations, franchised corporations, off-track betting corporations and multi-jurisdictional account wagering providers may form partnerships, joint ventures, or any other affiliations or contractual arrangement in order to further the purposes of this section. Multi-jurisdictional account wagering providers involved in such joint affiliations or contractual arrangements shall follow the same distributional policy with respect to retained commissions as a multi-jurisdictional account wagering provider defined in this article.

2. The commission shall promulgate rules and regulations to license and regulate all phases of account wagering.

3. The commission shall specify a non-refundable application fee which shall be paid by each applicant for an account wagering license or renewal thereof.

4. Account wagering licensees shall utilize personal identification numbers and such other technologies as the commission may specify to assure that only the account holder has access to the advance deposit wagering account.

5. Account wagering licensees shall provide for: a. withdrawals from the wagering account only by means of a check made payable to the account holder and sent to the address of the account holder or by means of an electronic transfer to an account held by the verified account holder or b. that the account holder may withdraw funds from the wagering account at a facility approved by the commission by presenting verifiable personal and account identification information.

6. Account wagering licensees may engage in interstate wagering transactions only where there is compliance with chapter fifty-seven of title fifteen of the United States code, commonly referred to as the "interstate horse racing act".

7. The account holder's deposits to the wagering account shall be submitted by the account holder to the account wagering licensee and shall be in the form of one of the following: a. cash given to the account wagering licensee; b. check, money order, negotiable order of withdrawal, or wire or electronic transfer, payable and remitted to the account wagering licensee; or c. charges made to an account holder's debit or credit card upon the account holder's direct and personal instruction, which instruction may be given by telephone communication or other electronic means to the account wagering licensee or its agent by the account holder if the use of the card has been approved by the account wagering licensee.

8. a. Each wager shall be in the name of a natural person and shall not be in the name of any beneficiary, custodian, joint trust, corporation, partnership or other organization or entity.

b. A wagering account may be established by a person completing an application form approved by the commission and submitting it together with a certification, or other proof, of age and residency. Such form shall include the address of the principal residence of the prospective account holder and a statement that a false statement made in regard to an application may subject the applicant to prosecution.

c. The prospective account holder shall submit the completed application to the account wagering licensee. The account wagering licensee may accept or reject an application after receipt and review of the application and certification, or other proof, of age and residency for compliance with this section.

d. No person other than the person in whose name an account has been established may issue wagering instructions relating to that account or otherwise engage in wagering transactions relating to that account.

9. A wagering account shall not be assignable or otherwise transferable.

10. Except as otherwise provided in this article or in regulations which the commission may adopt pursuant thereto, all account wagers shall be final and no wager shall be canceled by the account holder at any time after the wager has been accepted by the account wagering licensee.

11. Dormant accounts shall be treated as abandoned property pursuant to section three hundred of the abandoned property law.

12. Account wagering providers must possess appropriate totalizator and accounting controls that will safeguard the transmission of wagering data and will keep a system of accounts which will maintain a separate record of revenues and an accounting of costs relative to the operation of the wagering provider.

13. Wagers placed with the account wagering providers shall result in the combination of all wagers placed with such provider with the wagering pools at the host track so as to produce common pari-mutuel betting pools for the calculation of odds and the determination of payouts from such pools, which payout shall be the same for all winning tickets, irrespective of whether a wager is placed at a host track or at an account wagering provider.

14. Any account wagering licensee may require a minimum account balance in an amount to be determined by such entity.

15. a. Any regional off-track betting corporation may suspend collection of the surcharge imposed under section five hundred thirty-two of this chapter on winning wagers placed in wagering accounts maintained by such regional corporation.

b. In a city of one million or more any regional off-track betting corporation, with the approval of the mayor of such city, may suspend collection of the surcharge imposed under section five hundred thirty-two of this chapter in winning wagers placed in wagering accounts maintained by such regional corporation.

16. The maintenance and operation of such wagering accounts provided for in this section shall be subject to rules and regulations of the commission. The commission shall include in such regulation a requirement that wagering account information pertaining to surcharge and nonsurcharge wagering accounts shall be separately reported.

17. For the purposes of this section, "telephone wagering accounts" shall mean and include all those wagers which utilize any wired or wireless communications device, including but not limited to wireline telephones, wireless telephones and the internet to transmit the placement of wagers on races and special events offered by any regional off-track betting corporation, and any harness, thoroughbred, quarter horse racing association or corporation licensed or franchised to conduct pari-mutuel racing in this state.

18. Every racing association, off-track betting corporation, franchised corporation, harness, thoroughbred, quarter horse racing association or corporation or other entity licensed or franchised in this state to conduct pari-mutuel racing and wagering, or authorized to conduct races within the state, which operates a wagering account for the acceptance of wagers, shall locate the call center where such wagers are received within the state of New York.

§ 1012-a. Multi-jurisdictional account wagering providers. A multi-jurisdictional account wagering provider shall only be licensed under the following conditions:

1. the multi-jurisdictional account wagering provider is licensed by the state in which it is located and, if required, by each state in which it operates;

2. the character and the background of the multi-jurisdictional

account wagering provider is such that granting the applications for a license is in the public interest and the best interest of honest horse racing;

3. the multi-jurisdictional account wagering provider shall utilize the services of an independent third party to perform identity and verification services with respect to the establishment of wagering accounts for persons who are residents of the state of New York;

4. the commission shall be allowed access to the premises of the multi-jurisdictional account wagering provider to visit, investigate and, place such expert accountants and other persons it deems necessary for the purpose of insuring compliance with the rules and regulations of the commission;

5. if not already registered, the multi-jurisdictional account wagering provider shall agree promptly to take those steps necessary to qualify to do business in New York state, and to maintain such status in good standing throughout the license period;

6. multi-jurisdictional account wagering providers shall:

(a) pay a market origin fee equal to five and forty-five hundredths percent on each wager accepted from New York residents.

(b) pay an additional fee equal to one percent on each wager accepted from New York residents which shall be directed to the general fund of the state treasury.

(c) make the required payments to the market origin account on or before the fifth business day of each month and such required payments shall cover payments due for the period of the preceding calendar month; provided, however, that such payments required to be made on April fifteenth shall be accompanied by a report under oath, showing the total of all such payments, together with such other information as the commission 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 the payment shall be payable in case any payments required by this subdivision are not paid when due. If the commission determines that any moneys received under this subdivision were paid in error, the commission may cause the same to be refunded without interest out of any moneys collected thereunder, provided an application therefor is filed with the commission within one year from the time the erroneous payment was made. The commission shall pay into the racing regulation account, under the joint custody of the comptroller and the commission, the total amount of the fee collected pursuant to paragraph (a) of this subdivision.

*** § 1013. Binding arbitration.** 1. Whenever under this article a written agreement is required to be obtained from a sending regional track or tracks located within simulcast district one or two for the purpose of simulcasting, and it is claimed by the applicant for such license for simulcasting that such written agreement has been unreasonably refused, declined or denied, or offered for consideration that is unreasonable within parameters established by market conditions, geographical location or historical experience, the terms and conditions and consideration to be paid for such proposed simulcasting shall be determined by binding arbitration in accordance with the procedures set forth herein and by regulations promulgated by the commission. Failure to agree to such binding arbitration by the sending track to simulcast within the simulcast district shall be deemed as authorization for such licensee or proposed licensee to enter into an agreement to receive such simulcast signal from another track or tracks within this state, notwithstanding the provisions of section five hundred twenty-three of this chapter.

(a) The applicant seeking to obtain an agreement to receive such simulcast signal shall submit a single written request setting forth the terms, conditions and circumstances required under this article for the rights to receive such simulcasting, which shall be delivered to the sending track by certified mail, return receipt requested.

(b) Within thirty days after receipt thereof, the track from whom such simulcasting is requested may either decline or refuse such terms in writing or submit a written proposal setting forth its terms, conditions and consideration upon which it would sell or otherwise make available such simulcast signal. The failure to respond to the proposal of the applicant within the time limit shall be deemed to constitute a denial or refusal to enter into any agreement. Any such response shall be delivered to the applicant by certified mail, return receipt requested.

(c) Where the applicant for simulcasting thereafter maintains that the agreement sought has been unreasonably refused or denied or that the proposal of the party or parties from whom the agreement is required is unreasonable or not economically feasible so as to permit the conduct of simulcasting, the applicant shall notify the commission, which, within fifteen days thereafter, shall notify the track that binding arbitration procedures will be initiated. Such notification shall be delivered to the track by certified mail, return receipt requested. (i) The commission shall arbitrate all disputes arbitrable pursuant to this section unless either party objects, in such event the commission shall provide and designate to the parties a list of three or more independent arbitrators from a panel of such arbitrators maintained by it, having experience in dispute resolution and the economics of the pari-mutuel racing industry. In order to sustain the continuity of the simulcast programs during the period of such arbitration, the terms and conditions of any current or pre-existing agreement shall remain in full force and effect during the period of such arbitration. (ii) Within thirty days of such notification, the track may refuse to enter into any such arbitration procedures by notifying the commission. Upon such notification, the commission shall authorize the applicant to enter into an agreement to receive a simulcast signal from another track within the state, notwithstanding any other provision of law to the contrary.

(d) The provisions for binding arbitration contained in this section shall be applicable to any proposed agreement with such other regional track. In the event a simulcast agreement has been refused by such other regional track, notwithstanding the provisions of section five hundred twenty-three of this chapter, the commission shall authorize the applicant to enter into an agreement to receive a simulcast signal for purposes of pari-mutuel wagering from any other track within this state conducting the same type of racing that was refused by the regional tracks.

(e) Unless such regional track has refused such arbitration, each party shall alternately strike from the list described in paragraph (c) of this subdivision one of the designated names, with the order of striking determined by lot until the remaining one person shall be designated as arbitrator.

(f) Within forty-five days thereafter each party shall submit to the arbitrator a final and last proposal setting forth all of the terms, conditions and consideration to be paid, if any, for the granting of such consent or a final last written proposal or statement supporting any contention that such consent should not be granted, along with any records, data, statistics in support of its position.

(g) The arbitrator shall hold hearings on all matters related to the dispute. The parties may be heard either in person, by counsel, or by other representatives, as they may respectively designate. The parties may present, either orally or in writing, or both, statements of fact, supporting witnesses and other evidence, and argument of their respective positions with respect to the issues. The arbitrator shall have authority to require the production of such additional evidence, either oral or written as it may desire from the parties and shall provide at the request of any party that a full and complete record be kept of any such hearings, the cost of such record to be shared equally by the parties.

(h) The arbitrator shall also specify the basis for the determination made and in arriving at such determination take into consideration, in addition to any other relevant factors, the following:

(1) the interest and welfare of the public;

(2) economic factors and conditions of the respective parties;

(3) economic factors and conditions of the pari-mutuel racing and wagering industry of the state;

(4) the economic impact of the determination on the parties, the pari-mutuel, racing and wagering industry of the state and pari-mutuel tax revenues of the state;

(5) the impact of the determination on racing and employment opportunities;

(6) the impact of such determination on track profitability;

(7) the impact of such determination on purse levels of the sending or receiving track, as the case may be;

(8) the impact of the determination on current operations or markets of race tracks and regional off-track betting corporations;

(9) the reasonableness of the compensation to be paid for such consent or whether compensation should be made;

(10) the overall feasibility and reasonableness of each last offer proposal made by the parties.

(i) The arbitrator shall, within sixty days after such hearing, unless the time is extended by consent, adopt in its entirety one of the final and last written proposals made which shall be rendered in the form of an award.

(j) The arbitrator, if not the commission, shall notify the commission of its final award which shall be enforced by the commission pursuant to this chapter.

(k) The award shall be final and binding on all the parties for the period prescribed by the arbitrator. If not contained in the proposal adopted, such period shall not exceed one year from the date of service thereof by the arbitrator.

2. No arbitrator shall have the authority to direct the placement of a simulcast facility within ten miles of a track located in district one or thirty miles of a track located in districts two through five.

3. Except as expressly provided herein to the contrary, the provisions of article seventy-five of the civil practice law and rules shall govern such arbitration.

4. Nothing herein shall be construed to dispense with any approval required for the licensing of simulcasting by the commission under this article as any other provision of law.

5. Nothing herein shall preclude all the parties to any such dispute from entering into a written agreement providing for the submission and resolution of any such dispute by any other form of final and binding arbitration, under any agreed upon procedure, to any arbitration panel, forum or arbitrator within thirty days after notice of the designation of the list of arbitrators herein by the commission.

6. Nothing herein shall preclude all of the parties to such binding arbitration provided for herein from entering into an agreement modifying any award after the rendition thereof.

7. The arbitrator appointed pursuant to subdivision one of this section shall be entitled to receive a fee for his or her services to be paid equally by the parties. In no event shall the commission charge a fee to arbitrate disputes.

* NB Repealed July 1, 2027

§ 1014. Simulcasting of out-of-state thoroughbred races. 1. The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand twenty-seven and on any day regardless of whether or not a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack after June thirtieth, two thousand twenty-seven. On any day on which a franchised corporation has not scheduled a racing program but a thoroughbred racing corporation located within the state is conducting racing, each off-track betting corporation branch office and each simulcasting facility licensed in accordance with section one thousand seven (that has entered into a written agreement with such facility's representative horsemen's organization, as approved by the commission), one thousand eight, or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state or foreign country subject to the following provisions:

a. Each off-track betting branch office accepting wagers on an out-of-state track shall accept wagers on races run at the in-state track and every simulcasting facility licensed in accordance with sections one thousand seven, one thousand eight and one thousand nine of this article which is accepting wagers and displaying the simulcast signal from an out-of-state track shall similarly accept wagers and display the signal from the in-state track.

b. Simulcasting facilities shall be authorized to accept wagers and display the live simulcast signal from out-of-state thoroughbred tracks.

c. If a regional harness track is conducting racing on a day on which out-of-state simulcasting is authorized, the off-track betting corporation shall be required to accept wagers and display the live simulcast signal of such races provided the terms and conditions for accepting such signal are no less favorable than those in effect on April first, nineteen hundred ninety-three.

d. Each off-track betting corporation shall determine the average daily handle on the in-state thoroughbred corporation, the average daily handle from out-of-state tracks and the average total daily payment made to the in-state thoroughbred track on each day from April first, nineteen hundred ninety-three through December thirty-first, nineteen hundred ninety-three on which the off-track betting corporation accepted wagers on races conducted at such track and races conducted on an out-of-state track on a day on which no scheduled races were conducted by a franchised corporation. This calculation shall be provided to the commission and the chief executive officers of the in-state thoroughbred track and the horsemen's organization. If there is a dispute as to the amount of such calculations, written documentation from the off-track betting corporation and the track, shall be supplied to the commission which shall make a determination of the correct amounts, which determination shall be final and binding on all parties.

e. An amount equal to the calculated number shall be determined to be the amount payable to the in-state thoroughbred racing corporation as though such number were calculated on actual handle, using the payment schedules, including distribution to purses, of article five-A and article ten of this chapter provided such track conducts a program of racing equivalent in racing dates and wagering opportunities to the nineteen hundred ninety-three program.

f. The amount shall be distributed in accordance with the provisions of this section. The commission shall determine the amount of and dates of such payments, which dates shall, as far as practicable, reflect the payments made to such track during the comparable period of nineteen hundred ninety-three.

g. (1) At the conclusion of the thoroughbred track corporation's nineteen hundred ninety-four racing season or as shortly thereafter as possible but not later than December twentieth, nineteen hundred ninety-four, the off-track betting corporations and the commission shall determine the average daily handle for the in-state thoroughbred racing corporation and the average daily handle for races conducted at out-of-state or out-of-country tracks. If average daily handle for any off-track betting corporation exceeds by ten percent the average daily handle as calculated in paragraph d of this subdivision, such off-track betting corporation shall pay to the in-state thoroughbred racing corporation an amount calculated by multiplying the average daily handle in excess of one hundred ten percent of the average daily handle of nineteen hundred ninety-three by the effective commission rate paid by such corporation in nineteen hundred ninety-three. Such calculation shall be computed separately for handle on in-state tracks and handle on out-of-state tracks.

(2) For purposes of this section, the effective commission rate shall be determined by dividing the total commission paid by the total handle rounded to the nearest hundredth.

(3) For purposes of this chapter, total and average daily handle shall have the same meaning as total and average daily wagers or bets.

h. (1) Licensed harness tracks shall receive in lieu of any other payments on wagers placed at off-track betting facilities outside the special betting district on races conducted by an in-state thoroughbred racing corporation, two and eight-tenths percent on regular and multiple bets during a regional meeting and one and nine-tenths percent of such bets if there is no regional meeting and four and eight-tenths percent on exotic bets on days on which there is a regional meeting and three and four-tenths percent of such bets if there is no regional meeting.

(2) (i) In addition, licensed harness tracks shall receive one and one-half percent on total handle on races conducted at an out-of-state or out-of-country thoroughbred track provided such harness track is neither accepting wagers nor displaying the signal from an out-of-state track.

(ii) In those regions in which there is more than one licensed harness track, if no track is accepting wagers or displaying the live simulcast signal from the out-of-state track, the total sum shall be divided among the tracks in proportion to the ratio the wagers placed on races conducted by each track bears to the corporation's total in-region harness handle. If one or more tracks are accepting wagers or displaying the live simulcast signal, the total amount shall be divided among those tracks not accepting wagers or displaying the simulcast signal for an out-of-state track.

(3) The terms used in this section shall have the same applicability and meaning as interpreted and applied in sections five hundred twenty-three and five hundred twenty-seven of this chapter.

i. Any facility authorized to accept wagers on out-of-state tracks shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets are presented for payment prior to April first of the year following the year of their purchase less eighteen percent of the total deposits in pools resulting from regular bets, less twenty-one percent of the total deposits in pools resulting from multiple bets, less twenty-six percent of the total deposits in pools resulting from exotic bets, less thirty-six percent of the total deposits in pools resulting from super exotic bets except that the retention rates and breaks shall be as prescribed by another state or country if such wagers are combined with those in the other state or country pursuant to section nine hundred five of this chapter.

(1) Of the sum so retained, the applicable tax rate shall be rate set forth in subdivision one of section one hundred thirty-six of this chapter.

(2) Of the sums so retained, one-half of one percent of all wagers shall be paid to the New York state thoroughbred breeding and development fund, except that of the sums so retained on such wagers at licensed harness tracks, one-half of one percent shall be paid to the agricultural and New York State horse breeding and development fund.

(3) Of the sum so retained, two percent of all wagers shall be paid to a franchised corporation to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes, provided further that such amount shall not exceed the amount paid to such non-profit racing association in nineteen hundred ninety-three from wagers placed on out-of-state tracks on a day when no racing was being

conducted by the non-profit racing association and a racing program was being conducted by a thoroughbred racing corporation located in the state. The excess, if any, shall be paid to a thoroughbred racing corporation located in the state until August thirty-first, nineteen hundred ninety-five and on and after July nineteen, nineteen hundred ninety-six to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes.

(4) Any thoroughbred racing corporation or harness racing association or corporation or off-track betting 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 all wagering pools.

j. (1) All wagers authorized by this section shall be combined so as to produce common pari-mutuel betting pools for the calculation of odds and the determination of payouts from such pools, which payouts shall be made pursuant to the rules of the commission. Every location authorized to accept wagers or display simulcasting pursuant to this section shall be subject to all appropriate provisions of this chapter.

(2) Every regional off-track betting corporation may simulcast all out-of-state races authorized by this section at any licensed simulcast facility except for those facilities located in a thoroughbred special betting district.

Facilities located in such special betting district may display the simulcast signal with the permission of the thoroughbred track located in such district or if such track displays the signal from an out-of-state or out-of-country track.

k. The provisions of section five hundred thirty-two of this chapter shall apply as follows:

(1) for all wagers placed at facilities licensed to receive such out-of-state or out-of-country simulcasts in accordance with section one thousand eight of this article, distribution shall first be made in accordance with subdivision three-a of section five hundred thirty-two of this chapter, and then fifty percent of the remaining amount in accordance with paragraph a of subdivision three of section five hundred thirty-two of this chapter and the other fifty percent shall be retained

by such operator for its general purpose.

(2) upon application of any facility licensed in accordance with sections one thousand seven and one thousand nine of this article, the commission shall authorize the imposition of a sum equal to the amount authorized by section five hundred thirty-two of this chapter which shall apply to wagers placed at such facility. Such sums received by facilities licensed in accordance with section one thousand nine of this article shall be retained for the general purpose of the corporation. Such sums received by such facilities licensed in accordance with section one thousand seven of this article shall be distributed as follows:

(i) fifty percent shall be used exclusively for purses awarded in races conducted by such licensed facility; and

(ii) fifty percent shall be retained by such licensed facility for its general purposes.

2. Nothing in this section shall be construed to prohibit the acceptance of wagers on races conducted at out-of-state tracks without the display of the live simulcast signal if authorized under any other provision of this chapter.

§ 1015. Simulcasting of races run by out-of-state harness tracks. 1. The provisions of this section shall govern the simulcasting of races conducted at harness tracks located in another state or country during the period July first, nineteen hundred ninety-four through June thirtieth, two thousand twenty-seven. This section shall supersede all inconsistent provisions of this chapter.

2. Harness racing associations or corporations subject to a written agreement with such association's or corporation's representative horsemen's association and off-track betting facilities are hereby authorized to accept wagers and display the signal of out-of-state harness tracks provided that:

a. the payments to the out-of-state track for accepting wagers and displaying the live simulcast signals of these races shall not exceed two percent of total handle for facilities licensed in accordance with section one thousand eight and one thousand nine of this chapter and three percent of total handle for those facilities licensed in accordance with section one thousand seven of this chapter.

b. all off-track betting branches are permitted to accept such wagers and that all simulcast facilities licensed in accordance with sections one thousand eight and one thousand nine of this article are permitted to display the live simulcast signal under the same terms and conditions as facilities licensed in accordance with section one thousand seven of this article;

c. on any day on which a harness track is conducting a racing program, it shall offer its signal to all off-track betting facilities authorized to receive such signals under terms and conditions no less favorable than those in effect on March thirty-first, nineteen hundred ninety-three; and that in addition to any out-of-state simulcasting program, the track shall accept wagers and display the signal from at least one in-state harness track;

d. on any day on which a harness association or corporation is not conducting a racing program, it shall accept the signal from not fewer than two in-state harness tracks conducting a program except this requirement may be waived by the written consent of those harness tracks conducting the race meeting;

e. every off-track betting branch office and simulcast facility licensed in accordance with sections one thousand eight and one thousand nine of this article, as a condition to accepting out-of-state wagers and displaying the live simulcast signal of such races, shall accept wagers and display the simulcast signal of its regional harness track at all locations at which out-of-state wagers are accepted or the signal displayed. If the regional harness track is not conducting a race meeting but another harness association in the state is conducting a meeting, the off-track betting facilities as a condition of accepting out-of-state wagers shall accept wagers and display the signal from at least one in-state harness track;

f. No off-track betting facility shall accept wagers or display the simulcast signal from an out-of-state harness track without an agreement with the regional track, provided, however, that off-track betting facilities shall have the right to display any simulcast signal displayed by a regional harness track and any such agreement shall not unreasonably be withheld.

3. Any facility authorized to accept wagers on out-of-state tracks shall distribute all sums deposited in any pari-mutuel pool to the holders of any tickets therein provided such tickets are presented for payment prior to April first of the year following the year of their purchase less nineteen percent of total deposits in pools resulting from regular bets, less twenty-one percent of total deposits of pools resulting from multiple bets, less twenty-seven percent of total deposits of pools resulting from exotic bets, less thirty-six percent of total deposits of pools resulting from super exotic bets except that the retention rates and breaks shall be as prescribed by another state or country if such wagers are combined with those in the other state or country pursuant to section nine hundred five of this chapter.

a. Distribution of retained commissions for all licensed harness tracks shall be in accordance with article three of this chapter.

b. For off-track betting facilities, (1) of the sums so retained, the applicable tax rate shall be one percent of all such wagers;

(2) of the sum so retained, one percent of all wagers shall be paid to the New York state agricultural and horse breeding and development fund;

(3) of the sum so retained, five percent shall be paid to the regional licensed harness track to be distributed in the same manner as though such payments were on races conducted at such track;

(4) of the sum so retained, an additional one percent of all wagers shall be paid to the regional licensed harness track for the purpose of increasing purses.

c. In those regions in which there is more than one regional licensed harness track, the payments required under subparagraphs three and four of paragraph b of this subdivision shall be made to the regional track conducting a meet on the day out-of-state simulcasting occurs. If either no track is conducting a meet, or more than one track is conducting a meet, the distribution shall be made in the proportion that each track's handle bore to the total regional licensed harness track handle during the preceding calendar month or in accordance with a contractual agreement between the regional tracks and the off-track betting corporation.

d. For wagers placed at an off-track betting facility in that portion of the western region located with a thoroughbred special betting district, but not included in a harness special betting district, one and one-half percent of such wagers shall be paid to the racing association located in such district provided such association is neither accepting wagers nor simulcasting out-of-state harness races. Any payments required by this subdivision shall reduce payments required to be made to the regional licensed harness track under the provisions of subparagraph three of paragraph b of this subdivision.

e. Any thoroughbred racing corporation or harness racing association or corporation or off-track betting 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 all wagering pools.

4. The provisions of section five hundred thirty-two of this chapter shall apply as follows:

a. for all wagers placed at facilities licensed to receive such out-of-state simulcasts in accordance with section one thousand eight of this article, distribution shall first be made in accordance with subdivision three-a, and then fifty percent of the remaining amount in accordance with paragraph a of subdivision three of section five hundred thirty-two of this chapter and the other fifty percent shall be retained by such operator for its general purpose.

b. for wagers placed at off-track betting branch offices on out-of-state tracks where such simulcasting is not conducted, in accordance with section five hundred thirty-two of this chapter.

c. upon application of any facility licensed in accordance with sections one thousand seven and one thousand nine of this article, the commission shall authorize the imposition of a sum equal to the amount authorized by section five hundred thirty-two of this chapter that shall apply to wagers placed at such facility. Such sums received by facilities licensed in accordance with section one thousand nine of this article shall be retained for the general purpose of the corporation. Such sums received by such facilities licensed in accordance with section one thousand seven of this article shall be distributed as follows:

(1) fifty percent shall be used exclusively for purses awarded in races conducted by such licensed facility; and

(2) fifty percent shall be retained by such licensed facility for its general purposes.

5. Nothing in this section shall be construed to prohibit the accepting of wagers on races conducted at out-of-state tracks without the display of the live simulcast signal if authorized under any other provision of this chapter.

§ 1016. Simulcasting of out-of-state thoroughbred races 1. The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is not conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand twenty-seven. Every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven that have entered into a written agreement with such facility's representative horsemen's organization as approved by the commission, one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live full-card simulcast signal of thoroughbred tracks (which may include quarter horse or mixed meetings provided that all such wagering on such races shall be construed to be thoroughbred races) located in another state or foreign country, subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article:

a. Each off-track betting branch office accepting wagers on an out-of-state track shall accept wagers on races run at all in-state thoroughbred tracks that are conducting racing programs and every simulcasting facility licensed in accordance with sections one thousand eight and one thousand nine of this article that is accepting wagers and displaying the simulcast signal from an out-of-state track shall similarly accept wagers and display the signal from all in-state thoroughbred tracks conducting racing programs.

b. Any facility authorized to accept wagers on out-of-state tracks shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets are presented for payment prior to April first of the year following the year of their purchase less eighteen percent of the total deposits in pools resulting from regular bets, less twenty-one percent of the total deposits in pools resulting from multiple bets, less twenty-six percent of the total deposits in pools resulting from exotic bets, and less twenty-seven percent of the total deposits in pools resulting from super exotic bets, may be required by another jurisdiction except that the retention rates and breaks shall be as prescribed by another state or country if such wagers are combined with those in the other state or country pursuant to section nine hundred five of this chapter.

(1) Of the sums so retained, the applicable tax rates shall be as as set forth in subdivision one of section one hundred thirty-six of this chapter.

(2) (A) Of the sums so retained, one-half of one percent of all wagers shall be paid to the New York State thoroughbred breeding and development fund, except that of the sums so retained on such wagers at licensed harness tracks, one-half of one percent shall be paid to the agricultural and New York State horse breeding and development fund.

(B) 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) Distribution of wagers placed on the initial out-of-state thoroughbred track at facilities licensed in accordance with sections one thousand eight and one thousand nine of this article.

(A) Of the sums so retained on days when a franchised corporation is not conducting a race meeting within the state and a thoroughbred racing corporation is conducting a race meeting

	Regular bets	Multiple bets	Exotic bets	Super-exotic bets
Non-franchised Thoroughbred Racing corporation	0.50	0.50	0.50	0.50
Non-franchised Thoroughbred Racing corporation payments to purses	1.50	2.00	1.50	2.00
Franchised corporation	0.50	0.50	0.50	0.50
Franchised corporation payments to purses	2.00	2.00	2.50	4.00

(B) Of the sums so retained on days when a franchised corporation is conducting a race meeting within the state

	Regular bets	Multiple bets	Exotic bets	Super-exotic bets
Non-franchised Thoroughbred Racing corporation	0.50	0.50	0.50	0.00
Non-franchised Thoroughbred Racing corporation payments to purses	0.50	0.50	0.50	0.50
Franchised corporation	2.00	1.50	1.50	2.00
Franchised corporation payments to purses	2.00	3.00	3.00	5.00

(C) Payments to purses as required under clauses (A) and (B) of this subparagraph shall be paid to the thoroughbred racing corporation to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes.

(4) Distribution of wagers placed on other than the initial out-of-state thoroughbred track at facilities licensed in accordance with sections one thousand eight and one thousand nine of this article.

(A) Of the sums so retained on days when a franchised corporation is not conducting a race meeting within the state and a thoroughbred racing corporation is conducting a race meeting

	Regular bets	Multiple bets	Exotic bets	Super-exotic bets
Non-franchised Thoroughbred Racing corporation payments to purses	2.00	2.00	2.00	2.50
Franchised corporation	1.00	1.00	1.00	1.00
Franchised corporation payments to purses	2.00	2.00	2.50	4.00

(B) Of the sums so retained on days when a franchised corporation is conducting a race meeting within the state

	Regular bets	Multiple bets	Exotic bets	Super-exotic bets
Non-franchised Thoroughbred racing corporation	0.50	0.25	0.50	0.50
Non-franchised Thoroughbred racing corporation payments to purses	0.50	0.25	0.50	0.50
Franchised corporation	2.25	2.25	2.00	2.50
Franchised corporation payments to purses	2.25	3.25	3.00	4.50

(C) Payments to purses as required under clauses (A) and (B) of this subparagraph shall be paid to the thoroughbred racing corporation or to the franchised corporation to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes.

(D) On days when no thoroughbred track is conducting a race meeting, facilities licensed in accordance with sections one thousand eight and one thousand nine of this article are authorized to accept the simulcast signal from more than two out-of-state thoroughbred tracks. The distribution of wagers on such out-of-state thoroughbred track or tracks shall be in accordance with clause (B) of this subparagraph.

(5) Distribution of wagers placed on the initial out-of-state thoroughbred track at facilities licensed in accordance with section one thousand seven of this article.

(A) Of the sums so retained on days when a franchised corporation is not conducting a race meeting within the state and a thoroughbred racing corporation is conducting a race meeting

	Regular bets	Multiple bets	Exotic bets	Super-exotic bets
Non-franchised Thoroughbred racing corporation	0.25	0.25	0.25	0.50
Non-franchised Thoroughbred racing corporation payments to purses	0.75	1.00	0.75	1.00
Franchised corporation	0.25	0.25	0.25	0.25
Franchised corporation payments to purses	1.00	1.00	2.25	2.00

(B) Of the sums so retained on days when a franchised corporation is conducting a race meeting within the state

	Regular bets	Multiple bets	Exotic bets	Super-exotic bets
Non-franchised Thoroughbred racing corporation	0.25	0.25	0.25	0.25
Non-franchised Thoroughbred racing corporation payments to purses	0.25	0.25	0.25	0.25
Franchised corporation	1.00	0.75	0.75	1.00
Franchised corporation payments to purses	1.00	1.50	1.50	2.50

(C) Payments to purses as required under clauses (A) and (B) of this subparagraph shall be paid to a thoroughbred racing corporation to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes.

(D) For wagers placed at a thoroughbred racing corporation the state tax shall be the amounts specified in subdivision one of section one hundred thirty-six of this chapter and retention thereafter shall be identical to sums retained for each type of on-track wager.

(E) On days when a franchised corporation is not conducting a race meeting and when a licensed harness track is neither accepting wagers nor displaying the signal from an in-state thoroughbred corporation or association or an out-of-state thoroughbred track:

(i) Such licensed regional harness track shall receive in lieu of any other payments on wagers placed at off-track betting facilities outside the special betting district on races conducted by an in-state thoroughbred racing corporation, two and eight-tenths percent on regular and multiple bets during a regional meeting and one and nine-tenths percent of such bets if there is no regional meeting and four and eight-tenths percent on exotic bets on days on which there is a regional meeting and three and four-tenths percent of such bets if there is no regional meeting.

(ii) Such licensed regional harness track shall receive one and one-half percent on total regional handle on races conducted at out-of-state or out-of-country thoroughbred tracks.

(iii) In those regions in which there is more than one licensed regional harness track, if no track is accepting wagers or displaying the live simulcast signal from the out-of-state track, the total sum shall be divided among the tracks in proportion to the ratio the wagers placed on races conducted by each track bears to the corporation's total in-region harness handle. If one or more tracks are accepting wagers or displaying the live simulcast signal, the total amount shall be divided among those tracks not accepting wagers or displaying the simulcast signal for an out-of-state track or in-state thoroughbred corporation or association.

(F) Of the sums retained by a licensed harness facility, fifty percent shall be used exclusively for purses awarded in races conducted by such licensed facility and the remaining fifty percent shall be retained by such licensed facility for its general purposes, provided, however, that in a harness special betting district the portion of the sums retained by a licensed harness facility to be used for purses or the methodology for calculating the amount to be used for purses may be specified in a written contract between a harness racing association or corporation and its representative horsemen's association.

(6) Distribution of wagers placed on other than the initial out-of-state thoroughbred track at facilities licensed in accordance with section one thousand seven of this article.

(A) Of the sums so retained on days when a franchised corporation is not conducting a race meeting within the state and a thoroughbred racing corporation is conducting a race meeting

	Regular bets	Multiple bets	Exotic bets	Super-exotic bets
Non-franchised Thoroughbred Racing corporation payments to purses	1.00	1.00	1.00	1.25
Franchised corporation	0.50	0.50	0.50	0.50
Franchised corporation payments to purses	1.00	1.00	1.25	2.00

(B) Of the sums so retained on days when a franchised corporation is conducting a race meeting within the state

	Regular bets	Multiple bets	Exotic bets	Super-exotic bets
Non-franchised Thoroughbred Racing corporation	0.25	0.25	0.25	0.25
Non-franchised Thoroughbred Racing corporation payments to purses	0.25	0.25	0.25	0.25
Franchised corporation	1.25	1.25	1.00	1.25
Franchised corporation payments to purses	1.25	2.00	1.50	2.25

(C) Payments to purses as required under clauses (A) and (B) of this subparagraph shall be paid to a thoroughbred racing corporation or to the franchised corporation to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes.

(D) For wagers placed at a franchised corporation or a thoroughbred racing corporation the state tax shall be the amounts specified in clauses (A) and (B) of this subparagraph and retention thereafter shall be identical to sums retained for each type of on-track wager.

(E) On days when no thoroughbred track is conducting a race meeting, facilities licensed in accordance with section one thousand seven of this article are authorized to accept the simulcast signal from out-of-state thoroughbred tracks. The distribution of wagers on such out-of-state thoroughbred track or tracks shall be in accordance with clause (B) of this subparagraph.

(F) On days when a franchised corporation is not conducting a race meeting and when a licensed harness track is neither accepting wagers nor displaying the signal from an in-state thoroughbred corporation or association or an out-of-state thoroughbred track:

(i) Such licensed regional harness track shall receive in lieu of any other payments on wagers placed at off-track betting facilities outside the special betting district on races conducted by an in-state thoroughbred racing corporation, two and eight-tenths percent on regular and multiple bets during a regional meeting and one and nine-tenths percent of such bets if there is no regional meeting and four and eight-tenths percent on exotic bets on days on which there is a regional meeting and three and four-tenths percent of such bets if there is no regional meeting.

(ii) Such licensed regional harness track shall receive one and one-half percent on total regional handle on races conducted at out-of-state or out-of-country thoroughbred tracks.

(iii) In those regions in which there is more than one licensed regional harness track, if no track is accepting wagers or displaying the live simulcast signal from the out-of-state track, the total sum shall be divided among the tracks in proportion to the ratio the wagers placed on races conducted by each track bears to the corporation's total in-region harness handle. If one or more tracks are accepting wagers or displaying the live simulcast signal, the total amount shall be divided among those tracks not accepting wagers or displaying the simulcast signal for an out-of-state track or in-state thoroughbred corporation.

(G) Of the sums retained by a licensed harness facility, fifty percent shall be used exclusively for purses awarded in races conducted by such licensed facility and the remaining fifty percent shall be retained by such licensed facility for its general purposes, provided, however, that in a harness special betting district the portion of the sums retained by a licensed harness facility to be used for purses or the methodology for calculating the amount to be used for purses may be specified in a written contract between a harness racing association or corporation and its representative horsemen's association.

c. (1) All wagers authorized by this section shall be combined so as to produce common pari-mutuel betting pools, which shall be combined with the sending track, for the calculation of odds and the determination of payouts from such pools, which payouts shall be made pursuant to the rules of the commission. Every location authorized to accept wagers or display simulcasting pursuant to this section shall be subject to all appropriate provisions of this chapter.

(2) Every regional off-track betting corporation may simulcast all out-of-state races authorized by this section at any licensed simulcast facility except for those facilities located in a thoroughbred special betting district. Facilities located in such special betting district may display the simulcast signal with the permission of the thoroughbred track located in such district or if such track displays the signal from an out-of-state or out-of-country track.

d. The provisions of section five hundred thirty-two of this chapter shall apply as follows:

(1) for all wagers placed at facilities licensed to receive such out-of-state or out-of-country simulcasts in accordance with section one thousand eight of this article, distribution shall first be made in accordance with subdivision three-a of section five hundred thirty-two of this chapter, and then fifty percent of the remaining amount in accordance with paragraph a of subdivision three of section five hundred thirty-two of this chapter and the other fifty percent shall be retained by such operator for its general purpose.

(2) upon application of any facility licensed in accordance with sections one thousand seven and one thousand nine of this article, the commission shall authorize the imposition of a sum equal to the amount authorized by section five hundred thirty-two of this chapter that

applies to wagers placed at such facility. Such sums received by facilities licensed in accordance with section one thousand nine of this article shall be retained for the general purpose of the corporation. Such sums received by such facilities licensed in accordance with section one thousand seven of this article shall be distributed as follows:

(A) fifty percent shall be used exclusively for purses awarded in races conducted by such licensed facility; and

(B) fifty percent shall be retained by such licensed facility for its general purposes.

e. Nothing in this section shall be construed to prohibit the acceptance of wagers on races conducted at out-of-state tracks without the display of the live simulcast signal if authorized under any other provision of this chapter.

2. The provisions of this section shall not be effective, nor shall any out-of-state simulcast signal or wagers thereon be permitted to be accepted pursuant to this section by any off-track betting corporation in this state during the dates set forth in subdivision one of this section until the following conditions are met and are in full force and effect:

a. New York city off-track betting corporation has a written contractual agreement with an in-state thoroughbred racing corporation, guaranteeing said in-state thoroughbred racing corporation the same display of its signal as any out-of-state track displayed under this section during the dates and time periods delineated herein, including the display of said signal at least five days per week under section one thousand three of this article, commonly known as the in-home simulcasting experiment; provided said corporation's signal is made available five days per week;

b. Said written contractual agreement shall not provide for remuneration and shall be separate and apart from any existing statutory provision, current agreement, or future agreement, regarding remuneration of the in-state thoroughbred racing corporation by New York city off-track betting corporation for its simulcast signal, and shall contain a clause providing for enforcement of the contractual agreement in a court of general jurisdiction with the power to grant equitable and/or injunctive relief;

c. Said written agreement shall contain a clause providing for injunctive relief and/or liquidated damages if said contract is breached by either party;

d. Upon a decision, ruling or order by a court of general jurisdiction that said contract has been breached, no out-of-state simulcasting shall be permitted under the provisions of this section until renewal of said contract or a new contract containing the requirements herein is executed; and

e. Provided further, that if New York city off-track betting corporation shall cease to display the signal of an out-of-state track through in-home simulcasting pursuant to section one thousand three of this article, nothing herein shall prohibit any off-track corporation from displaying the out-of-state signal in its parlors and teletheaters so long as the signal of an in-state thoroughbred racing corporation is displayed on an equal number of screens.

§ 1017. Out-of-state or out-of-country races. 1. Licensed simulcast facilities may accept wagers and display the signal of out-of-state or out-of-country thoroughbred tracks after 7:30 P.M. in accordance with the provisions of this section. Such simulcasting may include mixed meetings if such meetings are integral to such racing programs and all such wagering on such races shall be construed to be thoroughbred races. For facilities located within the special betting district, such approval shall also be required from a thoroughbred racing corporation during the period a racing program is being conducted at such track. Such approval shall not be required on any day such thoroughbred racing corporation is also accepting an out-of-state or out-of-country signal and wager, as authorized by this section. The provisions of section one thousand sixteen of this article shall be applicable to the conduct of such simulcasting and the provisions of clauses (A) and (B) of subparagraph four of paragraph b of subdivision one of section one thousand sixteen of this article shall apply to those facilities licensed in accordance with sections one thousand eight and one thousand nine of this article and the provisions of clauses (A) and (B) of subparagraph six of paragraph b of subdivision one of section one thousand sixteen of this article shall apply to those facilities licensed in accordance with section one thousand seven of this article, when such provisions are in full force and effect pursuant to such section. Provided, however, the provisions of section one thousand fourteen of this article shall be applicable to the conduct of such simulcasting, when such provisions are in full force and effect pursuant to such section.

2. a. Maintenance of effort. Any off-track betting corporation that engages in accepting wagers on the simulcasts of thoroughbred races from out-of-state or out-of-country as permitted under subdivision one of this section shall submit to the commission, for its approval, a schedule of payments to be made in any year or portion thereof, that such off-track corporation engages in nighttime thoroughbred simulcasting. In order to be approved by the commission, the payment schedule shall be identical to the actual payments and distributions of such payments to tracks and purses made by such off-track corporation pursuant to the provisions of section one thousand fifteen of this article during the year two thousand two, as derived from out-of-state harness races displayed after 6:00 P.M. If approved by the commission, such scheduled payments shall be made from revenues derived from any simulcasting conducted pursuant to this section and section one thousand fifteen of this article.

b. Additional payments. During each calendar year, to the extent, and at such time in the event, that aggregate statewide wagering handle after 7:30 P.M. on out-of-state and out-of-country thoroughbred races exceeds one hundred million dollars, each off-track betting corporation conducting such simulcasting shall pay to its regional harness track or tracks, an amount equal to two percent of its proportionate share of such excess handle. In any region where there are two or more regional harness tracks, such two percent shall be divided between or among the tracks in a proportion equal to the proportion of handle on live harness races conducted at such tracks during the preceding calendar year. Fifty percent of the sum received by each track pursuant to this paragraph shall be used exclusively for increasing purses, stakes and prizes at that regional harness track. For the purpose of determining whether such aggregate statewide handle exceeds one hundred million dollars, all wagering on such thoroughbred races accepted by licensed multi-jurisdictional account wagering providers from customers within New York state shall be excluded.

§ 1018. Distribution. Notwithstanding any other provision of this chapter, for the period July twenty-fifth, two thousand one through September eighth, two thousand twenty-six, when a franchised corporation is conducting a race meeting within the state at Saratoga Race Course, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that has entered into a written agreement with such facility's representative horsemen's organization as approved by the commission), one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state, provided that such facility shall accept wagers on races run at all in-state thoroughbred tracks which are conducting racing programs subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article.

Every facility authorized to accept wagers on out-of-state tracks shall distribute all sums deposited in any pari-mutuel pool to the holder of winning tickets therein, provided such tickets are presented for payment prior to April first of the year following the year of their purchase, the retention rates and breaks shall be as prescribed by another state or country pursuant to section nine hundred five of this chapter.

1. Of the sums so retained, the applicable tax rates shall be as set forth in subdivision one of section one hundred thirty-six of this chapter.

2. a. Of the sums so retained, one-half of one percent of all wagers shall be paid to the New York state thoroughbred breeding and development fund, except that of the sums so retained on such wagers at licensed harness tracks, one-half of one percent shall be paid to the agriculture and New York state horse breeding and development fund.

b. Any thoroughbred racing corporation or harness racing association or corporation or off-track betting corporation shall pay to the commission as a regulatory fee, which fee is hereby levied, six-tenths of one percent of all wagering pools.

3. Distribution of wagers placed on out-of-state thoroughbred tracks at facilities licensed in accordance with section one thousand eight or one thousand nine of this article.

The following percentages of the sums so retained on days when a franchised corporation is conducting a meeting within the state

	Regular bets	Multiple bets	Exotic bets	Super exotic bets
State tax	.25	.25	.25	.25
Non-franchised Thoroughbred racing corporation	.50	.50	.50	.50
Non-franchised Thoroughbred racing corporation payments to purses	.50	.50	.50	.50
Franchised corporation	3.25	3.25	3.25	3.25
Franchised corporation payments to purses	3.25	3.25	3.25	3.25

4. Payments to purses as required pursuant to this subdivision shall be paid to the thoroughbred racing corporation to be used exclusively for the purpose of increasing purses, including stakes, premiums and prizes.

5. For wagers placed on an out-of-state track at a franchised corporation the state tax shall be one-quarter of one percent of all wagers and three and one-quarter of one percent shall be utilized by a franchised corporation exclusively for the purpose of increasing purses, including stakes, premiums and prizes identified to sums retained for each type of on-track wager.

6. The following percentages of the distribution of wagers placed on out-of-state thoroughbred tracks at facilities licensed in accordance with section one thousand seven of this article. Of the sums so retained on days when a franchised corporation is conducting a meeting within the state

	Regular bets	Multiple bets	Exotic bets	Super exotic bets
State tax	.25	.25	.25	.25
Non-franchised Thoroughbred racing corporation	.50	.50	.50	.50
Non-franchised Thoroughbred racing corporation payments to purses	.50	.50	.50	.50
Franchised corporation	2	2	2	2
Franchised corporation payments to purses	2	2	2	2

ARTICLE XI

INTERSTATE COMPACT ON LICENSURE OF PARTICIPANTS IN LIVE HORSE RACING

WITH PARI-MUTUEL WAGERING

Section 1101. Purposes.
1102. Definitions.
1103. Entry into force, eligible parties, and withdrawal.
1104. States eligible to join compact.
1105. Withdrawal from the compact.
1106. Compact committee.
1107. Powers and duties of compact committee.
1108. Voting requirements.
1109. Administration and management.
1110. Immunity from liability.
1111. Rights and responsibilities of party states.
1112. Fingerprints and criminal history.

§ 1101. Purposes. The purposes of this compact are:

a. to derive uniform requirements among the party states for the licensure of participants in live horse racing with pari-mutuel wagering, and to ensure that all licensees pursuant to this compact meet a uniform minimum standard of honesty and integrity;

b. to facilitate the growth of the horse racing industry by simplifying the process for qualified applicants for a license to participate in live racing, and to reduce the cost incurred by each state and applicant from the separate licensing process conducted by each state that conducts live horse racing;

c. to authorize the commission to participate in this compact;

d. to permit officials from the party states to participate in this compact and, through the compact committee established by this compact, to enter into contracts with governmental agencies and other persons to carry out the purposes of this compact; and

e. to establish the compact committee created by this compact as an interstate governmental entity duly authorized to request and to receive criminal history record information from the federal bureau of investigation and from state, local, and foreign law enforcement agencies.

§ 1102. Definitions. For the purposes of this article, the following terms shall have the following meanings:

a. "Compact committee" means the organization of officials from the party states that is authorized and empowered by this compact to carry out the purposes of this compact;

b. "Official" means the duly selected member of a party state racing commission, or its equivalent, who represents that party state as a member of the compact committee;

c. "Participants in live racing" means participants in live horse racing with pari-mutuel wagering in the party states;

d. "Party state" means each state that has enacted this compact; and

e. "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States.

§ 1103. Entry into force, eligible parties, and withdrawal. This compact shall come into force when enacted by any four states. Thereafter, this compact shall become effective, as to any other party state that enacts this compact, upon the affirmative vote of a majority of the officials on the compact committee.

§ 1104. States eligible to join compact. Any state that has adopted or authorized horse racing with pari-mutuel wagering shall be eligible to become a party to this compact.

§ 1105. Withdrawal from the compact. Any party state may withdraw from this compact by enacting a statute repealing this compact, but no such withdrawal shall become effective until the head of the executive branch of the withdrawing state has given notice in writing of such withdrawal to the head of the executive branch of all other party states. If withdrawals reduce participation in this compact to less than three party states, this compact no longer shall be in effect until there are three or more party states again participating in this compact.

§ 1106. Compact committee. a. There is hereby created an interstate governmental entity known as the compact committee, to be comprised of one official from the racing commission, or its equivalent, of each party state, who shall be selected, serve, and be removed in accordance with the laws of his or her party state. Each official shall have, pursuant to the laws of that party state, the assistance of that state's racing commission, or its equivalent, in considering issues related to licensing of participants in live racing and in acting as representative of that state in the compact committee. Where an official is unable to perform any duty in the compact committee, his or her alternate shall serve until the original can return to duty, as that party state's official in the compact committee. Such a designation shall be communicated by that party state's racing commission, or its equivalent, to the compact committee, as required by the applicable by-laws.

b. The chair of the state gaming commission shall designate the official, and his or her alternate, to represent New York state in the compact committee.

§ 1107. Powers and duties of compact committee. The compact committee is hereby granted, to carry out its purposes, the power and duty:

a. to determine which categories of participants in live racing, such as owners, trainers, jockeys, drivers, grooms, mutuel clerks, racing officials, veterinarians, farriers, or others, shall be licensed by the compact committee, and to establish the term, initial requirements, and renewal requirements for each license category. With regard to obtaining and weighing criminal history record information on each applicant, and all non-arbitrary other licensure requirements, the compact committee shall adopt licensure requirements comparable, in its judgment, to the most restrictive party state's requirements for such a license;

b. to investigate license applicants and, as permitted by federal and state law, to gather information, including criminal history records from the federal bureau of investigation and from state, local, and foreign country law enforcement agencies (including the Royal Canadian Mounted Police), necessary to decide whether an applicant meets its license requirements. Such criminal history record information may be received and reviewed only by the officials on, and employees of, the compact committee, and that information may be used only for the purposes of this compact. No such official or employee may disclose or disseminate such criminal history record information to any person or entity other than another official on, or employee of, the compact committee. The compact committee, its employees, or its designee shall take the fingerprints of each license applicant and, pursuant to P.L. 92-544 or P.L. 100-413, forward the fingerprints to a state identification bureau, the Association of Racing Commissioners, International (an association of state officials regulating pari-mutuel wagering, designated by the attorney general of the United States), or another entity with an equivalent designation, for submission to the federal bureau of investigation or other receiving law enforcement agency;

c. to issue and renew licenses for participants in live racing who are found by the compact committee to have met its licensure or renewal requirements. The compact committee shall not have the power or authority to deny a license. If it determines that an applicant will not be eligible, the compact committee shall notify the applicant that it will not be able to process his or her licensure or renewal application any further. That notification shall not constitute, and shall not be considered to be, the denial of a license. Although such applicant shall have the right to present further evidence and to be heard by the compact committee, after receiving such notification, the final decision on issuance or renewal of his or her license shall be made by the compact committee pursuant to its established requirements;

d. to enter into contracts and agreements with governmental agencies and other persons to provide personal services for its activities, and such other services as may be necessary;

e. to create, appoint, and abolish all those offices, employments, and positions (including an executive director) useful to fulfill its purposes; to prescribe their powers, duties, and qualifications; to hire persons therefor; and to provide for their term, tenure, removal, compensation, and fringe and retirement benefits, and other conditions of employment;

f. to borrow, accept, and contract for the services of personnel from any state, federal, or other governmental agency, or from any other person or entity;

g. to acquire, hold, and dispose of any real or personal property by gift, purchase, lease, license, and similar means;

h. to charge and collect a fee, whether for licensure or renewal, from each license applicant; and

i. to receive additional funds through gifts, grants, and appropriations.

§ 1108. Voting requirements. The compact committee shall have the following voting requirements:

a. each official shall be entitled to one vote on the compact committee;

b. a majority vote of the total number of officials in the compact committee shall be required to admit another party state, to issue or renew a racing license, and to receive or distribute any funds. A two-thirds majority vote of the total number of officials in the compact committee shall be required to adopt, amend, or rescind the by-laws. All other actions by the compact committee shall require a majority vote of those officials who are present for the vote; and

c. no action may be taken by the compact committee unless a quorum, a majority of the officials on the compact committee, is present for the vote.

§ 1109. Administration and management. The compact committee shall:

a. annually elect, from its members, a chair, vice-chair and secretary/treasurer;

b. adopt (and amend or rescind) by-laws for the conduct of its business, publish them in a convenient form, and file a copy of them (including any amendments) with the secretary of state, or its equivalent, of each party state; and

c. delegate day-to-day management and administration of its duties, as needed, to an executive director and support staff, who shall all be considered governmental employees.

§ 1110. Immunity from liability. No official of a party state or employee of the compact committee shall be held personally liable for any reasonable action taken in good faith that occurs during the performance and within the scope of his or her responsibilities and duties under this compact.

§ 1111. Rights and responsibilities of party states. Each party state in the compact shall:

a. accept the decisions of the compact committee on the issuance or renewal of licenses, and reimburse or otherwise pay the expenses of its official in the compact committee;

b. not treat any notification of an applicant by the compact committee, that his or her application will not be processed further, as the denial of a license or otherwise penalize such an applicant solely because of such action by the compact committee;

c. reserve the right:
(1) to charge a fee for the use of a compact license within that party state, for which the commission shall charge the fee, for each license category, set forth in sections two hundred thirteen and three hundred nine of this chapter;
(2) to apply its own standards to determine whether a compact committee license should be suspended or revoked;
(3) to apply its own standards for licensure or renewal of state applicants who do not meet the licensure requirements of the compact committee, or who are within a category of participants in live racing that the compact committee does not license; and
(4) to apply its own standards for licensure of nonracing employees at horse race tracks and at separate or satellite wagering facilities;

d. through its racing commission or its equivalent, promptly notify the compact committee of any suspension or revocation that the party state has imposed on a compact committee licensee; and

e. not be held liable for the debts or other financial obligations incurred by the compact committee.

§ 1112. Fingerprints and criminal history. In order to determine the suitability to be licensed of an applicant or licensee, the commission shall require a full set of fingerprints be furnished to the commission to enable a criminal background investigation to be conducted. For any person who intends to participate in racing in New York state, the commission shall submit such fingerprints to the division of criminal justice services, and the division of criminal justice services is authorized to submit such fingerprints to the federal bureau of investigation, in accordance with the rules or regulations promulgated by such entities, to obtain relevant criminal history record information, if any, concerning such applicant or licensee. The commission shall require the applicant or licensee to pay the cost of the criminal history investigation.

ARTICLE 12
OFFICE OF RACING PROMOTION AND DEVELOPMENT

Section 1201. New York state office of racing promotion and development.
1202. Use of service employees.

§ 1201. New York state office of racing promotion and development. There is hereby created within the New York state gaming commission a separate and independent office of racing promotion and development. The office shall promote the breeding of horses and the conduct of equine research in this state and shall administer the "state thoroughbred breeding and development fund", "agriculture and New York state horse breeding development fund" and "New York state quarter horse breeding and development fund corporation."

§ 1202. Use of service employees. The office shall utilize, pursuant to a contract approved by the director of the budget, the service employees of the state gaming commission.

ARTICLE 13
DESTINATION RESORT GAMING

Title 1. General provisions
2. Facility determination and licensing: upstate gaming facilities
2-A. Facility determination and licensing: additional gaming facilities
3. Occupational licensing

4. Enterprise and vendor licensing and registration
5. Requirements for conduct and operation of gaming
6. Taxation and fees
7. Problem gambling
8. Miscellaneous provisions

TITLE 1

GENERAL PROVISIONS

Section 1300. Legislative findings and purpose.
1301. Definitions.
1302. Auditing duties of the commission.
1303. Equipment testing.
1304. Commission reporting.
1305. Supplemental power of the commission.
1306. Powers of the board.
1307. Required regulations.
1308. Reports and recommendations.
1309. Severability and preemption.
1310. Development zones and regions.

§ 1300. Legislative findings and purpose. The legislature hereby finds and declares that:

1. New York state is already in the business of gambling with nine video lottery facilities, five tribal class III casinos, and three tribal class II facilities;

2. New York state has more electronic gaming machines than any state in the Northeast or Mideast;

3. While gambling already exists throughout the state, the state does not fully capitalize on the economic development potential of legalized gambling;

4. The state should authorize four destination resort casinos in

upstate New York;

5. Four upstate casinos can boost economic development, create thousands of well-paying jobs and provide added revenue to the state;

6. The upstate tourism industry constitutes a critical component of our state's economic infrastructure and that four upstate casinos will attract non-New York residents and bring downstate New Yorkers to upstate;

7. The casino sites and the licensed owners shall be selected on merit;

8. Local impact of the casino sites will be considered in the casino evaluation process;

9. Revenue realized from casinos shall be utilized to increase support for education beyond that of the state's education formulae and to provide real property tax relief to localities;

10. Casinos will be tightly and strictly regulated by the commission to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry;

11. The need for strict state controls extends to regulation of all persons, locations, practices and associations related to the operation of licensed enterprises and all related service industries as provided in this article;

12. The state and the casinos will develop programs and resources to combat compulsive and problem gambling;

13. The state will ensure that host municipalities of casinos are provided with funding to limit any potential adverse impacts of casinos;

14. As thoroughly and pervasively regulated by the state, four upstate

casinos will work to the betterment of all New York.

§ 1301. Definitions. As used in this article the following terms shall, unless the context clearly requires otherwise, have the following meanings:

1. "Affiliate". A person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person.

2. "Applicant". Any person who on his or her own behalf or on behalf of another has applied for permission to engage in any act or activity which is regulated under the provisions of this article.

3. "Application". A written request for permission to engage in any act or activity which is regulated under the provisions of this article.

4. "Authorized game". Any game determined by the commission to be compatible with the public interest and to be suitable for casino use after such appropriate test or experimental period as the commission may deem appropriate. An authorized game may include gaming tournaments in which players compete against one another in one or more of the games authorized herein or by the commission or in approved variations or composites thereof if the tournaments are authorized.

5. "Board". The New York state gaming facility location board established by the commission pursuant to section one hundred nine-a of this chapter.

6. "Business". A corporation, sole proprietorship, partnership, limited liability company or any other organization formed for the purpose of carrying on a commercial enterprise.

7. "Casino". One or more locations or rooms in a gaming facility that have been approved by the commission for the conduct of gaming in accordance with the provisions of this article.

8. "Casino key employee". Any natural person employed by a gaming facility licensee, or holding or intermediary company of a gaming facility licensee, and involved in the operation of a licensed gaming facility in a supervisory capacity and empowered to make discretionary decisions which regulate gaming facility operations; or any other employee so designated by the commission for reasons consistent with the policies of this article.

9. "Casino vendor enterprise". Any vendor offering goods or services which directly relate to casino or gaming activity, or any vendor providing to gaming facility licensees or applicants goods and services ancillary to gaming activity. Notwithstanding the foregoing, any form of enterprise engaged in the manufacture, sale, distribution, testing or repair of slot machines within the state, other than antique slot machines, shall be considered a casino vendor enterprise for the purposes of this article regardless of the nature of its business relationship, if any, with gaming facility applicants and licensees in this state.

10. "Close associate". A person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operation of a gaming facility or business licensed under this article.

11. "Commission". The New York state gaming commission.

12. "Complimentary service or item". A service or item provided at no cost or at a reduced cost to a patron of a gaming facility.

13. "Conservator". A person appointed by the commission to temporarily manage the operation of a gaming facility.

14. "Credit card". A card, code or other device with which a person may defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor, but not a card, code or

other device used to activate a preexisting agreement between a person and a financial institution to extend credit when the person's account at the financial institution is overdrawn or to maintain a specified minimum balance in the person's account at the financial institution.

15. "Debt". Any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent, including debt convertible into an equity security which has not yet been so converted, and any other debt carrying any warrant or right to subscribe to or purchase an equity security which warrant or right has not yet been exercised.

16. "Encumbrance". A mortgage, security interest, lien or charge of any nature in or upon property.

17. "Executive director". The executive director of the New York state gaming commission.

18. "Family". Spouse, domestic partner, partner in a civil union, parents, grandparents, children, grandchildren, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, daughters-in-law, sons-in-law, brothers-in-law and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship.

19. "Game". Any banking or percentage game located within the gaming facility played with cards, dice, tiles, dominoes, or any electronic, electrical, or mechanical device or machine for money, property, or any representative of value which has been approved by the commission.

20. "Gaming" or "gambling". The dealing, operating, carrying on, conducting, maintaining or exposing for pay of any game.

21. "Gaming device" or "gaming equipment". Any electronic, electrical, or mechanical contrivance or machine used in connection with gaming or any game.

22. "Gaming employee". Any natural person, not otherwise included in

the definition of casino key employee, who is employed by a gaming facility licensee, or a holding or intermediary company of a gaming facility licensee, and is involved in the operation of a licensed gaming facility or performs services or duties in a gaming facility or a restricted casino area; or any other natural person whose employment duties predominantly involve the maintenance or operation of gaming activity or equipment and assets associated therewith or who, in the judgment of the commission, is so regularly required to work in a restricted casino area that registration as a gaming employee is appropriate.

23. "Gaming facility". The premises approved under a gaming license which includes a gaming area and any other nongaming structure related to the gaming area and may include, but shall not be limited to, hotels, restaurants or other amenities.

24. "Gaming facility license". Any license issued pursuant to this article which authorizes the holder thereof to own or operate a gaming facility.

25. "Gross gaming revenue". The total of all sums actually received by a gaming facility licensee from gaming operations less the total of all sums paid out as winnings to patrons; provided, however, that the total of all sums paid out as winnings to patrons shall not include the cash equivalent value of any merchandise or thing of value included in a jackpot or payout.

26. "Holding company". A corporation, association, firm, partnership, trust or other form of business organization, other than a natural person, which, directly or indirectly, owns, has the power or right to control, or has the power to vote any significant part of the outstanding voting securities of a corporation or any other form of business organization which holds or applies for a gaming license; provided, however, that a "holding company", in addition to any other reasonable use of the term, shall indirectly have, hold or own any such power, right or security if it does so through an interest in a subsidiary or any successive subsidiaries, notwithstanding how many such

subsidiaries may intervene between the holding company and the gaming facility licensee or applicant.

27. "Host municipality". A city, town or village in which a gaming facility is located or in which an applicant has proposed locating a gaming facility.

28. "Intermediary company". A corporation, association, firm, partnership, trust or other form of business organization, other than a natural person, which is a holding company with respect to a corporation or other form of business organization which holds or applies for a gaming license, and is a subsidiary with respect to a holding company.

29. "Junket". An arrangement intended to induce a person to come to a gaming facility to gamble, where the person is selected or approved for participation on the basis of the person's ability to satisfy a financial qualification obligation related to the person's ability or willingness to gamble or on any other basis related to the person's propensity to gamble and pursuant to which and as consideration for which, any of the cost of transportation, food, lodging, and entertainment for the person is directly or indirectly paid by a gaming facility licensee or an affiliate of the gaming facility licensee.

30. "Junket enterprise". A person, other than a gaming facility licensee or an applicant for a gaming facility license, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed gaming facility, regardless of whether or not those activities occur within the state.

31. "Junket representative". A person who negotiates the terms of, or engages in the referral, procurement or selection of persons who may participate in, a junket to a gaming facility, regardless of whether or not those activities occur within the state.

32. "Operation certificate". A certificate issued by the commission which certifies that operation of a gaming facility conforms to the requirements of this article and applicable regulations and that its

personnel and procedures are sufficient and prepared to entertain the public.

33. "Person". Any corporation, association, operation, firm, partnership, trust or other form of business association, as well as a natural person.

34. "Registration". Any requirement other than one which requires a license as a prerequisite to conduct a particular business as specified by this article.

35. "Registrant". Any person who is registered pursuant to the provisions of this article.

36. "Restricted casino areas". The cashier's cage, the soft count room, the hard count room, the slot cage booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the slot machine repair room and any other area specifically designated by the commission as restricted in a licensee's operation certificate.

37. "Qualification" or "qualified". The process of licensure set forth by the commission to determine that all persons who have a professional interest in a gaming facility license, or casino vendor enterprise license, or the business of a gaming facility licensee or gaming vendor, meet the same standards of suitability to operate or conduct business with a gaming facility.

38. "Slot machine". A mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the individual playing or operating the machine to receive cash, or tokens to be exchanged for cash, or to receive merchandise or any other thing of value, whether the payoff is made automatically from the machine or in any other manner, except that the cash equivalent value of any merchandise or other thing

of value shall not be included in determining the payout percentage of a slot machine.

39. "Sports wagering". The activity authorized by section one thousand three hundred sixty-seven of this article, provided that there has been a change in federal law authorizing such activity or upon ruling of a court of competent jurisdiction that such activity is lawful.

40. "Subsidiary". A corporation, a significant part of whose outstanding equity securities are owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company, or a significant interest in a firm, association, partnership, trust or other form of business organization, other than a natural person, which is owned, subject to a power or right of control, or held with power to vote, by a holding company or an intermediary company.

41. "Table game". A game, other than a slot machine, which is authorized by the commission to be played in a gaming facility.

42. "Transfer". The sale or other method, either directly or indirectly, of disposing of or parting with property or an interest therein, or the possession thereof, or of fixing a lien upon property or upon an interest therein, absolutely or conditionally, voluntarily or involuntarily, by or without judicial proceedings, as a conveyance, sale, payment, pledge, mortgage, lien, encumbrance, gift, security or otherwise; provided, however, that the retention of a security interest in property delivered to a corporation shall be deemed a transfer suffered by such corporation.

§ 1302. Auditing duties of the commission. The commission shall audit as often as the commission determines necessary, but not less than annually, the accounts, programs, activities, and functions of all gaming facility licensees, including the audit of payments made pursuant to section one thousand three hundred fifty-one of this chapter. To conduct the audit, authorized officers and employees of the commission shall have access to such accounts at reasonable times and the commission may require the production of books, documents, vouchers and other records relating to any matter within the scope of the audit. All audits shall be conducted in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants. In any audit report of the accounts, funds, programs, activities and functions of a gaming facility licensee issued by the commission containing adverse or critical audit results, the commission may require a response, in writing, to the audit results. The response shall be forwarded to the commission within fifteen days of notification by the commission.

§ 1303. Equipment testing. Unless the commission otherwise determines it to be in the best interests of the state, the commission shall utilize the services of an independent testing laboratory that has been qualified and approved by the commission pursuant to this article to perform the testing of slot machines and other gaming equipment and may also utilize applicable data from the independent testing laboratory, or from a governmental agency of a state other than New York, authorized to regulate slot machines and other gaming equipment.

§ 1304. Commission reporting. The commission shall report monthly to the governor, the senate and the assembly, the senate finance committee and the assembly ways and means committee, and the chairs of the senate racing, gaming and wagering committee and the assembly racing and wagering committee on economic development and emerging technologies on the total gaming revenues, prize disbursements and other expenses for the preceding month and shall make an annual report to the same recipients which shall include a full and complete statement of gaming revenues, prize disbursements and other expenses, including such recommendations as the commission considers necessary or advisable. The commission shall also report immediately to the aforementioned on any matter which requires immediate changes in the laws in order to prevent abuses or evasions of the laws, rules or regulations related to gaming or to rectify undesirable conditions in connection with the administration or operation of gaming in the state.

§ 1305. Supplemental power of the commission. The commission shall have all powers necessary or convenient to carry out and effectuate its purposes including, but not limited to, the power to:

1. execute all instruments necessary or convenient for accomplishing the purposes of this article;

2. enter into agreements or other transactions with a person, including, but not limited to, a public entity or other governmental instrumentality or authority in connection with its powers and duties under this article;

3. require an applicant for a position which requires a license under this article to apply for such license and approve or disapprove any such application or other transactions, events and processes as provided in this article;

4. require a person who has a business association of any kind with a gaming licensee or applicant to be qualified for licensure under this article;

5. determine a suitable debt-to-equity ratio for applicants for a gaming license;

6. deny an application or limit, condition, restrict, revoke or suspend a license, registration, finding of suitability or approval, or fine a person licensed, registered, found suitable or approved for any cause that the commission deems reasonable;

7. monitor the conduct of licensees and other persons having a material involvement, directly or indirectly, with a licensee for the purpose of ensuring that licenses are not issued to or held by and that there is no direct or indirect material involvement with a licensee, by an unqualified or unsuitable person or by a person whose operations are

conducted in an unsuitable manner or in unsuitable or prohibited places as provided in this article;

8. gather facts and information applicable to the commission's obligation to issue, suspend or revoke licenses, work permits or registrations for:

(a) a violation of this article or any regulation adopted by the commission;

(b) willfully violating an order of the commission directed to a licensee;

(c) the conviction of certain criminal offenses; or

(d) the violation of any other offense which would disqualify such a licensee from holding a license, work permit or registration;

9. conduct investigations into the qualifications of any regulated entity and all applicants for licensure;

10. request and receive from the division of criminal justice services and the federal bureau of investigation, criminal history information as defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law for the purpose of evaluating applicants for employment by any regulated entity, and evaluating licensees and applicants for licensure under this article;

11. be present, through its agents, at all times, in a gaming facility for the purposes of:

(a) certifying revenue;

(b) receiving complaints from the public relating to the conduct of gaming and wagering operations;

(c) examining records of revenues and procedures and inspecting and auditing all books, documents and records of licensees;

(d) conducting periodic reviews of operations and facilities for the purpose of regulations adopted hereunder; and

(e) exercising its oversight responsibilities with respect to gaming;

12. inspect and have access to all equipment and supplies in a gaming facility or on premises where gaming equipment is manufactured, sold or

distributed;

13. seize and remove from the premises of a gaming licensee and impound any equipment, supplies, documents and records for the purpose of examination and inspection;

14. demand access to and inspect, examine, photocopy and audit all papers, books and records of any affiliate of a gaming licensee or gaming vendor whom the commission suspects is involved in the financing, operation or management of the gaming licensee or gaming vendor; provided, however, that the inspection, examination, photocopying and audit may take place on the affiliate's premises or elsewhere as practicable and in the presence of the affiliate or its agent;

15. require that the books and financial or other records or statements of a gaming licensee or gaming vendor be kept in a manner that the commission considers proper;

16. levy and collect assessments, fees, fines and interest and impose penalties and sanctions as authorized by law for a violation of this article or any regulations promulgated by the commission;

17. collect taxes, fees and interest under this article;

18. restrict, suspend or revoke licenses issued under this article;

19. refer cases for criminal prosecution to the appropriate federal, state or local authorities;

20. adopt, amend or repeal regulations for the implementation, administration and enforcement of this article; and

21. determine a suitable duration for each license, registration or finding of suitability or approval.

§ 1306. Powers of the board. The New York state gaming facility location board shall select, following a competitive process and subject to the restrictions of this article, no more than seven entities to apply to the commission for gaming facility licenses; provided however, that no more than three gaming facilities shall be located in zone one. In exercising its authority, the board shall have all powers necessary or convenient to fully carry out and effectuate its purposes including, but not limited to, the following powers. The board shall:

1. issue a request for applications for zone one or two gaming facility licenses pursuant to section one thousand three hundred twelve or section one thousand three hundred twenty-one-b of this article;

2. assist the commission in prescribing the form of the application for zone one or two gaming facility licenses including information to be furnished by an applicant concerning an applicant's antecedents, habits, character, associates, criminal record, business activities and financial affairs, past or present pursuant to section one thousand three hundred thirteen or section one thousand three hundred twenty-one-c of this article;

3. develop criteria, in addition to those outlined in this article, to assess which applications provide the highest and best value to the state, the zone and the region in which a gaming facility is to be located;

4. determine a gaming facility license fee to be paid by an applicant;

5. determine, with the assistance of the commission, the sources and total amount of an applicant's proposed capitalization to develop, construct, maintain and operate a proposed gaming facility license under this article;

6. have the authority to conduct investigative hearings concerning the conduct of gaming and gaming operations in accordance with any procedures set forth in this article and any applicable implementing regulations;

7. issue detailed findings of facts and conclusions demonstrating the reasons supporting its decisions to select applicants for commission licensure;

8. report annually to the governor, the speaker of the assembly and the temporary president of the senate, its proceedings for the preceding calendar year and any suggestions and recommendations as it shall deem desirable;

9. promulgate any rules and regulations that it deems necessary to carry out its responsibilities;

10. have the power to administer oaths and examine witnesses; and request and receive criminal history information as defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law of the division of criminal justice services, pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law, in connection with executing the responsibilities of the board relating to licensing including fingerprinting, criminal history information and background investigations, of entities applying for a gaming facility license. At the request of the board, the division of criminal justice services shall submit a fingerprint card, along with the subject's processing fee, to the federal bureau of investigation for the purpose of conducting a criminal history search and returning a report thereon. The board shall also be entitled to request and receive, pursuant to a written memorandum of understanding filed with the department of state, any information in the possession of the state attorney general relating to the investigation of organized crime, gaming offenses, other revenue crimes or tax evasion. Provided however, the attorney general may withhold any information that (a) would identify a confidential source or disclose confidential information relating to a criminal investigation, (b) would interfere with law enforcement investigations or judicial proceedings, (c) reveal criminal investigative techniques or procedures, that, if disclosed, could endanger the life or safety of any person, or (d) constitutes records received from other state, local or federal agencies that the attorney general is prohibited by law, regulation or agreement from disclosing.

§ 1307. Required regulations. 1. The commission is authorized:

(a) to adopt, amend or repeal such regulations, consistent with the policy and objectives of this article, as amended and supplemented, as it may deem necessary to protect the public interest in carrying out the provisions of this article; and

(b) to adopt, amend or repeal such regulations as may be necessary for the conduct of hearings before the commission and for the matters within all other responsibilities and duties of the commission imposed by this article.

2. The commission shall, without limitation, include the following specific provisions in its regulations in accordance with the provisions of this article:

(a) prescribing the methods and forms of application and registration which any applicant or registrant shall follow and complete;

(b) prescribing the methods, procedures and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs;

(c) prescribing such procedures for the fingerprinting of an applicant, employee of a licensee, or registrant, and methods of identification which may be necessary to accomplish effective enforcement of restrictions on access to the casino and other restricted casino areas of the gaming facility;

(d) prescribing the method of notice to an applicant, registrant or licensee concerning the release of any information or data provided to the commission by such applicant, registrant or licensee;

(e) prescribing the manner and procedure of all hearings conducted by the commission or any presiding officer;

(f) prescribing the manner and method of collection of payments of taxes, fees, interest and penalties;

(g) defining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices;

(h) regulating the practice and procedures for negotiable transactions involving patrons, including limitations on the circumstances and amounts of such transactions, and the establishment of forms and procedures for negotiable instrument transactions, redemptions, and consolidations;

(i) prescribing grounds and procedures for the revocation or suspension of operating certificates, licenses and registrations;

(j) governing the manufacture, distribution, sale, deployment, and servicing of gaming devices and equipment;

(k) prescribing for gaming operations the procedures, forms and methods of management controls, including employee and supervisory tables of organization and responsibility, and minimum security and surveillance standards, including security personnel structure, alarm and other electrical or visual security measures; provided, however, that the commission shall grant an applicant broad discretion concerning the organization and responsibilities of management personnel who are not directly involved in the supervision of gaming operations;

(l) prescribing the qualifications of, and the conditions pursuant to which, engineers, accountants, and others shall be permitted to practice before the commission or to submit materials on behalf of any applicant or licensee;

(m) prescribing minimum procedures for the exercise of effective control over the internal fiscal affairs of a licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts, and reports of transactions, operations and events, including reports to the commission;

(n) providing for a minimum uniform standard of accountancy methods, procedures and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures, as may be necessary to assure consistency, comparability, and effective disclosure of all financial information, including calculations of percentages of profit by games, tables, gaming devices and slot machines;

(o) requiring quarterly financial reports and the form thereof, and an annual audit prepared by a certified public accountant licensed to do business in this state, attesting to the financial condition of a licensee and disclosing whether the accounts, records and control procedures examined are maintained by the licensee as required by this article and the regulations promulgated hereunder;

(p) governing the gaming-related advertising of licensees, their employees and agents, with the view toward assuring that such advertisements are not deceptive; and

(q) governing the distribution and consumption of alcoholic beverages on the premises of the licensee.

3. The commission shall, in its regulations, prescribe the manner and procedure of all hearings conducted by the commission.

§ 1308. Reports and recommendations. The commission shall carry on a continuous study of the operation and administration of casino control laws which may be in effect in other jurisdictions, literature on this subject which may from time to time become available, and federal laws which may affect the operation of casino gaming in this state. It shall be responsible for ascertaining any defects in this article or in the rules and regulations issued thereunder, formulating recommendations for changes in this article. The commission shall make available to the governor and the legislature within its annual report an accounting of all revenues, expenses and disbursements, a review of its licensing and enforcement activities conducted pursuant to section one thousand three hundred forty of this article and shall include therein such recommendations for changes in this article as the commission deems necessary or desirable.

§ 1309. Severability and preemption. 1. If any clause, sentence, subparagraph, paragraph, subdivision, section, article or other portion of this article or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this article or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, subparagraph, subdivision, section, article or other portion thereof directly involved in such holding or to the person or circumstance therein involved.

2. If any provision of this article is inconsistent with, in conflict with, or contrary to any other provision of law, such provision of this article shall prevail over such other provision and such other provision shall be deemed to be superseded to the extent of such inconsistency or conflict. Notwithstanding the provisions of any other law to the contrary, no local government unit of this state may enact or enforce any ordinance or resolution conflicting with any provision of this article or with any policy of this state expressed or implied herein, whether by exclusion or inclusion. The commission shall have exclusive jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of this article.

TITLE 2

FACILITY DETERMINATION AND LICENSING: UPSTATE GAMING FACILITIES

Section 1311. License authorization; restrictions.
1312. Requests for applications.
1313. Form of application.
1314. License applicant eligibility.
1315. Required capital investment.
1316. Minimum license thresholds.
1317. Investigation of license applicants.
1318. Disqualifying criteria.
1319. Investigative hearings.
1320. Siting evaluation.
1321. Intentionally omitted.

§ 1310. Development zones and regions. 1. There are hereby created two development zones to be known as the zone one and zone two. Zone one shall include the city of New York and the counties of Nassau, Putnam, Rockland, Suffolk and Westchester. Zone two shall include all the other counties of the state.

2. Each zone shall be divided into development regions. (a) The three development regions in zone one shall be comprised of the following counties:

(1) Region one shall consist of Putnam, Rockland and Westchester counties;

(2) Region two shall consist of Bronx, Kings, New York, Queens and Richmond counties; and

(3) Region three shall consist of Nassau and Suffolk counties.

(b) The six development regions in zone two shall be comprised of the following counties:

(1) Region one shall consist of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster counties;

(2) Region two shall consist of Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie and Washington counties.

(3) Region three shall consist of Clinton, Essex, Franklin, Hamilton, Jefferson, Saint Lawrence and Warren counties;

(4) Region four shall consist of Cayuga, Chenango, Cortland, Herkimer, Lewis, Madison, Oneida, Onondaga, Oswego and Otsego counties;

(5) Region five shall consist of Broome, Chemung (east of State Route 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins, and Wayne (east of State Route 14) counties; and

(6) Region six shall consist of Allegany, Cattaraugus, Chautauqua, Chemung (west of State Route 14), Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler (west of State Route 14), Steuben, Wayne (west of State Route 14), Wyoming, and Yates counties.

§ 1311. License authorization; restrictions. 1. The commission is authorized to award up to four gaming facility licenses, in regions one, two and five of zone two. The duration of such initial license shall be ten years. The term of renewal shall be determined by the commission. The commission may award a second license to a qualified applicant in no more than a single region. The commission is not empowered to award any license nor are any gaming facilities authorized under this title for the city of New York or any other portion of zone one.

As a condition of licensure, licensees are required to commence gaming operations no more than twenty-four months following license award. No additional licenses may be awarded during the twenty-four month period, nor for an additional sixty months following the end of the twenty-four month period. Should the state legislatively authorize additional gaming facility licenses within these periods, licensees shall have the right to recover the license fee paid pursuant to section one thousand three hundred six of this article.

This right shall be incorporated into the license itself, vest upon the opening of a gaming facility in zone one or in the same region as the licensee and entitle the holder of such license to bring an action in the court of claims to recover the license fee paid pursuant to section one thousand three hundred fifteen of this title in the event that any gaming facility license in excess of the number authorized by this section as of the effective date of this section is awarded within seven years from the date that the initial gaming facility license is awarded. This right to recover any such fee shall be proportionate to the length of the respective period that is still remaining upon the vesting of such right.

Additionally, the right to bring an action in the court of claims to recover the fee paid to the state on the twenty-fourth day of September, two thousand ten, by the operator of a video lottery gaming facility in a city of more than one million shall vest with such operator upon the opening of any gaming facility licensed by the commission in zone one within seven years from the date that the initial gaming facility license is awarded; provided however that the amount recoverable shall be limited to the pro rata amount of the time remaining until the end of the seven year exclusivity period, proportionate to the period of time between the date of opening of the video lottery facility until the conclusion of the seven year period.

2. Notwithstanding the foregoing, no casino gaming facility shall be authorized:

(a) in the counties of Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, Saint Lawrence and Warren;

(b) within the following area: (1) to the east, State Route 14 from Sodus Point to the Pennsylvania border with New York; (2) to the north, the border between New York and Canada; (3) to the south, the Pennsylvania border with New York; and (4) to the west, the border between New York and Canada and the border between Pennsylvania and New York; and

(c) in the counties of Cayuga, Chenango, Cortland, Herkimer, Lewis, Madison, Oneida, Onondaga, Oswego and Otsego.

3. As a condition for continued licensure, licensees shall be required to house upon the physical premises of the licensed gaming facility, upon request, a mobile sports wagering platform provider's server or other equipment used for receiving mobile sports wagers pursuant to section 1367-a of this article; provided however, that such licensee shall be entitled to the reasonable and actual costs, as determined by the gaming commission, of physically housing and securing such server or other equipment used for receiving mobile sports wagers at such licensee's licensed gaming facility; and provided further, for the duration of the initial license term, a mobile sports wagering platform provider shall pay two and one-half million dollars per year. Each gaming facility licensed under title two of this article shall receive five million dollars per year, which shall be paid no later than May first of each year.

§ 1312. Requests for applications. 1. The board shall issue within ninety days of a majority of members being appointed a request for applications for a gaming facility license in regions one, two and five in zone two; provided, however, that the board shall not issue any requests for applications for any region in zone one under this title; and further provided that the board shall not issue any requests for applications with respect to any gaming facility subsequently legislatively authorized until seven years following the commencement of gaming activities in zone two, unless such request for application with respect to any subsequently legislatively authorized gaming facility adheres to the procedure as described in section one thousand three hundred eleven of this title. All requests for applications shall include:

(a) the time and date for receipt of responses to the request for applications, the manner they are to be received and the address of the office to which the applications shall be delivered;

(b) the form of the application and the method for submission;
(c) a general description of the anticipated schedule for processing the application;
(d) the contact information of board employees responsible for handling applicant questions; and
(e) any other information that the board determines.

2. Board activities shall be subject to section one hundred thirty-nine-j and section one hundred thirty-nine-k of the state finance law.

3. Requests for applications pursuant to subdivision one of this section shall be advertised in a newspaper of general circulation and on the official internet website of the commission and the board.

4. The board shall establish deadlines for the receipt of all applications. Applications received after the deadline shall not be reviewed by the board.

§ 1313. Form of application. 1. The commission and the board shall prescribe the initial form of the application for gaming licenses which shall require, but not be limited to:
(a) the name of the applicant;
(b) the mailing address and, if a corporation, the name of the state under the laws of which it is incorporated, the location of its principal place of business and the names and addresses of its directors and such stockholders as to be determined by the commission;
(c) the identity of each person having a direct or indirect interest in the business and the nature of such interest; provided, however, that if the disclosed entity is a trust, the application shall disclose the names and addresses of all beneficiaries; provided further, that if the disclosed entity is a partnership, the application shall disclose the names and addresses of all partners, both general and limited; and provided further, that if the disclosed entity is a limited liability company, the application shall disclose the names and addresses of all members;

(d) an independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans or any other financial transactions to or from a gaming entity or operator in the past five years;

(e) clear and convincing evidence of financial stability including, but not limited to, bank references, business and personal income and disbursement schedules, tax returns and other reports filed by government agencies and business and personal accounting check records and ledgers;

(f) information and documentation to demonstrate that the applicant has sufficient business ability and experience to create the likelihood of establishing and maintaining a successful gaming facility;

(g) a full description of the proposed internal controls and security systems for the proposed gaming facility and any related facilities;

(h) the designs for the proposed gaming facility, including the names and addresses of the architects, engineers and designers, and a timeline of construction that includes detailed stages of construction for the gaming facility and non-gaming structures, where applicable, and a proposed date to open for gaming;

(i) the number of construction hours estimated to complete the work;

(j) a description of the ancillary entertainment services and amenities to be provided at the proposed gaming facility;

(k) the number of employees to be employed at the proposed gaming facility, including detailed information on the pay rate and benefits for employees;

(l) completed studies and reports as required by the commission, which shall include, but not be limited to, an examination of the proposed gaming facility's:

(1) economic benefits to the region and the state;

(2) local and regional social, environmental, traffic and infrastructure impacts;

(3) impact on the local and regional economy, including the impact on cultural institutions and on small businesses in the host municipality and nearby municipalities;

(4) cost to the host municipality, nearby municipalities and the state for the proposed gaming facility to be located at the proposed location; and

(5) the estimated state tax revenue to be generated by the gaming facility;

(m) the names of proposed vendors of gaming equipment;

(n) the location of the proposed gaming facility, which shall include the address, maps, book and page numbers from the appropriate registry of deeds, assessed value of the land at the time of application and ownership interests over the past twenty years, including all interests, options, agreements in property and demographic, geographic and environmental information and any other information requested by the commission;

(o) the type and number of games to be conducted at the proposed gaming facility and the specific location of the games in the proposed gaming facility;

(p) the number of hotels and rooms, restaurants and other amenities located at the proposed gaming facility and how they measure in quality to other area hotels and amenities;

(q) whether the applicant's proposed gaming facility is part of a regional or local economic plan; and

(r) whether the applicant purchased or intends to purchase publicly-owned land for the proposed gaming facility.

2. Applications for licenses shall be public records; provided however, that trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for a gaming license under this article, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure pursuant to paragraph (d) of subdivision two of section eighty-seven of the public officers law.

§ 1314. License applicant eligibility. 1. Gaming facility licenses shall only be issued to applicants who are qualified under the criteria set forth in this article, as determined by the commission.

2. As a condition of filing, each potential license applicant must demonstrate to the board's satisfaction that local support has been demonstrated.

3. Within any development region, if the commission is not convinced that there is an applicant that has met the eligibility criteria or the board finds that no applicant has provided substantial evidence that its proposal will provide value to the region in which the gaming facility is proposed to be located, no gaming facility license shall be awarded in that region.

§ 1315. Required capital investment. 1. The board shall establish the minimum capital investment for a gaming facility by zone and region. Such investment shall include, but not be limited to, a casino area, at least one hotel and other amenities; and provided further, that the board shall determine whether it will include the purchase or lease price of the land where the gaming facility will be located or any infrastructure designed to support the site including, but not limited to, drainage, utility support, roadways, interchanges, fill and soil or groundwater or surface water contamination issues. The board may consider private capital investment made previous to the effective date of this section, but may, in its discretion, discount a percentage of the investment made. Upon award of a gaming license by the commission, the applicant shall be required to deposit ten percent of the total investment proposed in the application into an interest-bearing account. Monies received from the applicant shall be held in escrow until the final stage of construction, as detailed in the timeline of construction submitted with the licensee's application and approved by the commission, at which time the deposit plus interest earned shall be returned to the applicant to be applied for the final stage. Should the applicant be unable to complete the gaming facility, the deposit shall be forfeited to the state. In place of a cash deposit, the commission may allow for an applicant to secure a deposit bond insuring that ten percent of the proposed capital investment shall be forfeited to the state if the applicant is unable to complete the gaming facility.

2. Each applicant shall submit its proposed capital investment with its application to the board which shall include stages of construction of the gaming facility and the deadline by which the stages and overall

construction and any infrastructure improvements will be completed. In awarding a license, the commission shall determine at what stage of construction a licensee shall be approved to open for gaming; provided, however, that a licensee shall not be approved to open for gaming until the commission has determined that at least the gaming area and other ancillary entertainment services and non-gaming amenities, as required by the board, have been built and are of a superior quality as set forth in the conditions of licensure. The commission shall not approve a gaming facility to open before the completion of the permanent casino area.

3. A licensee who fails to begin gaming operations within twenty-four months following license award shall be subject to suspension or revocation of the gaming license by the commission and may, after being found by the commission after notice and opportunity for a hearing to have acted in bad faith in its application, be assessed a fine of up to fifty million dollars.

4. The board shall determine a licensing fee to be paid by a licensee within thirty days after the award of the license which shall be deposited into the commercial gaming revenue fund. The license shall set forth the conditions to be satisfied by the licensee before the gaming facility shall be opened to the public. The commission shall set any renewal fee for such license based on the cost of fees associated with the evaluation of a licensee under this article which shall be deposited into the commercial gaming fund. Such renewal fee shall be exclusive of any subsequent licensing fees under this section.

5. The commission shall determine the sources and total amount of an applicant's proposed capitalization to develop, construct, maintain and operate a proposed gaming facility under this article. Upon award of a gaming license, the commission shall continue to assess the capitalization of a licensee for the duration of construction of the proposed gaming facility and the term of the license.

§ 1316. Minimum license thresholds. No applicant shall be eligible to receive a gaming license unless the applicant meets the following criteria and clearly states as part of an application that the applicant shall:

1. in accordance with the design plans submitted with the licensee's application to the board, invest not less than the required capital under this article into the gaming facility;

2. own or acquire, within sixty days after a license has been awarded, the land where the gaming facility is proposed to be constructed; provided, however, that ownership of the land shall include a tenancy for a term of years under a lease that extends not less than sixty years beyond the term of the gaming license issued under this article;

3. meet the licensee deposit requirement;

4. demonstrate that it is able to pay and shall commit to paying the gaming licensing fee;

5. demonstrate to the commission how the applicant proposes to address problem gambling concerns, workforce development and community development and host and nearby municipality impact and mitigation issues;

6. identify the infrastructure costs of the host municipality incurred in direct relation to the construction and operation of a gaming facility and commit to a community mitigation plan for the host municipality;

7. identify the service costs of the host municipality incurred for emergency services in direct relation to the operation of a gaming facility and commit to a community mitigation plan for the host municipality;

8. pay to the commission an application fee of one million dollars to defray the costs associated with the processing of the application and investigation of the applicant; provided, however, that if the costs of

the investigation exceed the initial application fee, the applicant shall pay the additional amount to the commission within thirty days after notification of insufficient fees or the application shall be rejected and further provided that should the costs of such investigation not exceed the fee remitted, any unexpended portion shall be returned to the applicant;

9. comply with state building and fire prevention codes;

10. formulate for board approval and abide by an affirmative action program of equal opportunity whereby the applicant establishes specific goals for the utilization of minorities, women and veterans on construction jobs.

§ 1317. Investigation of license applicants. 1. Upon receipt of an application for a gaming facility license, the commission shall cause to be commenced an investigation by the division of state police into the suitability of the applicant. In evaluating the suitability of the applicant, the commission shall consider the overall reputation of the applicant including, without limitation:

(a) the integrity, honesty, good character and reputation of the applicant;

(b) the financial stability, integrity and background of the applicant;

(c) the business practices and the business ability of the applicant to establish and maintain a successful gaming facility;

(d) whether the applicant has a history of compliance with gaming licensing requirements in other jurisdictions;

(e) whether the applicant, at the time of application, is a defendant in litigation involving its business practices;

(f) the suitability of all parties in interest to the gaming facility license, including affiliates and close associates and the financial resources of the applicant; and

(g) whether the applicant is disqualified from receiving a license under this article; provided, however, that in considering the rehabilitation of an applicant for a gaming facility license, the commission shall not automatically disqualify an applicant if the applicant affirmatively demonstrates, by clear and convincing evidence, that the applicant has financial responsibility, character, reputation, integrity and general fitness as such to warrant belief by the commission that the applicant will act honestly, fairly, soundly and efficiently as a gaming licensee.

2. If the investigation reveals that an applicant has failed to:
(a) establish the applicant's integrity or the integrity of any affiliate, close associate, financial source or any person required to be qualified by the commission;
(b) demonstrate responsible business practices in any jurisdiction; or
(c) overcome any other reason, as determined by the commission, as to why it would be injurious to the interests of the state in awarding the applicant a gaming facility license, the commission shall deny the application, subject to notice and an opportunity for hearing.

3. If the investigation reveals that an applicant is suitable to receive a gaming facility license, the entity shall recommend that the commission commence a review of the applicant's entire application.

§ 1318. Disqualifying criteria. 1. The commission shall deny a license to any applicant who the commission determines is disqualified on the basis of any of the following criteria, subject to notice and an opportunity for hearing:
(a) failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article;
(b) failure of the applicant to provide information, documentation and assurances required by this article or requested by the commission, or failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria;
(c) the conviction of the applicant, or of any person required to be qualified under this article as a condition of a license, of any offense in any jurisdiction which is or would be a felony or other crime

involving public integrity, embezzlement, theft, fraud or perjury;

(d) committed prior acts which have not been prosecuted or in which the applicant, or of any person required to be qualified under this article as a condition of a license, was not convicted but form a pattern of misconduct that makes the applicant unsuitable for a license under this article; or

(e) if the applicant, or of any person required to be qualified under this article as a condition of a license, has affiliates or close associates that would not qualify for a license or whose relationship with the applicant may pose an injurious threat to the interests of the state in awarding a gaming facility license to the applicant;

(f) any other offense under present state or federal law which indicates that licensure of the applicant would be inimical to the policy of this article; provided, however, that the disqualification provisions of this section shall not apply with regard to any misdemeanor conviction;

(g) current prosecution or pending charges in any jurisdiction of the applicant or of any person who is required to be qualified under this article as a condition of a license, for any of the offenses enumerated in paragraph (c) of subdivision one of this section; provided, however, that at the request of the applicant or the person charged, the commission may defer decision upon such application during the pendency of such charge;

(h) the pursuit by the applicant or any person who is required to be qualified under this article as a condition of a license of economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this state, if such pursuit creates a reasonable belief that the participation of such person in gaming facility operations would be inimical to the policies of this article. For purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management, or execution of an activity for financial gain;

(i) the identification of the applicant or any person who is required to be qualified under this article as a condition of a license as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be inimical to the policy of this article. For purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

(j) the commission by the applicant or any person who is required to be qualified under this article as a condition of a license of any act or acts which would constitute any offense under paragraph (c) of subdivision one of this section, even if such conduct has not been or may not be prosecuted under the criminal laws of this state or any other jurisdiction;

(k) flagrant defiance by the applicant or any person who is required to be qualified under this article of any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity; and

(l) failure by the applicant or any person required to be qualified under this article as a condition of a license to make required payments in accordance with a child support order, repay an overpayment for public assistance benefits, or repay any other debt owed to the state unless such applicant provides proof to the executive director's satisfaction of payment of or arrangement to pay any such debts prior to licensure.

§ 1319. Hearings. The commission and the board shall have the independent authority to conduct hearings concerning the conduct of gaming and applicants for gaming facility licenses in accordance with any procedures set forth in this article and any applicable implementing regulations.

§ 1320. Siting evaluation. In determining whether an applicant shall be eligible for a gaming facility license, the board shall evaluate and issue a finding of how each applicant proposes to advance the following objectives.

1. The decision by the board to select a gaming facility license applicant shall be weighted by seventy percent based on economic activity and business development factors including:

(a) realizing maximum capital investment exclusive of land acquisition and infrastructure improvements;

(b) maximizing revenues received by the state and localities;

(c) providing the highest number of quality jobs in the gaming facility;

(d) building a gaming facility of the highest caliber with a variety of quality amenities to be included as part of the gaming facility;

(e) offering the highest and best value to patrons to create a secure and robust gaming market in the region and the state;

(f) providing a market analysis detailing the benefits of the site location of the gaming facility and the estimated recapture rate of gaming-related spending by residents travelling to an out-of-state gaming facility;

(g) offering the fastest time to completion of the full gaming facility;

(h) demonstrating the ability to fully finance the gaming facility; and

(i) demonstrating experience in the development and operation of a quality gaming facility.

2. The decision by the board to select a gaming facility license applicant shall be weighted by twenty percent based on local impact and siting factors including:

(a) mitigating potential impacts on host and nearby municipalities which might result from the development or operation of the gaming facility;

(b) gaining public support in the host and nearby municipalities which may be demonstrated through the passage of local laws or public comment received by the board or gaming applicant;

(c) operating in partnership with and promoting local hotels, restaurants and retail facilities so that patrons experience the full diversified regional tourism industry; and

(d) establishing a fair and reasonable partnership with live entertainment venues that may be impacted by a gaming facility under which the gaming facility actively supports the mission and the operation of the impacted entertainment venues.

3. The decision by the board to select a gaming facility license applicant shall be weighted by ten percent based on workforce enhancement factors including:

(a) implementing a workforce development plan that utilizes the existing labor force, including the estimated number of construction jobs a proposed gaming facility will generate, the development of workforce training programs that serve the unemployed and methods for accessing employment at the gaming facility;

(b) taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling;

(c) utilizing sustainable development principles including, but not limited to:

(1) having new and renovation construction certified under the appropriate certification category in the Leadership in Energy and Environmental Design Green Building Rating System created by the United States Green Building Council;

(2) efforts to mitigate vehicle trips;

(3) efforts to conserve water and manage storm water;

(4) demonstrating that electrical and HVAC equipment and appliances will be Energy Star labeled where available;

(5) procuring or generating on-site ten percent of its annual electricity consumption from renewable sources; and

(6) developing an ongoing plan to submeter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;

(d) establishing, funding and maintaining human resource hiring and training practices that promote the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that:

(1) establishes transparent career paths with measurable criteria within the gaming facility that lead to increased responsibility and

higher pay grades that are designed to allow employees to pursue career advancement and promotion;

(2) provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire the education or job training needed to advance career paths based on increased responsibility and pay grades; and

(3) establishes an on-site child day care program;

(e) purchasing, whenever possible, domestically manufactured slot machines for installation in the gaming facility;

(f) implementing a workforce development plan that:

(1) incorporates an affirmative action program of equal opportunity by which the applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including persons with disabilities;

(2) utilizes the existing labor force in the state;

(3) estimates the number of construction jobs a gaming facility will generate and provides for equal employment opportunities and which includes specific goals for the utilization of minorities, women and veterans on those construction jobs;

(4) identifies workforce training programs offered by the gaming facility; and

(5) identifies the methods for accessing employment at the gaming facility; and

(g) demonstrating that the applicant has an agreement with organized labor, including hospitality services, and has the support of organized labor for its application, which specifies:

(1) the number of employees to be employed at the gaming facility, including detailed information on the pay rate and benefits for employees and contractors in the gaming facility and all infrastructure improvements related to the project; and

(2) detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the gaming facility.

TITLE 2-A

FACILITY DETERMINATION AND LICENSING: ADDITIONAL GAMING FACILITIES

Section 1321-a. License authorization; restrictions.
1321-b. Requests for applications.
1321-c. Form of application.
1321-d. License applicant eligibility.
1321-e. Required capital investment.
1321-f. Minimum license thresholds.
1321-g. Investigation of license applicants.
1321-h. Disqualifying criteria.
1321-i. Hearings.
1321-j. Siting evaluation.
1321-k. Zoning.

§ 1321-a. License authorization; restrictions. 1. The commission is authorized to award up to three additional gaming facility licenses. The duration of such initial license and the term of renewal shall be determined by the commission; provided however, that such initial license term shall be no less than ten years but no more than thirty years based on the proposed total investment of the applicant's project.

2. If any of the three additional gaming facility licenses are awarded to an entity that was licensed for video lottery gaming pursuant to section sixteen hundred seventeen-a of the tax law as of January first two thousand twenty-two, a hold harmless provision shall apply. For the purposes of this section, video lottery gaming operations of an entity shall include any hosted video lottery devices.

3. Notwithstanding the foregoing, no casino gaming facility shall be authorized:

(a) in the counties of Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, Saint Lawrence and Warren;

(b) within the following area: (1) to the east, State Route 14 from Sodus Point to the Pennsylvania border with New York; (2) to the north, the border between New York and Canada; (3) to the south, the Pennsylvania border with New York; and (4) to the west, the border between New York and Canada and the border between Pennsylvania and New York; and

(c) in the counties of Cayuga, Chenango, Cortland, Herkimer, Lewis, Madison, Oneida, Onondaga, Oswego and Otsego.

§ 1321-b. Requests for applications. Requests for applications shall be handled in the same manner as provided for in section thirteen hundred twelve of this article for gaming licenses authorized but not awarded, provided however that any requests for applications for gaming facility licenses authorized but not awarded may be for gaming facility licenses in any region in zone one or in regions one, two and five in zone two.

§ 1321-c. Form of application. The form of the application shall be the same as established under section thirteen hundred thirteen of this article.

§ 1321-d. License applicant eligibility. 1. Gaming facility licenses shall only be issued to applicants who are qualified under the criteria set forth in this article, as determined by the commission.

2. Prior to official review by the board, each potential license applicant must:

(a) demonstrate to the board's satisfaction that the applicant has acquired public support and presented evidence of compliance and approval with all required state and local zoning requirements as required under subdivision three of this section and section thirteen hundred twenty-one-k of this title; and

(b) waive all rights they or any affiliated entity possess under section thirteen hundred eleven of this article to bring an action to recover a fee.

(c) pursuant to section thirteen hundred twenty-one-f of this title, an applicant shall pay to the commission an application fee of one million dollars to defray the costs associated with the processing of the application, commission expenses related to the community advisory committee, and investigation of the applicant; provided, however, that if the costs exceed the initial application fee, the applicant shall pay the additional amount to the commission within thirty days after notification of insufficient fees or the application shall be rejected and further provided that should the costs not exceed the fee remitted, any unexpended portion shall be returned to the applicant;

3. (a) For each applicant who proposes a gaming facility located in region two of zone one, there shall be established a community advisory committee. Each committee shall consist of six members, one to be appointed by the governor, one to be appointed by the senator representing the senate district where the proposed facility is to be located, one to be appointed by the assemblymember representing the assembly district where the proposed facility is to be located, one to be appointed by the borough president where the facility is proposed to be located, one to be appointed by the city councilmember representing the district where the facility is proposed to be located, and one to be appointed by the New York city mayor.

(b) For each applicant who proposes a gaming facility located in regions one or three of zone one, or regions one, two or five of zone two there shall be established a community advisory committee. Each committee shall consist of five members, one to be appointed by the governor, one to be appointed by the senator representing the senate district where the proposed facility is to be located, one to be appointed by the assemblymember representing the assembly district where the proposed facility is to be located, one to be appointed by the county executive of the county where the facility is proposed to be located, and one to be appointed as follows:

(i) If the proposed facility is to be located in a city, one to be appointed by the mayor of such city;

(ii) If the proposed facility is to be located in a town, one to be appointed by the town supervisor of such town; or

(iii) If the proposed facility is to be located in a village, one representative to be appointed jointly by the village mayor and the town supervisor.

(c) The activities of the community advisory committees constituted pursuant to this subdivision shall be subject to the open meetings provisions contained in article seven of the public officers law.

(d) The commission may hire a consultant to serve as a community consultant to assist and manage the community advisory committee process. The commission or community consultant shall provide administrative support and technical assistance for the establishment and activities of committees constituted pursuant to this subdivision.

(e) Prior to a determination on any application by the board, the following community advisory committee process shall apply:

(i) Upon the majority of members of the board being appointed, a community consultant may be hired by the commission to manage the process and any other activities as determined by the commission;

(ii) the commission shall issue a request for applications no later than ninety days following the majority of members of the board being appointed;

(iii) interested entities may submit an application to the board who shall provide such application to the community consultant;

(iv) the community consultant shall notify the commission of all applications and notify the appropriate appointing authorities of their responsibility to submit appointments for each required community advisory committee established pursuant to this section;

(v) the community consultant shall ensure the formation of each committee, as necessary;

(vi) upon notification, the appointing authority shall appoint their respective appointees;

(vii) upon a committee's first meeting the respective appointees shall elect by majority vote a committee chair;

(viii) the community consultant shall assign applications to each appropriate committee;

(ix) each committee shall review, solicit public comments and written submissions of such comments, and hold public hearings;

(x) upon a two-thirds vote, each committee shall issue a finding either establishing public support approving or disapproving the application.

(f) Following a two-thirds vote by the applicable community advisory committee, the following shall apply:

(i) Upon notification of a finding of support in approval of an application following a two-thirds vote by the appropriate committee, the community consultant shall notify the applicant, board, and commission;

(ii) following such notification, the applicant must comply and receive approval under the applicable state and local zoning requirements;

(iii) the board shall not issue a decision on the application until the applicant presents evidence of compliance and approval with all necessary state and local zoning requirements.

4. The expiration of the seven year restricted period from the date that an initial gaming facility license was awarded is February twenty-eighth, two thousand twenty-three for the three initial casino licenses and November twenty-second, two thousand twenty-three for the final casino license awarded. Should an applicant or applicants commence gaming activities prior to such dates, such applicant or applicants shall be jointly and severally liable for payment of the proportionate fee for the respective period remaining as required by section thirteen hundred eleven of this article.

§ 1321-e. Required capital investment. 1. The board shall establish the minimum capital investment for each unawarded gaming facility license. Such investment may include, but not be limited to, a casino area, hotel and other amenities; and provided further, that the board shall determine whether it will include the purchase or lease price of the land where the gaming facility will be located or any infrastructure designed to support the site including, but not limited to, drainage, utility support, roadways, interchanges, fill and soil or groundwater or surface water contamination issues. The board may consider private capital investment made previous to the effective date of this title, but may, in its discretion, discount a percentage of the investment made. Upon award of a gaming license by the commission, the commission shall require the applicant to deposit no less than five percent and no more than ten percent of the total investment proposed in the application into an interest-bearing account based on the liquidity of the applicant. Monies received from the applicant shall be held in escrow until the final stage of construction, as detailed in the timeline of construction submitted with the licensee's application and approved by the commission, at which time the deposit plus interest earned shall be returned to the applicant to be applied for the final stage. Should the applicant be unable to complete the gaming facility, the deposit shall be forfeited to the state. In place of a cash deposit, the commission may allow for an applicant to secure a deposit bond insuring that such percent of the proposed capital investment shall be forfeited to the state if the applicant is unable to complete the gaming facility.

2. Each applicant shall submit its proposed capital investment with its application to the board which shall include stages of construction of the gaming facility and the deadline by which the stages and overall construction and any infrastructure improvements will be completed. In awarding a license, the commission shall determine at what stage of construction a licensee shall be approved to open for gaming; provided, however, that a licensee shall not be approved to open for gaming until the commission has determined that at least the gaming area and other ancillary entertainment services and non-gaming amenities, as required by the board, have been built and are of a superior quality as set forth in the conditions of licensure. The commission shall not approve a gaming facility to open before the completion of the permanent casino area.

3. The board shall determine a licensing fee to be paid by a licensee within thirty days after the selection of the license, provided however that no licensing fee shall be less than five hundred million dollars. The license shall set forth the conditions to be satisfied by the licensee before the gaming facility shall be opened to the public. All revenues collected from license fees from gaming facilities located within zone one shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law. All revenues collected from license fees from gaming facilities located within zone two shall be deposited to the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law. The commission shall

set any renewal fee for such license based on the cost of fees associated with the evaluation of a licensee under this article which shall be deposited into the commercial gaming fund. Such renewal fee shall be exclusive of any subsequent licensing fees under this section.

4. The commission shall determine the sources and total amount of an applicant's proposed capitalization to develop, construct, maintain and operate a proposed gaming facility under this article. Upon award of a gaming license, the commission shall continue to assess the capitalization of a licensee for the duration of construction of the proposed gaming facility and the term of the license.

§ 1321-f. Minimum license thresholds. The minimum licensing thresholds shall be the same as those established under section thirteen hundred sixteen of this article.

§ 1321-g. Investigation of license applicants. The process used to investigate license applicants shall be the same process established under section thirteen hundred seventeen of this article.

§ 1321-h. Disqualifying criteria. The criteria to disqualify applicants shall be the same criteria used for upstate gaming facility licensing, which are enumerated in section thirteen hundred eighteen of this article.

§ 1321-i. Hearings. The process used for hearings shall be the same process established under section thirteen hundred nineteen of this article.

§ 1321-j. Siting evaluation. In determining whether an applicant shall be eligible for a gaming facility license, the board shall evaluate and make a determination of how each applicant proposes to advance the following objectives with consideration given to the differences between proposed projects related to whether it is a conversion of an existing video lottery gaming facility or new facility construction, and the proposed location. The board shall also conduct an analysis of the revenue impact of each applicant's proposed gaming facility on existing facilities and potential new facilities.

1. The decision by the board to select a gaming facility license applicant shall be weighted by seventy percent based on economic activity and business development factors including:

(a) realizing capital investment exclusive of land acquisition and infrastructure improvements;

(b) maximizing revenues received by the state and localities;

(c) providing the highest number of quality jobs in the gaming facility;

(d) building a gaming facility of the highest caliber with a variety of quality amenities;

(e) offering the highest and best value to patrons to create a secure and robust gaming market in the region and the state;

(f) detailing the benefits of the site location of the gaming facility and the estimated recapture rate of gaming-related spending by residents travelling to an out-of-state gaming facility;

(g) offering a reasonable and feasible construction schedule to completion of the full gaming facility;

(h) demonstrating the ability to fully finance the gaming facility; and

(i) demonstrating experience in the development and operation of a quality gaming facility;

2. The decision by the board to select a gaming facility license applicant shall be weighted by ten percent based on local impact siting factors including:

(a) mitigating potential impacts on host and nearby municipalities which might result from the development or operation of the gaming facility;

(b) operating in partnership with and promoting local hotels, restaurants and retail facilities so that patrons experience the full diversified regional tourism industry; and

(c) establishing a fair and reasonable partnership with live entertainment venues that may be impacted by a gaming facility under which the gaming facility actively supports the mission and the operation of the impacted entertainment venues;

3. The decision by the board to select a gaming facility license applicant shall be weighted by ten percent based on workforce enhancement factors including:

(a) implementing a workforce development plan that utilizes the existing labor force, including the estimated number of construction jobs a proposed gaming facility will generate, the development of workforce training programs that serve the unemployed and methods for accessing employment at the gaming facility;

(b) taking additional measures to address problem gambling including, but not limited to, training of gaming employees to identify patrons exhibiting problems with gambling;

(c) utilizing sustainable development principles including, but not limited to:

(1) having new and renovation construction certified under the appropriate certification category in the Leadership in Energy and Environmental Design Green Building Rating System created by the United States Green Building Council;

(2) efforts to mitigate vehicle trips;

(3) efforts to conserve water and manage storm water;

(4) demonstrating that electrical and HVAC equipment and appliances will be Energy Star labeled where available;

(5) procuring or generating on-site ten percent of its annual electricity consumption from renewable sources; and

(6) developing an ongoing plan to submeter and monitor all major sources of energy consumption and undertake regular efforts to maintain and improve energy efficiency of buildings in their systems;

(d) establishing, funding and maintaining human resource hiring and training practices that promote the development of a skilled and diverse workforce and access to promotion opportunities through a workforce training program that:

(1) establishes transparent career paths with measurable criteria

within the gaming facility that lead to increased responsibility and higher pay grades that are designed to allow employees to pursue career advancement and promotion;

(2) provides employee access to additional resources, such as tuition reimbursement or stipend policies, to enable employees to acquire the education or job training needed to advance career paths based on increased responsibility and pay grades; and

(3) establishes an on-site child day care program;

(e) purchasing, whenever possible, domestically manufactured slot machines for installation in the gaming facility;

(f) implementing a workforce development plan that:

(1) utilizes the existing labor force in the state;

(2) estimates the number of construction jobs a gaming facility will generate and provides for equal employment opportunities and which includes specific goals for the utilization of minorities, women and service-disabled veterans on those construction jobs;

(3) identifies workforce training programs offered by the gaming facility; and

(4) identifies the methods for accessing employment at the gaming facility; and

(5) incorporates a workforce diversity framework, which is scored under subdivision four of this section.

(g) demonstrating that the applicant has an agreement with organized labor, including hospitality services, and has the support of organized labor for its application, which specifies:

(1) the number of employees to be employed at the gaming facility, including detailed information on the pay rate and benefits for employees and contractors in the gaming facility and all infrastructure improvements related to the project; and

(2) detailed plans for assuring labor harmony during all phases of the construction, reconstruction, renovation, development and operation of the gaming facility.

4. The decision by the board to select a gaming facility license applicant shall be weighted by ten percent based on a diversity framework. Diversity framework factors shall include, but not be limited to, the following:

(a) workforce demographics including current employment of minorities, women and service-disabled veterans in permanent and part-time jobs at the applicant's gaming facilities;

(b) diversity in the ownership and leadership of the corporate entity;

(c) efforts the applicant is currently undertaking to ensure diversity at its facilities and plans to undertake at this proposed facility including:

(1) establishing mentorship opportunities and other business development programs;

(2) incorporating an affirmative action program of equal opportunity by which the applicant guarantees to provide equal employment opportunities to all employees qualified for licensure in all employment categories, including minorities, women and persons with disabilities;

(3) providing specific goals for the inclusion of minorities, women and veterans on construction jobs;

(4) ensuring that any contractors or subcontractors to any contractor make good faith efforts to provide minorities, women and veterans an opportunity to participate in the workforce;

(5) working and partnering with minority-owned businesses;

(6) developing a plan of action that shall promote diversity in its business model, financing, employment goals, and other social and economic equity roles in the gaming industry; and

(7) any such further criteria as the board shall see fit for inclusion after consultation with the division of minority and women's business development in the department of economic development.

§ 1321-k. Zoning. 1. Notwithstanding section thirteen hundred sixty-six of this article, all gaming facilities licensed pursuant to this title shall comply with all relevant city, county, town, or village land use or zoning ordinances, rules, or regulations if applicable.

2. (a) In addition, for any gaming facility located within the city of New York, all applicable zoning provisions shall be subject to the uniform land use review procedure pursuant to section one hundred ninety-seven-c of the New York city charter if such provisions would otherwise be applicable; and

(b) Any determination on whether gaming is a permissible use or activity or whether any other activity taken pursuant to the uniform land use review procedure shall not be subject to a mayoral zoning override, special permit process, or any other action or decision that preempts, circumvents, or supersedes the usual and customary local zoning process.

TITLE 3
OCCUPATIONAL LICENSING

Section 1322. General provisions.
1323. Key employee licenses.
1324. Gaming employee registration.
1325. Approval, denial and renewal of employee licenses and registrations.

§ 1322. General provisions. 1. It shall be the affirmative responsibility of each applicant or licensee to establish by clear and convincing evidence its individual qualifications, and for a gaming facility license the qualifications of each person who is required to be qualified under this article.

2. Any applicant, licensee, registrant, or any other person who must be qualified pursuant to this article shall provide all legally required information and satisfy all lawful requests for information pertaining to qualification and in the form specified by regulation. All applicants, registrants, and licensees shall waive liability as to the state, and its instrumentalities and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings.

3. All applicants, licensees, registrants, intermediary companies, and holding companies shall consent to inspections, searches and seizures while at a gaming facility and the supplying of handwriting exemplars as authorized by this article and regulations promulgated hereunder.

4. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this article shall have the continuing duty to provide any assistance or information required by the commission, and to cooperate in any inquiry, investigation or hearing conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this article refuses to comply, the application, license, registration or qualification of such person may be denied or revoked.

5. Each applicant or person who must be qualified under this article shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures set forth by regulation.

6. All licensees, all registrants, and all other persons required to be qualified under this article shall have a duty to inform the commission of any action which they believe would constitute a violation of this article. No person who so informs the commission shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.

§ 1323. Key employee licenses. 1. No licensee or a holding or intermediary company of a licensee may employ any person as a casino key employee unless the person is the holder of a valid casino key employee license issued by the commission.

2. Each applicant for a casino key employee license must, prior to the issuance of any casino key employee license, produce information, documentation and assurances concerning the following qualification criteria:

(a) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be lawfully required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission.

(b) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include data pertaining to family, habits, character, reputation, criminal history information, business activities, financial affairs, and business, professional and personal associates, covering at least the ten year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the federal government, of this state or of any other state, jurisdiction, province or country. In addition, each applicant shall, upon request of the commission, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent non-sealed information concerning the applicant, or if such law enforcement agency does have such information pertaining to the applicant, shall specify what that information is. If the applicant has been associated with gaming operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the commission, produce letters of reference from the gaming enforcement or control agency, which shall specify the experience of such agency with the applicant, his or her associates and his or her participation in the gaming operations of that jurisdiction; provided, however, that if no such letters are received from the appropriate law enforcement agencies within sixty days of the applicant's request therefor, the applicant may submit a statement under oath that he or she is or was during the period such activities were conducted in good standing with such gaming enforcement or control agency.

(c) Each applicant employed by a gaming facility licensee shall be a resident of the state prior to the issuance of a casino key employee license; provided, however, that upon petition by the holder of a license, the commission may waive this residency requirement for any applicant whose particular position will require him to be employed outside the state; and provided further that no applicant employed by a holding or intermediary company of a licensee shall be required to establish residency in this state.

(d) For the purposes of this section, each applicant shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history information as defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law, to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the state division of criminal justice services and the federal bureau of investigation consistent with applicable state and federal laws, rules and regulations. The applicant shall pay the fee for such criminal history information as established pursuant to article thirty-five of the executive law. The state division of criminal justice services shall promptly notify the commission in the event a current or prospective licensee, who was the subject of such criminal history information pursuant to this section, is arrested for a crime or offense in this state after the date the check was performed.

3. The commission shall deny a casino key employee license to any applicant who is disqualified on the basis of the criteria contained in section one thousand three hundred eighteen of this title, subject to notice and hearing.

4. Upon receipt of such criminal history information, the commission shall provide such applicant with a copy of such criminal history information, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to regulations and procedures established by the division of criminal justice services. Except as otherwise provided by law, such criminal history information shall be confidential

and any person who willfully permits the release of such confidential criminal history information to persons not permitted to receive such information shall be guilty of a misdemeanor.

5. Upon petition by the holder of a license, the commission may issue a temporary license to an applicant for a casino key employee license, provided that:

(a) The applicant for the casino key employee license has filed a completed application as required by the commission;

(b) The petition for a temporary casino key employee license certifies, and the commission finds, that an existing casino key employee position of the petitioner is vacant or will become vacant within sixty days of the date of the petition and that the issuance of a temporary key employee license is necessary to fill the said vacancy on an emergency basis to continue the efficient operation of the casino, and that such circumstances are extraordinary and not designed to circumvent the normal licensing procedures of this article;

6. Unless otherwise terminated pursuant to this article, any temporary casino key employee license issued pursuant to this section shall expire nine months from the date of its issuance.

§ 1324. Gaming employee registration. 1. No person may commence employment as a gaming employee unless such person has a valid registration on file with the commission, which registration shall be prepared and filed in accordance with the regulations promulgated hereunder.

2. A gaming employee registrant shall produce such information as the commission by regulation may require. Subsequent to the registration of a gaming employee, the executive director may revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section one thousand three hundred eighteen of this title. If a gaming employee registrant has not been employed in any position within a gaming facility for a period of three years, the registration of that gaming

employee shall lapse.

3. No gaming employee registration shall be denied or revoked on the basis of a misdemeanor conviction of any of the offenses enumerated in this article as disqualification criteria or the commission of any act or acts which would constitute any offense under section one thousand three hundred eighteen of this title, provided that the registrant has affirmatively demonstrated the registrant's rehabilitation, pursuant to article twenty-three-A of the correction law.

4. For the purposes of this section, each registrant shall submit to the commission the registrant's name, address, fingerprints and written consent for a criminal history information to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history information as defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law from the state division of criminal justice services and the federal bureau of investigation consistent with applicable state and federal laws, rules and regulations. The registrant shall pay the fee for such criminal history information as established pursuant to article thirty-five of the executive law. The state division of criminal justice services shall promptly notify the commission in the event a current or prospective licensee, who was the subject of a criminal history information pursuant to this section, is arrested for a crime or offense in this state after the date the check was performed.

5. Upon receipt of such criminal history information, the Commission shall provide such applicant with a copy of such criminal history information, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to regulations and procedures established by the division of criminal justice services. Except as otherwise provided by law, such criminal history information shall be confidential and any person who willfully permits the release of such confidential criminal history information to persons not permitted to receive such information shall be guilty of a misdemeanor.

§ 1325. Approval, denial and renewal of employee licenses and registrations. 1. Upon the filing of an application for a casino key employee license or gaming employee registration required by this article and after submission of such supplemental information as the commission may require, the commission shall conduct or cause to be conducted such investigation into the qualification of the applicant, and the commission shall conduct such hearings concerning the qualification of the applicant, in accordance with its regulations, as may be necessary to determine qualification for such license.

2. After such investigation, the commission may either deny the application or grant a license to an applicant whom it determines to be qualified to hold such license.

3. The commission shall have the authority to deny any application pursuant to the provisions of this article following notice and opportunity for hearing.

4. When the commission grants an application, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest.

5. After an application for a casino key employee license is submitted, final action of the commission shall be taken within ninety days after completion of all hearings and investigations and the receipt of all information required by the commission.

6. Licenses and registrations of casino key employees and gaming employees issued pursuant to this article shall remain valid for five years unless suspended, revoked or voided pursuant to law. Such licenses and registrations may be renewed by the holder thereof upon application, on a form prescribed by the commission, and payment of the applicable fee. Notwithstanding the forgoing, if a gaming employee registrant has not been employed in any position within a gaming facility for a period of three years, the registration of that gaming employee shall lapse.

8. The commission shall establish by regulation appropriate fees to be paid upon the filing of the required applications. Such fees shall be deposited into the commercial gaming revenue fund.

TITLE 4

ENTERPRISE AND VENDOR LICENSING AND REGISTRATION

Section 1326. Licensing of vendor enterprises.
1327. Duration and renewal of vendor registration.
1328. Junket operator licensing.
1329. Lobbyist registration.
1330. Registration of labor organizations.
1330-a. Casino gaming expenditures.

§ 1326. Licensing of vendor enterprises. 1. Any business to be conducted with a gaming facility applicant or licensee by a vendor offering goods or services which directly relate to gaming activity, including gaming equipment manufacturers, suppliers, repairers, and independent testing laboratories, shall be licensed as a casino vendor enterprise in accordance with the provisions of this article prior to conducting any business whatsoever with a gaming facility applicant or licensee, its employees or agents; provided, however, that upon a showing of good cause by a gaming facility applicant or licensee, the executive director may permit an applicant for a casino vendor enterprise license to conduct business transactions with such gaming facility applicant or licensee prior to the licensure of that casino vendor enterprise applicant under this subdivision for such periods as the commission may establish by regulation.

2. In addition to the requirements of subdivision one of this section, any casino vendor enterprise intending to manufacture, sell, distribute, test or repair slot machines within the state shall be licensed in accordance with the provisions of this article prior to engaging in any such activities; provided, however, that upon a showing of good cause by a gaming facility applicant or licensee, the executive director may

permit an applicant for a casino vendor enterprise license to conduct business transactions with the gaming facility applicant or licensee prior to the licensure of that casino vendor enterprise applicant under this subdivision for such periods as the commission may establish by regulation; and provided further, however, that upon a showing of good cause by an applicant required to be licensed as a casino vendor enterprise pursuant to this subdivision, the executive director may permit the casino vendor enterprise applicant to initiate the manufacture of slot machines or engage in the sale, distribution, testing or repair of slot machines with any person other than a gaming facility applicant or licensee, its employees or agents, prior to the licensure of that casino vendor enterprise applicant under this subdivision.

3. Vendors providing goods and services to gaming facility licensees or applicants ancillary to gaming shall be required to be licensed as an ancillary casino vendor enterprise and shall comply with the standards for casino vendor license applicants.

4. Each casino vendor enterprise required to be licensed pursuant to subdivision one of this section, as well as its owners; management and supervisory personnel; and employees if such employees have responsibility for services to a gaming facility applicant or licensee, must qualify under the standards, except residency, established for qualification of a casino key employee under this article.

5. Any vendor that offers goods or services to a gaming facility applicant or licensee that is not included in subdivision one or two of this section including, but not limited to site contractors and subcontractors, shopkeepers located within the facility, gaming schools that possess slot machines for the purpose of instruction, and any non-supervisory employee of a junket enterprise licensed under subdivision three of this section, shall be required to register with the commission in accordance with the regulations promulgated under this article.

Notwithstanding the provisions aforementioned, the executive director may, consistent with the public interest and the policies of this article, direct that individual vendors registered pursuant to this subdivision be required to apply for either a casino vendor enterprise license pursuant to subdivision one of this section, or an ancillary vendor industry enterprise license pursuant to subdivision three of this section, as directed by the commission. The executive director may also order that any enterprise licensed as or required to be licensed as an ancillary casino vendor enterprise pursuant to subdivision three of this section be required to apply for a casino vendor enterprise license pursuant to subdivision one of this section. The executive director may also, in his or her discretion, order that an independent software contractor not otherwise required to be registered be either registered as a vendor pursuant to this subdivision or be licensed pursuant to either subdivision one or three of this section.

Each ancillary casino vendor enterprise required to be licensed pursuant to subdivision three of this section, as well as its owners, management and supervisory personnel, and employees if such employees have responsibility for services to a gaming facility applicant or licensee, shall establish their good character, honesty and integrity by clear and convincing evidence and shall provide such financial information as may be required by the commission. Any enterprise required to be licensed as an ancillary casino vendor enterprise pursuant to this section shall be permitted to transact business with a gaming facility licensee upon filing of the appropriate vendor registration form and application for such licensure.

6. Any applicant, licensee or qualifier of a casino vendor enterprise license or of an ancillary casino vendor enterprise license under subdivision one of this section, and any vendor registrant under subdivision five of this section shall be disqualified in accordance with the criteria contained in section one thousand three hundred eighteen of this article, except that no such ancillary casino vendor enterprise license under subdivision three of this section or vendor registration under subdivision five of this section shall be denied or revoked if such vendor registrant can affirmatively demonstrate rehabilitation pursuant to article twenty-three-A of the correction law.

7. No casino vendor enterprise license or ancillary casino vendor enterprise license shall be issued pursuant to subdivision one of this section to any person unless that person shall provide proof of valid business registration with the department of state.

8. For the purposes of this section, each applicant shall submit to the commission the name, address, fingerprints and a written consent for a criminal history information to be performed, for each person required to qualify as part of the application. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the state division of criminal justice services and the federal bureau of investigation consistent with applicable state and federal laws, rules and regulations. The applicant shall pay the fee for such criminal history information as established pursuant to article thirty-five of the executive law. The state division of criminal justice services shall promptly notify the commission in the event a current or prospective qualifier, who was the subject of a criminal history record check pursuant to this section, is arrested for a crime or offense in this state after the date the check was performed.

9. Subsequent to the licensure of any entity pursuant to subdivision one of this section, including any finding of qualification as may be required as a condition of licensure, or the registration of any vendor pursuant to subdivision three of this section, the executive director may revoke, suspend, limit, or otherwise restrict the license, registration or qualification status upon a finding that the licensee, registrant or qualifier is disqualified on the basis of the criteria set forth in section one thousand three hundred eighteen of this article.

10. After notice and hearing prior to the suspension of any license, registration or qualification issued pursuant to subdivision seven of this section the commission shall have the obligation to prove by substantial evidence that the licensee, registrant or qualifier is disqualified on the basis of the criteria set forth in section one thousand three hundred eighteen of this article.

§ 1327. Duration and renewal of vendor registration. 1. A casino vendor registration shall be effective upon issuance, and shall remain valid for five years unless revoked, suspended, voided by law, limited, or otherwise restricted by the commission. Such registrations may be renewed by the holder thereof upon application, on a form prescribed by the commission, and payment of the applicable fee. Notwithstanding the foregoing, if a vendor registrant has not conducted business with a gaming facility for a period of three years, the registration of that vendor registrant shall lapse.

2. The commission shall establish by regulation reasonable and appropriate fees to be imposed on each vendor registrant who provides goods or services to a gaming facility, regardless of the nature of any contractual relationship between the vendor registrant and gaming facility, if any. Such fees shall be paid to the commission.

§ 1328. Junket operator licensing. 1. No junkets may be organized or permitted except in accordance with the provisions of this article. No person may act as a junket representative or junket enterprise except in accordance with this section.

2. A junket representative employed by a gaming facility licensee, an applicant for a gaming facility license or an affiliate of a gaming facility licensee shall be licensed as a casino key employee; provided, however, that said licensee need not be a resident of this state. No gaming facility licensee or applicant for a gaming facility license may employ or otherwise engage a junket representative who is not so licensed.

3. Junket enterprises that, and junket representatives not employed by a gaming facility licensee or an applicant for a gaming facility license or by a junket enterprise who, engage in activities governed by this section shall be licensed as an ancillary casino vendor enterprise in accordance with subdivision three of section one thousand three hundred twenty-six of this title, unless otherwise directed by the commission;

provided, however, that any such junket enterprise or junket representative who has disqualified shall be entitled to establish his or her rehabilitation from such disqualification pursuant to article twenty-three-A of the correction law. Any non-supervisory employee of a junket enterprise or junket representative licensed as an ancillary casino vendor enterprise in accordance with subdivision three of section one thousand three hundred twenty-six of this title shall be registered.

4. Prior to the issuance of any license required by this section, an applicant for licensure shall submit to the jurisdiction of the state and shall demonstrate that he or she is amenable to service of process within this state. Failure to establish or maintain compliance with the requirements of this subdivision shall constitute sufficient cause for the denial, suspension or revocation of any license issued pursuant to this section.

5. Upon petition by the holder of a gaming facility license, an applicant for a casino key employee license intending to be employed as a junket representative may be issued a temporary license by the commission in accordance with regulations promulgated, provided that:

(a) the applicant for licensure is employed by a gaming facility licensee; and

(b) the applicant for licensure has filed a completed application as required by the commission.

6. The commission shall have the authority to immediately suspend, limit or condition any temporary license issued pursuant to this section, pending a hearing on the qualifications of the junket representative.

7. Unless otherwise terminated, any temporary license issued pursuant to this section shall expire twelve months from the date of its issuance, and shall be renewable by the commission for one additional six month period.

8. Every agreement concerning junkets entered into by a gaming facility licensee and a junket representative or junket enterprise shall

be deemed to include a provision for its termination without liability on the part of the gaming facility licensee, if the commission orders the termination upon the suspension, limitation, conditioning, denial or revocation of the licensure of the junket representative or junket enterprise. Failure to expressly include such a condition in the agreement shall not constitute a defense in any action brought to terminate the agreement.

9. A gaming facility licensee shall be responsible for the conduct of any junket representative or junket enterprise associated with it and for the terms and conditions of any junket engaged in on its premises, regardless of the fact that the junket may involve persons not employed by such a gaming facility licensee.

10. A gaming facility licensee shall be responsible for any violation or deviation from the terms of a junket. Notwithstanding any other provisions of this article, the commission may order restitution to junket participants, assess penalties for such violations or deviations, prohibit future junkets by the gaming facility licensee, junket enterprise or junket representative, and order such further relief as it deems appropriate.

11. The commission shall, by regulation, prescribe methods, procedures and forms for the delivery and retention of information concerning the conduct of junkets by gaming facility licensees. Without limitation of the foregoing, each gaming facility licensee, in accordance with the rules of the commission, shall:

(a) Maintain on file a report describing the operation of any junket engaged in on its premises; and

(b) Submit to the commission a list of all its employees who are acting as junket representatives.

12. Each gaming facility licensee, junket representative or junket enterprise shall, in accordance with the rules of the commission, file a report with the commission with respect to each list of junket patrons or potential junket patrons purchased directly or indirectly by the gaming facility licensee, junket representative or enterprise.

13. The commission shall have the authority to determine, either by regulation, or upon petition by the holder of a gaming facility license, that a type of arrangement otherwise included within the definition of "junket" shall not require compliance with any or all of the requirements of this section. In granting exemptions, the commission shall consider such factors as the nature, volume and significance of the particular type of arrangement, and whether the exemption would be consistent with the public policies established by this article. In applying the provisions of this subdivision, the commission may condition, limit, or restrict any exemption as it may deem appropriate.

14. No junket enterprise or junket representative or person acting as a junket representative may:

(a) Engage in efforts to collect upon checks that have been returned by banks without full and final payment;

(b) Exercise approval authority with regard to the authorization or issuance of credit;

(c) Act on behalf of or under any arrangement with a gaming facility licensee or a gaming patron with regard to the redemption, consolidation, or substitution of the gaming patron's checks awaiting deposit;

(d) Individually receive or retain any fee from a patron for the privilege of participating in a junket; and

(e) Pay for any services, including transportation, or other items of value provided to, or for the benefit of, any patron participating in a junket.

§ 1329. Lobbyist registration. 1. For purposes of this section, the terms "lobbyist", "lobbying", "lobbying activities" and "client" shall have the same meaning as those terms are defined by section one-c of the legislative law.

2. In addition to any other registration and reporting required by law, each lobbyist seeking to engage in lobbying activity on behalf of a client or a client's interest before the commission shall first register

with the secretary of the commission. The secretary shall cause a registration to be available on the commission's website within five days of submission.

§ 1330. Registration of labor organizations. 1. Each labor organization, union or affiliate seeking to represent employees who are employed in a gaming facility by a gaming facility licensee shall register with the commission biennially, and shall disclose such information as the commission may require, including the names of all affiliated organizations, pension and welfare systems and all officers and agents of such organizations and systems; provided, however, that no labor organization, union, or affiliate shall be required to furnish such information to the extent such information is included in a report filed by any labor organization, union, or affiliate with the Secretary of Labor pursuant to 29 U.S.C. § 431 et seq. or § 1001 et seq. if a copy of such report, or of the portion thereof containing such information, is furnished to the commission pursuant to the aforesaid federal provisions. The commission may in its discretion exempt any labor organization, union, or affiliate from the registration requirements of this subdivision where the commission finds that such organization, union or affiliate is not the certified bargaining representative of any employee who is employed in a gaming facility by a gaming facility licensee, is not involved actively, directly or substantially in the control or direction of the representation of any such employee, and is not seeking to do so.

2. No person may act as an officer, agent or principal employee of a labor organization, union or affiliate registered or required to be registered pursuant to this section if the person has been found disqualified by the commission in accordance with the criteria contained in section one thousand three hundred eighteen of this article. The commission may, for purposes of this subdivision, waive any disqualification criterion consistent with the public policy of this article and upon a finding that the interests of justice so require.

3. Neither a labor organization, union or affiliate nor its officers

and agents not otherwise individually licensed or registered under this article and employed by a gaming facility licensee may hold any financial interest whatsoever in the gaming facility or gaming facility licensee whose employees they represent.

4. The commission may maintain a civil action and proceed in a summary manner, without posting bond, against any person, including any labor organization, union or affiliate, to compel compliance with this section, or to prevent any violations, the aiding and abetting thereof, or any attempt or conspiracy to violate this section.

5. In addition to any other remedies provided in this section, a labor organization, union or affiliate registered or required to be registered pursuant to this section may be prohibited by the commission from receiving any dues from any employee licensed or registered under this article and employed by a gaming facility licensee or its agent, if any officer, agent or principal employee of the labor organization, union or affiliate has been found disqualified and if such disqualification has not been waived by the commission in accordance with subdivision two of this section.

§ 1330-a. Casino gaming expenditures. 1. (a) In addition to any other registration or reporting required by law, any entity licensed under section sixteen hundred seventeen-a of the tax law, or that possesses a pari-mutuel wagering license or franchise awarded pursuant to article two or three of this chapter that makes an expenditure of more than one thousand dollars for any written, typed, or other printed communication, or any internet-based communication, or any television or radio communication, or any automated or paid telephone communications, in support or opposition to any referendum authorized by the state legislature following second passage of a concurrent resolution to amend the state constitution to permit or authorize casino gaming to a general public audience, shall file any reports required pursuant to the election law simultaneously with the gaming commission and shall provide such additional reports as required by the commission. This requirement shall apply irrespective of whether such entity makes such expenditure directly or indirectly via one or more persons. The commission shall promulgate regulations to implement the requirements of this section.

(b) Casino gaming expenditures do not include expenditures in connection with:

(i) a written news story, commentary, or editorial or a news story, commentary, or editorial distributed through the facilities of any broadcasting station, cable or satellite unless such publication or facilities are owned or controlled directly or indirectly by the person making such expenditure; or

(ii) a communication published on the Internet, unless the communication is a paid advertisement.

(c) For purposes of this section, the term "person" shall mean person, group of persons, corporation, unincorporated business entity, labor organization or business, trade or professional association or organization, or political committee.

(d) A knowing or willful violation of the provisions of this section shall subject the person to a civil penalty equal to up to one hundred thousand dollars or the cost of the communication, whichever is greater, imposed by the gaming commission for each violation.

2. A copy of all communications paid for by the casino gaming expenditure, including but not limited to broadcast, cable or satellite schedules and scripts, advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter and statements or information conveyed to one thousand or more members of a general public audience shall be filed with the gaming commission with the statements required this article.

TITLE 5

REQUIREMENTS FOR CONDUCT AND OPERATION OF GAMING

Section 1331. Operation certificate.
1332. Age for gaming participation.
1333. Hours of operation.
1334. Internal controls.
1335. Games and gaming equipment.
1336. Certain wagering prohibited.

1337. Gratuities.
1338. Limitation on certain financial access.
1339. Credit.
1340. Alcoholic beverages.
1341. Licensee leases and contracts.
1342. Required exclusion of certain persons.
1343. Exclusion, ejection of certain persons.
1344. List of persons self-excluded from gaming activities.
1345. Excluded person; forfeiture of winnings; other sanctions.
1346. Labor peace agreements for certain facilities.

§ 1331. Operation certificate. 1. Notwithstanding the issuance of a license therefor, no gaming facility may be opened or remain open to the public, and no gaming activity, except for test purposes, may be conducted therein, unless and until a valid operation certificate has been issued to the gaming facility licensee by the commission. Such certificate shall be issued by the executive director upon a determination that a gaming facility complies in all respects with the requirements of this article and regulations promulgated hereunder, and that the gaming facility is prepared in all respects to receive and entertain the public.

2. An operation certificate shall remain in force and effect unless revoked, suspended, limited, or otherwise altered by the commission in accordance with this article.

3. It shall be an express condition of continued operation under this article that a gaming facility licensee shall maintain either electronically or in hard copy at the discretion of the gaming facility licensee, copies of all books, records, and documents pertaining to the licensee's operations and approved hotel in a manner and location approved by the commission, provided, however, that the originals of such books, records and documents, whether in electronic or hard copy form, may be maintained at the offices or electronic system of an affiliate of the gaming facility licensee, at the discretion of the gaming facility licensee. All such books, records and documents shall be

immediately available for inspection during all hours of operation in accordance with the rules of the commission and shall be maintained for such period of time as the commission shall require.

§ 1332. Age for gaming participation. 1. No person under the age at which a person is authorized to purchase and consume alcoholic beverages shall enter, or wager in, a licensed gaming facility; provided, however, that such a person may enter a gaming facility by way of passage to another room, and provided further, however, that any such person who is licensed or registered under the provisions of this article may enter a gaming facility in the regular course of the person's permitted activities.

2. Any person disqualified pursuant to subdivision one of this section entitled to funds, cash or prizes from gambling activity shall forfeit same. Such forfeited funds, cash or prizes shall be remitted to the commission and deposited into the commercial gaming revenue fund.

§ 1333. Hours of operation. 1. Each gaming facility licensed pursuant to this article shall be permitted to operate twenty-four hours a day unless otherwise directed by the commission.

2. A gaming facility licensee shall file with the commission a schedule of hours prior to the issuance of an initial operation certificate. If the gaming facility licensee proposes any change in scheduled hours, such change may not be effected until such licensee files a notice of the new schedule of hours with the commission. Such filing must be made thirty days prior to the effective date of the proposed change in hours.

3. Nothing in this section shall be construed to limit a gaming facility licensee in opening its casino later than, or closing its casino earlier than, the times stated in its schedule of operating hours; provided, however, that any such alterations in its hours shall comply with the provisions of subdivision one of this section and with

regulations of the commission pertaining to such alterations.

§ 1334. Internal controls. 1. Each applicant for a gaming facility license shall create, maintain, and file with the commission a description of its internal procedures and administrative and accounting controls for gaming operations that conform to commission regulations and provide adequate and effective controls, establish a consistent overall system of internal procedures and administrative and accounting controls and conform to generally accepted accounting principles, and ensure that gaming facility procedures are carried out and supervised by personnel who do not have incompatible functions. A gaming facility licensee's internal controls shall contain a narrative description of the internal control system to be utilized by the gaming facility, including, but not limited to:

(a) Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming operations;

(b) Procedures, forms, and, where appropriate, formulas covering the calculation of hold percentages; revenue drop; expense and overhead schedules; complimentary service or item; junkets; and cash equivalent transactions;

(c) Procedures within the cashier's cage for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in gaming; the cashing of checks; the redemption of chips and other cash equivalents used in gaming; the pay-off of jackpots; and the recording of transactions pertaining to gaming operations;

(d) Procedures for the collection and security of moneys at the gaming tables;

(e) Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage;

(f) Procedures for the transfer of moneys from the gaming tables to the counting process;

(g) Procedures and security for the counting and recordation of revenue;

(h) Procedures for the security, storage and recordation of cash, chips and other cash equivalents utilized in the gaming;

(i) Procedures for the transfer of moneys or chips from and to the slot machines;

(j) Procedures and standards for the opening and security of slot machines;

(k) Procedures for the payment and recordation of slot machine jackpots;

(l) Procedures for the cashing and recordation of checks exchanged by casino patrons;

(m) Procedures governing the utilization of the private security force within the gaming facility;

(n) Procedures and security standards for the handling and storage of gaming apparatus including cards, dice, machines, wheels and all other gaming equipment;

(o) Procedures and rules governing the conduct of particular games and the responsibility of gaming facility personnel in respect thereto;

(p) Procedures for the orderly shutdown of gaming facility operations in the event that a state of emergency is declared and the gaming facility licensee is unable or ineligible to continue to conduct gaming facility operations during such a state of emergency, which procedures shall include, without limitation, the securing of all keys and gaming assets.

2. No minimum staffing requirements shall be included in the internal controls created in accordance with subdivision one of this section.

§ 1335. Games and gaming equipment. 1. This article shall not be construed to permit any gaming except the conduct of authorized games in a casino in accordance with this article and the regulations promulgated hereunder.

2. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a gaming facility except in a casino or in restricted casino areas used for the inspection, repair or storage of such equipment and specifically designated for that purpose by the gaming facility licensee with the approval of the commission. Gaming equipment that supports the conduct of gaming in a gaming facility but does not permit or require patron access, such as computers, may be

possessed and maintained by a gaming facility licensee or a qualified holding or intermediary company of a gaming facility licensee in restricted areas specifically approved by the commission. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a gaming facility by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the commission, is under the exclusive control of a gaming facility licensee or gaming facility licensee's employees, or of any individually qualified employee of a holding company or gaming facility licensee and is brought into or removed from the gaming facility following twenty-four hour prior notice given to an authorized agent of the commission.

Notwithstanding any other provision of this section, computer equipment used by the slot system operator of a multi-casino progressive slot system to link and communicate with the slot machines of two or more gaming facility licensees for the purpose of calculating and displaying the amount of a progressive jackpot, monitoring the operation of the system, and any other purpose that the commission deems necessary and appropriate to the operation or maintenance of the multi-casino progressive slot machine system may, with the prior approval of the commission, be possessed, maintained and operated by the slot system operator either in a restricted area on the premises of a gaming facility or in a secure facility inaccessible to the public and specifically designed for that purpose off the premises of a gaming facility with the written permission of the commission. Notwithstanding the foregoing, a person may, with the prior approval of the commission and under such terms and conditions as may be required by the commission, possess, maintain or exhibit gaming equipment in any other area of the gaming facility, provided that such equipment is used for nongaming purposes. Notwithstanding any other provision of this article to the contrary, the commission may, by regulation, authorize the linking of slot machines of one or more gaming facility licensees and slot machines located in casinos licensed by another state of the United States. Wagering and account information for a multi-state slot system shall be transmitted by the operator of such multi-state slot system to either a restricted area on the premises of a gaming facility or to a secure facility inaccessible to the public and specifically designed for that purpose with the written permission of the commission, and from there to slot machines of gaming facility licensees, provided all locations are approved by the commission.

3. Each gaming facility shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens, checks, plaques, gaming vouchers, coupons, and other devices or items of value used in wagering and approved by the commission that are received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. The commission shall promulgate regulations for the security of drop boxes and other devices in which the foregoing items are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, which regulations may include certain locking devices. Said drop boxes and other devices shall not be brought into or removed from a gaming facility, or locked or unlocked, except at such times, in such places, and according to such procedures as the commission may require.

4. All chips used in gaming shall be of such size and uniform color by denomination as the commission shall require by regulation.

5. All gaming shall be conducted according to rules promulgated by the commission. All wagers and pay-offs of winning wagers shall be made according to rules promulgated by the commission, which shall establish such limitations as may be necessary to assure the vitality of casino operations and fair odds to patrons. Each slot machine shall have a minimum payout of eighty-five percent.

6. Each gaming facility licensee shall make available in printed form to any patron upon request the complete text of the rules of the commission regarding games and the conduct of gaming, pay-offs of winning wagers, an approximation of the odds of winning for each wager, and such other advice to the player as the commission shall require. Each gaming facility licensee shall prominently post within a casino,

according to regulations of the commission such information about gaming rules, pay-offs of winning wagers, the odds of winning for each wager, and such other advice to the player as the commission shall require.

7. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a gaming facility licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a gaming facility licensee prior to the commencement of play shall be treated as a valid wager.

8. Testing of slot machines and associated devices. (a) Except as herein provided, no slot machine shall be used to conduct gaming unless it is identical in all electrical, mechanical and other aspects to a model thereof which has been specifically tested and licensed for use by the commission. The commission shall also test or cause to be tested any other gaming device, gaming equipment, gaming-related device or gross-revenue related device, such as a slot management system, electronic transfer credit system or gaming voucher system as it deems appropriate. In its discretion and for the purpose of expediting the approval process, the commission may utilize the services of a private testing laboratory that has obtained a plenary license as a casino vendor enterprise to perform the testing, and may also utilize applicable data from any such private testing laboratory or from a governmental agency of a state authorized to regulate slot machines and other gaming devices, gaming equipment, gaming-related devices and gross-revenue related devices used in gaming, if the private testing laboratory or governmental agency uses a testing methodology substantially similar to the methodology approved or utilized by the commission. The commission, in its discretion, may rely upon the data provided by the private testing laboratory or governmental agency and adopt the conclusions of such private testing laboratory or governmental agency regarding any submitted device.

(b) Except as otherwise provided in paragraph (e) of this subdivision, the commission shall, within sixty days of its receipt of a complete application for the testing of a slot machine or other gaming equipment model, approve or reject the slot machine or other gaming equipment model. In so doing, the commission shall specify whether and to what extent any data from a private testing laboratory or governmental agency of a state was used in reaching its conclusions and recommendation. If the commission is unable to complete the testing of a slot machine or other gaming equipment model within this sixty day period, the commission may conditionally approve the slot machine or other gaming equipment model for test use by a gaming facility licensee provided that the commission represents that the use of the slot machine or other gaming equipment model will not have a direct and materially adverse impact on the integrity of gaming or the control of gross revenue. The commission shall give priority to the testing of slot machines or other gaming equipment that a gaming facility licensee has certified it will use in its gaming facility in this state.

(c) The commission shall, by regulation, establish such technical standards for licensure of slot machines, including mechanical and electrical reliability, security against tampering, the comprehensibility of wagering, and noise and light levels, as it may deem necessary to protect the player from fraud or deception and to insure the integrity of gaming. The denominations of such machines shall be set by the licensee; the licensee shall simultaneously notify the commission of the settings.

(d) The commission shall, by regulation, determine the permissible number and density of slot machines in a licensed gaming facility so as to:

(1) promote optimum security for gaming facility operations;

(2) avoid deception or frequent distraction to players at gaming tables;

(3) promote the comfort of patrons;

(4) create and maintain a gracious playing environment in the gaming facility; and

(5) encourage and preserve competition in gaming facility operations by assuring that a variety of gaming opportunities is offered to the public.

Any such regulation promulgated by the commission which determines the permissible number and density of slot machines in a licensed gaming facility shall provide that all casinos shall be included in any calculation of the permissible number and density of slot machines in a licensed gaming facility.

(e) Any new gaming equipment that is submitted for testing to the commission or to a state licensed independent testing laboratory prior to or simultaneously with submission of such new equipment for testing in a jurisdiction other than this state, may, consistent with regulations promulgated by the commission, be deployed by a gaming facility licensee on the casino fourteen days after submission of such equipment for testing. If the gaming facility or casino vendor enterprise licensee has not received approval for the equipment fourteen days after submission for testing, any interested gaming facility licensee may, consistent with commission regulations, deploy the equipment on a field test basis, unless otherwise directed by the executive director.

9. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except for currency, negotiable personal checks, negotiable counter checks, other chips, coupons, slot vouchers or complimentary vouchers distributed by the gaming facility licensee, or, if authorized by regulation of the commission, a valid charge to a credit or debit card account. A gaming facility licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over one hundred dollars with a check drawn upon the licensee's account at any banking institution in this state and made payable to that person.

10. It shall be unlawful for any gaming facility licensee or its agents or employees to employ, contract with, or use any shill or barker to induce any person to enter a gaming facility or play at any game or for any purpose whatsoever.

11. It shall be unlawful for a dealer in any authorized game in which cards are dealt to deal cards by hand or other than from a device specifically designed for that purpose, unless otherwise permitted by the rules of the commission.

§ 1336. Certain wagering prohibited. 1. It shall be unlawful for any casino key employee licensee to wager in any gaming facility in this state.

2. It shall be unlawful for any other employee of a gaming facility licensee who, in the judgment of the commission, is directly involved with the conduct of gaming operations, including but not limited to dealers, floor persons, box persons, security and surveillance employees, to engage in gambling in any gaming facility in which the employee is employed or in any other gaming facility in this state which is owned or operated by the gaming facility licensee or an affiliated licensee.

3. The prohibition against wagering set forth in subdivisions one and two of this section shall continue for a period of thirty days commencing upon the date that the employee either leaves employment with a gaming facility licensee or is terminated from employment with a gaming facility licensee.

§ 1337. Gratuities. 1. It shall be unlawful for any casino key employee or boxman, floorman, or any other gaming employee who shall serve in a supervisory position to solicit or accept, and for any other gaming employee to solicit, any tip or gratuity from any player or patron at the gaming facility where he is employed.

2. A dealer may accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this section. All such tips or gratuities shall be immediately deposited in a lockbox reserved for that purpose, unless the tip or gratuity is authorized by a patron utilizing an automated wagering system approved by the commission. All tips or gratuities shall be accounted for, and placed in a pool for distribution pro rata among the dealers, with the distribution based upon the number of hours each dealer has worked, except that the commission may, by regulation, permit a separate pool to be established for dealers in the game of poker, or may permit tips or

gratuities to be retained by individual dealers in the game of poker.

3. Notwithstanding the provisions of subdivision one of this section, a gaming facility licensee may require that a percentage of the prize pool offered to participants pursuant to an authorized poker tournament be withheld for distribution to the tournament dealers as tips or gratuities as the commission by regulation may approve.

§ 1338. Limitation on certain financial access. In order to protect the public interest, the commission shall adopt regulations that include provisions that:

1. limit the number and location of and maximum withdrawal amounts from automated teller machines;

2. prohibit authorized automated teller machines from accepting electronic benefit cards, debit cards, or similar negotiable instruments issued by the state or political subdivisions for the purpose of accessing temporary public assistance;

3. prohibit the use of specified negotiable instruments at gaming facilities and the use of credit cards, debit cards, and similar devices in slot machines or at table games; and

4. prohibit consumers from cashing paychecks at gaming facilities.

§ 1339. Credit. 1. Except as otherwise provided in this section, no gaming facility licensee or any person licensed under this article, and no person acting on behalf of or under any arrangement with a gaming facility licensee or other person licensed under this article, shall:

(a) Cash any check, make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in gaming activity as a player; or

(b) Release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by any player in gaming activity, without maintaining a written record thereof in accordance with the rules of the commission.

2. No gaming facility licensee or any person licensed under this article, and no person acting on behalf of or under any arrangement with a gaming facility licensee or other person licensed under this article, may accept a check, other than a recognized traveler's check or other cash equivalent from any person to enable such person to take part in gaming activity as a player, or may give cash or cash equivalents in exchange for such check unless:

(a) The check is made payable to the gaming facility licensee;

(b) The check is dated, but not postdated;

(c) The check is presented to the cashier or the cashier's representative at a location in the gaming facility approved by the commission and is exchanged for cash or slot tokens which total an amount equal to the amount for which the check is drawn, or the check is presented to the cashier's representative at a gaming table in exchange for chips which total an amount equal to the amount for which the check is drawn; and

(d) The regulations concerning check cashing procedures are observed by the gaming facility licensee and its employees and agents. Nothing in this subdivision shall be deemed to preclude the establishment of an account by any person with a gaming facility licensee by a deposit of cash, recognized traveler's check or other cash equivalent, or a check which meets the requirements of subdivision seven of this section, or to preclude the withdrawal, either in whole or in part, of any amount contained in such account.

3. When a gaming facility licensee or other person licensed under this article, or any person acting on behalf of or under any arrangement with a gaming facility licensee or other person licensed under this article, cashes a check in conformity with the requirements of subdivision two of this section, the gaming facility licensee shall cause the deposit of such check in a bank for collection or payment, or shall require an attorney or casino key employee with no incompatible functions to present such check to the drawer's bank for payment, within:

(a) seven calendar days of the date of the transaction for a check in an amount of one thousand dollars or less;

(b) fourteen calendar days of the date of the transaction for a check in an amount greater than one thousand dollars but less than or equal to five thousand dollars; or

(c) forty-five calendar days of the date of the transaction for a check in an amount greater than five thousand dollars.

Notwithstanding the foregoing, the drawer of the check may redeem the check by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subdivision seven of this section in an amount equal to the amount for which the check is drawn; or he or she may redeem the check in part by exchanging cash, cash equivalents, chips, or a check which meets the requirements of subdivision seven of this section and another check which meets the requirements of subdivision two of this section for the difference between the original check and the cash, cash equivalents, chips, or check tendered; or he or she may issue one check which meets the requirements of subdivision two of this section in an amount sufficient to redeem two or more checks drawn to the order of the gaming facility licensee. If there has been a partial redemption or a consolidation in conformity with the provisions of this subdivision, the newly issued check shall be delivered to a bank for collection or payment or presented to the drawer's bank for payment by an attorney or casino key employee with no incompatible functions within the period herein specified. No gaming facility licensee or any person licensed or registered under this article, and no person acting on behalf of or under any arrangement with a gaming facility licensee or other person licensed under this article, shall accept any check or series of checks in redemption or consolidation of another check or checks in accordance with this subdivision for the purpose of avoiding or delaying the deposit of a check in a bank for collection or payment or the presentment of the check to the drawer's bank within the time period prescribed by this subdivision.

In computing a time period prescribed by this subdivision, the last day of the period shall be included unless it is a Saturday, Sunday, or a state or federal holiday, in which event the time period shall run until the next business day.

4. No gaming facility licensee or any other person licensed or registered under this article, or any other person acting on behalf of or under any arrangement with a gaming facility licensee or other person licensed or registered under this article, shall transfer, convey, or give, with or without consideration, a check cashed in conformity with the requirements of this section to any person other than:

(a) The drawer of the check upon redemption or consolidation in accordance with subdivision three of this section;

(b) A bank for collection or payment of the check;

(c) A purchaser of the gaming facility license as approved by the commission; or

(d) An attorney or casino key employee with no incompatible functions for presentment to the drawer's bank.

The limitation on transferability of checks imposed herein shall apply to checks returned by any bank to the gaming facility licensee without full and final payment.

5. No person other than a casino key employee licensed under this article or a gaming employee registered under this article may engage in efforts to collect upon checks that have been returned by banks without full and final payment, except that an attorney-at-law representing a gaming facility licensee may bring action for such collection.

6. Notwithstanding the provisions of any law to the contrary, checks cashed in conformity with the requirements of this article shall be valid instruments, enforceable at law in the courts of this state. Any check cashed, transferred, conveyed or given in violation of this article shall be invalid and unenforceable for the purposes of collection but shall be included in the calculation of gross gaming revenue.

7. Notwithstanding the provisions of subdivision two of this section to the contrary, a gaming facility licensee may accept a check from a person to enable the person to take part in gaming activity as a player,

may give cash or cash equivalents in exchange for such a check, or may accept a check in redemption or partial redemption of a check issued in accordance with subdivision two of this section, provided that:

(a) (1) The check is issued by a gaming facility licensee, is made payable to the person presenting the check, and is issued for a purpose other than employment compensation or as payment for goods or services rendered;

(2) The check is issued by a banking institution which is chartered in a country other than the United States on its account at a federally chartered or state-chartered bank and is made payable to "cash," "bearer," a gaming facility licensee, or the person presenting the check;

(3) The check is issued by a banking institution which is chartered in the United States on its account at another federally chartered or state-chartered bank and is made payable to "cash," "bearer," a gaming facility licensee, or the person presenting the check;

(4) The check is issued by a slot system operator or pursuant to an annuity jackpot guarantee as payment for winnings from a multi-casino progressive slot machine system jackpot; or

(5) The check is issued by an entity that holds a gaming facility license in any jurisdiction, is made payable to the person presenting the check, and is issued for a purpose other than employment compensation or as payment for goods or services rendered;

(b) The check is identifiable in a manner approved by the commission as a check authorized for acceptance pursuant to paragraph (a) of this subdivision;

(c) The check is dated, but not postdated;

(d) The check is presented to the cashier or the cashier's representative by the original payee and its validity is verified by the drawer in the case of a check drawn pursuant to subparagraph one of paragraph (a) of this subdivision, or the check is verified in accordance with regulations promulgated under this article in the case of a check issued pursuant to subparagraph two, three, four or five of paragraph (a) of this subdivision; and

(e) The regulations concerning check-cashing procedures are observed by the gaming facility licensee and its employees and agents. No gaming facility licensee shall issue a check for the purpose of making a loan or otherwise providing or allowing any advance or credit to a person to enable the person to take part in gaming activity as a player.

8. Notwithstanding the provisions of subdivisions two and three of this section to the contrary, a gaming facility licensee may, at a location outside the gaming facility, accept a personal check or checks from a person for up to five thousand dollars in exchange for cash or cash equivalents, and may, at such locations within the gaming facility as may be permitted by the commission, accept a personal check or checks for up to five thousand dollars in exchange for cash, cash equivalents, tokens, chips, or plaques to enable the person to take part in gaming activity as a player, provided that:

(a) The check is drawn on the patron's bank or brokerage cash management account;

(b) The check is for a specific amount;

(c) The check is made payable to the gaming facility licensee;

(d) The check is dated but not post-dated;

(e) The patron's identity is established by examination of one of the following: valid credit card, driver's license, passport, or other form of identification credential which contains, at a minimum, the patron's signature;

(f) The check is restrictively endorsed "For Deposit Only" to the gaming facility licensee's bank account and deposited on the next banking day following the date of the transaction;

(g) The total amount of personal checks accepted by any one licensee pursuant to this subdivision that are outstanding at any time, including the current check being submitted, does not exceed five thousand dollars;

(h) The gaming facility licensee has a system of internal controls in place that will enable it to determine the amount of outstanding personal checks received from any patron pursuant to this subdivision at any given point in time; and

(i) The gaming facility licensee maintains a record of each such transaction in accordance with regulations established by the commission.

9. A person may request the commission to put that person's name on a

list of persons to whom the extension of credit by a gaming facility as provided in this section would be prohibited by submitting to the commission the person's name, address, and date of birth. The person does not need to provide a reason for this request. The commission shall provide this list to the credit department of each gaming facility; neither the commission nor the credit department of a gaming facility shall divulge the names on this list to any person or entity other than those provided for in this subdivision. If such a person wishes to have that person's name removed from the list, the person shall submit this request to the commission, which shall so inform the credit departments of gaming facilities no later than three days after the submission of the request.

§ 1340. Alcoholic beverages. 1. Notwithstanding any law to the contrary, the authority to grant any license or permit for, or to permit or prohibit the presence of, alcoholic beverages in, on, or about any premises licensed by the commission as part of a gaming facility, or in, on, or about any Indian gaming facility, shall exclusively be vested in the commission. As used in this section, the term "Indian gaming facility" shall mean a premises duly authorized by a tribal gaming authority to conduct class II gaming, class III gaming, or both, as such terms are defined in 25 USC 2703, pursuant to the Indian Gaming Regulatory Act of 1988, which includes a gaming area or areas, and any other non-gaming structure related to the gaming area as an amenity, including but not limited to hotels, restaurants, golf courses, golf clubhouses and other amenities, where such premises is licensed and regulated by an Indian tribe that has elected commission oversight pursuant to subdivision one-a of this section. This section shall not be construed to apply to any provision of New York law other than this section, to any Indian gaming facility that would not otherwise apply to the Indian gaming facility absent this section, or to apply to this section to any premises licensed and regulated by an Indian tribe that has not elected to be treated as an Indian gaming facility for purposes of this section pursuant to subdivision one-a of this section.

1-a. An Indian tribe may elect for the state to treat all premises authorized by such tribe's tribal gaming authority to conduct class II gaming, class III gaming, or both, as an Indian gaming facility for the purposes of licensure and regulation under this section, by notifying the commission and the state liquor authority, in writing, within sixty days of the effective date of this subdivision, that it elects commission oversight pursuant to the provisions of this section. Upon receipt of notice by the commission that a tribe has made such an election under this subdivision, any premises authorized by such tribe's tribal gaming authority to conduct class II gaming, class III gaming, or both, shall be considered an Indian gaming facility, as defined in subdivision one of this section, for purposes of this section, and the commission shall assume jurisdiction over all alcoholic beverage licenses and permits previously issued with respect to any Indian gaming facility licensed and regulated by that tribe pursuant to subdivision eleven of this section. As a condition of electing commission oversight pursuant to this section, an Indian gaming facility shall expressly commit in writing to follow the requirements imposed under this section, to adhere to the regulations promulgated by the commission pursuant to this section, and to submit to the commission's enforcement of this section and regulations promulgated thereunder including by waiving tribal sovereign immunity for the sole and limited purpose of such enforcement of this section. An Indian gaming facility that does not elect commission oversight in accordance with the requirements of this section shall remain subject to any other applicable state law governing the licensure and regulation of alcoholic beverages in, on, or about the Indian gaming facility.

2. Unless otherwise stated, and except where inconsistent with the purpose or intent of this article or the common understanding of usage thereof, definitions contained in the alcoholic beverage control law shall apply to this section. Any definition contained therein shall apply to the same word in any form.

3. Notwithstanding any provision of the alcoholic beverage control law to the contrary, the commission shall have the functions, powers and duties of the state liquor authority but only with respect to the issuance, renewal, transfer, suspension and revocation of licenses and

permits for the sale of alcoholic beverages at retail for on-premise consumption by any holder of a gaming facility license issued by the commission, or for on-premises consumption at any Indian gaming facility, including, without limitation, the power to fine or penalize a casino or Indian gaming facility alcoholic beverage licensee or permittee; to enforce all statutes, laws, rulings, or regulations relating to such license or permit; and to collect license and permit fees and establish application standards therefor.

4. Except as otherwise provided in this section, the provisions of the alcoholic beverage control law and the rules, regulations, bulletins, orders, and advisories promulgated by the state liquor authority shall apply to any gaming facility or Indian gaming facility holding a license or permit to sell alcoholic beverages under this section.

5. Notwithstanding any provision to the contrary, the commission may promulgate any regulations and special rulings and findings as may be necessary for the proper enforcement, regulation, and control of alcoholic beverages in gaming facilities and Indian gaming facilities when the commission finds that the uniqueness of gaming facility and Indian gaming facility operations and the public interest require that such regulations, rulings, and findings are appropriate.

6. Notwithstanding any provision of law to the contrary, any manufacturer or wholesaler licensed under the alcoholic beverage control law may, as authorized under the alcoholic beverage control law, sell alcoholic beverages to a gaming facility or Indian gaming facility holding a retail license or permit to sell alcoholic beverages for consumption on the premises issued under this section, and any gaming facility or Indian gaming facility holding a retail license or permit to sell alcoholic beverages for consumption on the premises issued under this section may, as authorized under the alcoholic beverage control law, purchase alcoholic beverages from a manufacturer or wholesaler licensed under the alcoholic beverage control law.

7. It shall be unlawful for any person, including any gaming facility or Indian gaming facility licensee, or any of their lessees, agents or

employees, to expose for sale, solicit or promote the sale of, possess with intent to sell, sell, give, dispense, or otherwise transfer or dispose of alcoholic beverages in, on, or about any portion of the premises of a gaming facility or Indian gaming facility, unless said person possesses a license or permit issued under this section.

8. It shall be unlawful for any person holding a license or permit to sell alcoholic beverages under this section to expose, possess, sell, give, dispense, transfer, or otherwise dispose of alcoholic beverages, other than within the terms and conditions of such license or permit, the provisions of the alcoholic beverage control law, the rules and regulations promulgated by the state liquor authority, and, when applicable, the regulations promulgated pursuant to this article. Notwithstanding any other provision of law to the contrary the holder of a license or permit issued under this section may be authorized to provide complimentary alcoholic beverages under regulations issued by the commission.

9. In issuing a casino or Indian gaming facility alcoholic beverage license or permit, the commission shall describe the scope of the particular license or permit, and the restrictions and limitations thereon as it deems necessary and reasonable. The commission may, in a single casino or Indian gaming facility alcoholic beverage license, permit the holder of such a license or permit to perform any or all of the following activities, subject to applicable laws, rules and regulations:

(a) To sell any alcoholic beverage by the glass or other open receptacle including, but not limited to, an original container, for on-premise consumption within a facility; provided, however, that no alcoholic beverage shall be sold or given for consumption; delivered or otherwise brought to a patron; or consumed at a gaming table unless so requested by the patron.

(b) To sell any alcoholic beverage by the glass or other open receptacle for on-premise consumption within a gaming facility or Indian gaming facility.

(c) To sell any alcoholic beverage by the glass or other open receptacle or in original containers from a room service location within an enclosed room not in a gaming facility or Indian gaming facility; provided, however, that any sale of alcoholic beverages is delivered only to a guest room or to any other room in the gaming facility or Indian gaming facility authorized by the commission.

(d) To possess or to store alcoholic beverages in original containers intended but not actually exposed for sale at a fixed location on a gaming facility or Indian gaming facility premises, not in a gaming facility or Indian gaming facility; and to transfer or deliver such alcoholic beverages only to a location approved pursuant to this section; provided, however, that no access to or from a storage location shall be permitted except during the normal course of business by employees or agents of the licensee, or by licensed employees or agents of wholesalers or distributors licensed pursuant to the alcoholic beverage control law and any applicable rules and regulations; and provided further, however, that no provision of this section shall be construed to prohibit a casino or Indian gaming facility alcoholic beverage licensee from obtaining an off-site storage license from the state liquor authority.

10. The commission may revoke, suspend, refuse to renew or refuse to transfer any casino or Indian gaming facility alcoholic beverage license or permit, and may fine or penalize the holder of any alcoholic beverage license or permit issued under this section for violations of any provision of the alcoholic beverage control law, the rules and regulations promulgated by the state liquor authority, and the regulations promulgated by the commission.

11. Jurisdiction over all alcoholic beverage licenses and permits previously issued with respect to the gaming facility or Indian gaming facility is hereby vested in the commission, which in its discretion shall by regulation, rule, or policy promptly provide for the conversion thereof into a casino or Indian gaming facility alcoholic beverage license or permit as provided in this section. This section shall not be construed to affect the validity of any existing licenses and permits previously issued to an Indian gaming facility by the state liquor authority, or the continuation of any administrative actions or proceedings commenced by the state liquor authority prior to the

effective date of the chapter of the laws of 2019 that amended this section. Any such license or permit previously issued to an Indian gaming facility by the state liquor authority shall remain valid until the date that such license or permit is duly converted pursuant to this subdivision into a license or permit issued by the commission, and the commission shall assume exclusive jurisdiction over any such previously issued license or permit, and over any such previously commenced administrative actions or proceedings.

12. (a) Prior to issuing any license under this section, the commission, or its designee, shall consult with the state liquor authority, or its designee, to confirm that such application and such gaming facility or Indian gaming facility conforms with all applicable provisions of the alcoholic beverage control law, and all applicable rules, regulations, bulletins, orders and advisories promulgated by the state liquor authority;

(b) Prior to commencing enforcement actions against any gaming facility or Indian gaming facility licensed under this section, the commission, or its designee, shall consult with the state liquor authority, or its designee, with respect to the application of the applicable provisions of the alcoholic beverage control law, and all applicable rules, regulations, bulletins, orders and advisories promulgated by the state liquor authority on the alleged conduct of such licensee; and

(c) The commission, or its designee, shall consult with the state liquor authority, or its designee, on a regular basis, but no less than once every three months, regarding any pending applications and enforcement matters.

§ 1341. Licensee leases and contracts. 1. Unless otherwise provided in this subdivision, no agreement shall be lawful which provides for the payment, however defined, of any direct or indirect interest, percentage or share of: any money or property gambled at a gaming facility; any money or property derived from gaming activity; or any revenues, profits or earnings of a gaming facility. Notwithstanding the foregoing:

(a) Agreements which provide only for the payment of a fixed sum which is in no way affected by the amount of any such money, property, revenues, profits or earnings shall not be subject to the provisions of this subdivision; and receipts, rentals or charges for real property, personal property or services shall not lose their character as payments of a fixed sum because of contract, lease, or license provisions for adjustments in charges, rentals or fees on account of changes in taxes or assessments, cost-of-living index escalations, expansion or improvement of facilities, or changes in services supplied.

(b) Agreements between a gaming facility licensee and a junket enterprise or junket representative licensed, qualified or registered in accordance with the provisions of this article and the regulations of the commission that provide for the compensation of the junket enterprise or junket representative by the gaming facility licensee based upon the actual gaming activities of a patron procured or referred by the junket enterprise or junket representative shall be lawful if filed with the commission prior to the conduct of any junket that is governed by the agreement.

(c) Agreements between a gaming facility licensee and its employees which provide for gaming employee or casino key employee profit sharing shall be lawful if the agreement is in writing and filed with the commission prior to its effective date. Such agreements may be reviewed by the commission.

(d) Agreements to lease an approved gaming facility or the land thereunder and agreements for the complete management of all gaming operations in a gaming facility shall not be subject to the provisions of this subdivision.

(e) Agreements which provide for percentage charges between the gaming facility licensee and a holding company or intermediary company of the gaming facility licensee shall be in writing and filed with the commission but shall not be subject to the provisions of this subdivision.

(f) Written agreements relating to the operation of multi-casino or multi-state progressive slot machine systems between one or more gaming facility licensees and a licensed casino vendor enterprise or an eligible applicant for such license, which provide for an interest, percentage or share of the gaming facility licensee's revenues, profits or earnings from the operation of such multi-casino or multi-state progressive slot machines to be paid to the casino vendor enterprise licensee or applicant shall not be subject to the provisions of this subdivision if the agreements are filed with and approved by the commission.

2. Each gaming facility applicant or licensee shall maintain, in accordance with the rules of the commission, a record of each written or unwritten agreement regarding the realty, construction, maintenance, or business of a proposed or existing gaming facility or related facility. The foregoing obligation shall apply regardless of whether the gaming facility applicant or licensee is a party to the agreement. Any such agreement may be reviewed by the commission on the basis of the reasonableness of its terms, including the terms of compensation, and of the qualifications of the owners, officers, employees, and directors of any enterprise involved in the agreement, which qualifications shall be reviewed according to the standards enumerated in section one thousand three hundred twenty-three of this article. If the commission disapproves such an agreement or the owners, officers, employees, or directors of any enterprise involved therein, the commission may require its termination.

Every agreement required to be maintained, and every related agreement the performance of which is dependent upon the performance of any such agreement, shall be deemed to include a provision to the effect that, if the commission shall require termination of an agreement, such termination shall occur without liability on the part of the gaming facility applicant or licensee or any qualified party to the agreement or any related agreement. Failure expressly to include such a provision in the agreement shall not constitute a defense in any action brought to terminate the agreement. If the agreement is not maintained or presented to the commission in accordance with commission regulations, or the disapproved agreement is not terminated, the commission may pursue any remedy or combination of remedies provided in this article.

For the purposes of this subdivision, "gaming facility applicant" includes any person required to hold a gaming facility license who has applied to the commission for a gaming facility license or any approval required.

3. Nothing in this article shall be deemed to permit the transfer of any license, or any interest in any license, or any certificate of compliance or any commitment or reservation without the approval of the commission.

§ 1342. Required exclusion of certain persons. 1. The commission shall, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any licensed gaming facility. Such provisions shall define the standards for exclusion, and shall include standards relating to persons:

(a) Who are career or professional offenders as defined by regulations promulgated hereunder; or

(b) Who have been convicted of a criminal offense under the laws of any state or of the United States, which is punishable by more than twelve months in prison, or any crime or offense involving moral turpitude.

The commission shall promulgate definitions establishing those categories of persons who shall be excluded pursuant to this section, including cheats and persons whose privileges for licensure or registration have been revoked.

2. Any enumerated class listed in subdivision one of section two hundred ninety-six of the human rights law shall not be a reason for placing the name of any person upon such list.

3. The commission may impose sanctions upon a licensed gaming facility or individual licensee or registrant in accordance with the provisions of this article if such gaming facility or individual licensee or registrant knowingly fails to exclude or eject from the premises of any licensed gaming facility any person placed by the commission on the list of persons to be excluded or ejected.

4. Any list compiled by the commission of persons to be excluded or

ejected shall not be deemed an all-inclusive list, and licensed gaming facilities shall have a duty to keep from their premises persons known to them to be within the classifications declared in subdivisions one and two of this section and the regulations promulgated thereunder, or known to them to be persons whose presence in a licensed gaming facility would be inimical to the interest of the state or of licensed gaming therein, or both, as defined in standards established by the commission.

5. Prior to placing the name of any person on a list pursuant to this section, the commission shall serve notice of such fact and of the opportunity for a hearing to such person by personal service or by certified mail at the last known address of such person.

6. Within thirty days after service of the petition in accordance with subdivision five of this section, the person named for exclusion or ejection may demand a hearing before the executive director or the executive director's designee, at which hearing the executive director or the executive director's designee shall have the affirmative obligation to demonstrate by substantial evidence that the person named for exclusion or ejection satisfies the criteria for exclusion established by this section and the applicable regulations. Failure to demand such a hearing within thirty days after service shall preclude a person from having an administrative hearing, but shall in no way affect his or her right to judicial review as provided herein.

7. The commission may make a preliminary placement on the list of a person named in a petition for exclusion or ejection pending completion of a hearing on the petition. The hearing on the application for preliminary placement shall be a limited proceeding at which the commission shall have the affirmative obligation to demonstrate by substantial evidence that the person satisfies the criteria for exclusion established by this section and the applicable regulations. If a person has been placed on the list as a result of an application for preliminary placement, unless otherwise agreed by the executive director and the named person, a hearing on the petition for exclusion or ejection shall be initiated within thirty days after the receipt of a demand for such hearing or the date of preliminary placement on the

list, whichever is later.

8. If, upon completion of the hearing on the petition for exclusion or ejection, the executive director determines that the person named therein does not satisfy the criteria for exclusion established by this section and the applicable regulations, the executive director shall issue an order denying the petition. If the person named in the petition for exclusion or ejection had been placed on the list as a result of an application for preliminary placement, the executive director shall notify all gaming facility licensees of the person's removal from the list.

9. If, upon completion of a hearing on the petition for exclusion or ejection, the executive director determines that placement of the name of the person on the exclusion list is appropriate, the executive director shall make and enter an order to that effect, which order shall be served on all gaming facility licensees. Such order shall be subject to review by the commission in accordance with regulations promulgated thereunder, which final decision shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.

§ 1343. Exclusion, ejection of certain persons. 1. A gaming facility licensee may exclude or eject from its gaming facility any person who is known to it to have been convicted of a crime or disorderly conduct committed in or on the premises of any gaming facility.

2. Nothing in this section or in any other law of this state shall limit the right of a gaming facility licensee to exercise its common law right to exclude or eject permanently from its gaming facility any person who disrupts the operations of its premises, threatens the security of its premises or its occupants, or is disorderly or intoxicated.

§ 1344. List of persons self-excluded from gaming activities. 1. The commission shall provide by regulation for the establishment of a list of persons self-excluded from gaming activities at all licensed gaming facilities. Any person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the commission that the person is a problem gambler and by agreeing that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at such gaming facilities.

2. The regulations of the commission shall establish procedures for placements on, and removals from, the list of self-excluded persons. Such regulations shall establish procedures for the transmittal to licensed gaming facilities of identifying information concerning self-excluded persons, and shall require licensed gaming facilities to establish procedures designed, at a minimum, to remove self-excluded persons from targeted mailings or other forms of advertising or promotions and deny self-excluded persons access to credit, complimentaries, check cashing privileges, club programs, and other similar benefits.

3. A licensed gaming facility or employee thereof acting reasonably and in good faith shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of:

(a) the failure of a licensed gaming facility to withhold gaming privileges from, or restore gaming privileges to, a self-excluded person; or

(b) otherwise permitting a self-excluded person to engage in gaming activity in such licensed gaming facility while on the list of self-excluded persons.

4. Notwithstanding any other law to the contrary, the commission's list of self-excluded persons shall not be open to public inspection. Nothing herein, however, shall be construed to prohibit a gaming facility licensee from disclosing the identity of persons self-excluded pursuant to this section to affiliated gaming entities in this state or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs operated by such gaming

affiliated entities.

5. A licensed gaming facility or employee thereof shall not be liable to any self-excluded person or to any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of the identity of any self-excluded person.

§ 1345. Excluded person; forfeiture of winnings; other sanctions. 1. A person who is prohibited from gaming in a licensed gaming facility by any order of the executive director, commission or court of competent jurisdiction, including any person on the self-exclusion list pursuant to subdivision one of section one thousand three hundred forty-four of this title, shall not collect, in any manner or proceeding, any winnings or recover any losses arising as a result of any prohibited gaming activity.

2. For the purposes of this section, any gaming activity in a licensed gaming facility that results in a prohibited person obtaining any money or thing of value from, or being owed any money or thing of value by, the gaming facility shall be considered, solely for purposes of this section, to be a fully executed gambling transaction.

3. In addition to any other penalty provided by law, any money or thing of value which has been obtained by, or is owed to, any prohibited person by a licensed gaming facility as a result of wagers made by a prohibited person shall be subject to forfeiture following notice to the prohibited person and opportunity to be heard. A licensed gaming facility shall inform a prohibited person of the availability of such notice on the commission's website when ejecting the prohibited person and seizing any chips, vouchers or other representative of money owed by a gaming facility to the prohibited person as authorized by this subdivision. All forfeited amounts shall be deposited into the commercial gaming revenue fund.

4. In any proceeding brought by the commission against a licensee or registrant for a willful violation of the commission's self-exclusion regulations, the commission may order, in addition to any other sanction authorized, an additional fine of double the amount of any money or thing of value obtained by the licensee or registrant from any self-excluded person. Any money or thing of value so forfeited shall be disposed of in the same manner as any money or thing of value forfeited pursuant to subdivision three of this section.

§ 1346. Labor peace agreements for certain facilities. 1. As used in this section:

(a) "Gaming facility" means any gaming facility licensed pursuant to this article or a video lottery gaming facility as may be authorized by paragraph three of subdivision (a) of section one thousand six hundred seventeen-a of the tax law, as amended by section nineteen of the chapter of the laws of two thousand thirteen that added this section licensed by the commission. A gaming facility shall not include any horse racing, bingo or charitable games of chance, the state lottery for education, or any gaming facility operating pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2710 et seq. A gaming facility shall include any hospitality operation at or related to the gaming facility.

(b) "Labor peace agreement" means an agreement enforceable under 29 U.S.C. § 185(a) that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with operation of the relevant gaming facility.

(c) "License" means any permit, license, franchise or allowance of the commission and shall include any franchisee or permittee.

(d) "Proprietary interest" means an economic and non-regulatory interest at risk in the financial success of the gaming facility that could be adversely affected by labor-management conflict, including but not limited to property interests, financial investments and revenue sharing.

2. The state legislature finds that the gaming industry constitutes a

vital sector of New York's overall economy and that the state through its operation of lotteries and video lottery facilities and through its ownership of the properties utilized for horse racing by The New York Racing Association Inc. has a significant and ongoing economic and non-regulatory interest in the financial viability and competitiveness of the gaming industry. The state legislature further finds that the award or grant of a license by the commission to operate a gaming facility is a significant state action and that the commission must make prudent and efficient decisions to maximize the benefits and minimize the risks of gaming. The state legislature further recognizes that casino gaming industry integration can provide a vital economic engine to assist, nurture, develop, and promote regional economic development, the state tourism industry and the growth of jobs in the state. Additionally, the state legislature also finds revenues derived directly by the state from such gaming activity will be shared from gross gaming receipts, after payout of prizes but prior to deductions for operational expenses.

Therefore, the state legislature finds that the state has a substantial and compelling proprietary interest in any license awarded for the operation of a gaming facility within the state.

3. The commission shall require any applicant for a gaming facility license who has not yet entered into a labor peace agreement to produce an affidavit stating it shall enter into a labor peace agreement with labor organizations that are actively engaged in representing or attempting to represent gaming or hospitality industry workers in the state. In order for the commission to issue a gaming facility license and for operations to commence, the applicant for a gaming facility license must produce documentation that it has entered into a labor peace agreement with each labor organization that is actively engaged in representing and attempting to represent gaming and hospitality industry workers in the state. The commission shall make the maintenance of such a labor peace agreement an ongoing material condition of licensure.

A license holder shall, as a condition of its license, ensure that operations at the gaming facility that are conducted by contractors, subcontractors, licensees, assignees, tenants or subtenants and that involve gaming or hospitality industry employees shall be done under a labor peace agreement containing the same provisions as specified above.

4. If otherwise applicable, capital projects undertaken by a gaming facility shall be subject to article eight of the labor law and shall be subject to the enforcement of prevailing wage requirements by the department of labor.

5. If otherwise applicable, capital projects undertaken by a gaming facility shall be subject to section one hundred thirty- five of the state finance law.

6. If otherwise applicable, any gaming facility entering into a contract for a gaming facility capital project shall be deemed to be a state agency, and such contract shall be deemed to be a state contract, for purposes of article fifteen-A of the executive law and section two hundred twenty-two of the labor law.

TITLE 6
TAXATION AND FEES

Section 1348. Machine and table fees.
1349. Regulatory investigatory fees.
1350. Additional regulatory costs.
1351. Tax on gaming revenues; permissive supplemental fee.
1352. Commercial gaming revenue fund.
1353. Determination of tax liability.
1354. Unclaimed funds.
1355. Racing support payments.

§ 1348. Machine and table fees. In addition to any other tax or fee imposed by this article, there shall be imposed an annual license fee of five hundred dollars for each slot machine and table approved by the commission for use by a gaming licensee at a gaming facility located in zone two; and there shall be imposed an annual license fee of seven hundred fifty dollars for each slot machine and table game approved by the commission for use by a gaming licensee at a gaming facility located in zone one. Provided, however, that not sooner than five years after award of an original gaming license, the commission may annually adjust the fee for inflation. The fee shall be imposed as of July first of each year for all approved slot machines and tables on that date and shall be assessed on a pro rata basis for any slot machine or table approved for use thereafter.

Such assessed fees shall be deposited into the commercial gaming revenue fund established pursuant to section one thousand three hundred fifty-two of this article.

§ 1349. Regulatory investigatory fees. The commission may establish fees for any investigation into a violation of this article or regulation promulgated hereunder by a gaming facility licensee to be paid by the gaming facility licensee including, but not limited to, billable hours by commission staff involved in the investigation and the costs of services, equipment or other expenses that are incurred by the commission during the investigation.

§ 1350. Additional regulatory costs. 1. Any remaining costs of the commission necessary to maintain regulatory control over gaming facilities that are not covered by the fees set forth in section one thousand three hundred forty-nine of this title; any other fees assessed under this article; or any other designated sources of funding, shall be assessed annually on gaming licensees under this article in proportion to the number of gaming positions at each gaming facility. Each gaming licensee shall pay the amount assessed against it within thirty days after the date of the notice of assessment from the commission.

2. If the fees collected in section one thousand three hundred forty-nine of this title exceed the cost required to maintain regulatory control, the surplus funds shall be credited in proportional shares against each gaming licensee's next assessment.

§ 1351. Tax on gaming revenues; permissive supplemental fee. * 1. (a) For a gaming facility in zone two, there is hereby imposed a tax on gross gaming revenues. The amount of such tax imposed shall be as follows; provided, however, should a licensee have agreed within its application to supplement the tax with a binding supplemental fee payment exceeding the aforementioned tax rate, such tax and supplemental fee shall apply for a gaming facility:

(1) in region two, forty-five percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources.

(2) in region one, thirty-nine percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources.

(3) in region five, thirty-seven percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources; provided however, that in the Tioga county portion of region five, for the period of fiscal years two thousand twenty-four, two thousand twenty-five, and two thousand twenty-six, during which both of the following criteria are met (i) any facility's tax rate is adjusted by the commission pursuant to paragraph (b) of this subdivision, and (ii) a vendor track that is located within Oneida county, within fifteen miles of a Native American class III gaming facility maintains at least seventy percent of full-time equivalent employees as they employed in the year two thousand sixteen, the tax rate on facilities located in the Tioga county portion of region five shall be thirty percent of gross gaming revenue from slot machines, and ten percent of gross gaming revenue from all other sources. Any money realized from the decrease in their slot machine tax rate shall only be used by the facility to offer childcare for employees, food and beverage conversion, any other project or use that improves the economic infrastructure of the facility, or for rehiring laid-off workers, hiring new workers or retaining current workers at the facility. The facility shall provide an initial report to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing the projected use of funds resulting from such tax adjustment and a plan that prescribes the manner

in which the licensed gaming facility receiving the reduction in its slot machine tax rate will rebuild their economic infrastructure through the offering of childcare for employees, food and beverage conversion, or any other project or use that improves the economic infrastructure of the facility, or for rehiring laid-off workers, hiring new workers, or retaining current workers at the facility or the creation of new jobs. Such plan shall also clearly establish quarterly and annual employment goals of increasing full-time employees. The facility shall be subject to the conditions set forth in clause (ii) of subparagraph three of paragraph (b) of this subdivision. Such initial report and accompanying plan shall be due ninety days after such reduction goes into effect. Thereafter, an annual report shall be made to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing actual use of the funds resulting from such tax adjustment. Such report shall include, but not be limited to, any impact on employment levels since receiving the funds, an accounting of the use of such funds, any other measures implemented to improve the financial stability of the gaming facility, and any other information as deemed necessary by the commission. Such report shall be due no later than the first day of the fourth quarter in each year such tax rate has been granted.

(b) (1) Notwithstanding the rates in paragraph (a) of this subdivision, a gaming facility may petition the commission to lower the tax rate applicable to its slot machines to no lower than thirty percent. In analyzing such request, the commission shall evaluate the petition using the following criteria:

(i) the ability of the licensee to satisfy the license criterion of financial stability absent the tax rate reduction;

(ii) a complete examination of all financial projections, as well as gaming revenues generated for the prior annual period;

(iii) the licensee's intended use of the funds resulting from a tax adjustment;

(iv) the inability of the operator to remain competitive under the current tax structure;

(v) positions advanced by other gaming operators in the state in response to the petition;

(vi) the impact on the competitive landscape;

(vii) other economic factors such as employment and the potential impact upon other businesses in the region; and

(viii) the public interest to be served by a tax adjustment, including the impact upon the state in the event the operator is unable to remain financially viable.

(2) The commission shall report their recommendation solely based on the criteria listed in subparagraph one of this paragraph to the director of the division of budget who will make a final approval.

(3) (i) As a condition of the lower slot machine tax rate, such gaming facility shall provide an initial report to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing the projected use of funds resulting from such tax adjustment and a plan that prescribes the manner in which the licensed gaming facility potentially receiving the reduction in its slot machine tax rate will rebuild their economic infrastructure through the rehiring of laid-off employees or the creation of new jobs. Such plan shall also clearly establish quarterly and annual employment goals of increasing full-time employees. Such initial report and accompanying plan shall be due at the time a facility is granted a tax adjustment. Thereafter, an annual report shall be made to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing actual use of the funds resulting from such tax adjustment. Such report shall include, but not be limited to, any impact on employment levels since receiving the funds, an accounting of the use of such funds, any other measures implemented to improve the financial stability of the gaming facility, any relevant information that helped in the determination of such slot tax rate reduction, and any other information as deemed necessary by the commission. Such report shall be due no later than the first day of the fourth quarter after such tax rate has been granted.

(ii) (A) At the conclusion of each year, a licensed gaming facility shall provide an affirmation in writing to the commission stating the employment goal in clause (i) of this subparagraph or subparagraph three of paragraph (a) of this subdivision, was either met or not met as described in the initial report. If the licensed gaming facility is found to have not adhered to the plan by the commission, then the applicable slot tax rate shall be adjusted at the discretion of the commission as follows:

1. If the actual employment number is more than fifty percent less than the employment goal, then the slot tax rate shall be increased by ten percentage points.

2. If the actual employment number is more than forty percent less than the employment goal, then the slot tax rate shall be increased by eight percentage points.

3. If the actual employment number is more than thirty percent less than the employment goal, then the slot tax rate shall be increased by six percentage points.

4. If the actual employment number is more than twenty percent less than the employment goal, then the slot tax rate shall be increased by four percentage points.

5. If the actual employment number is more than ten percent less than the employment goal, then the slot tax rate shall be increased by two percentage points.

(B) Such finding and the reasoning thereof shall occur no later than thirty days following submission of the written affirmation.

(iii) A licensed gaming facility may petition the commission to lower the tax rate applicable to its slot machines to no lower than thirty percent no more than once annually after the effective date of the chapter of the laws of two thousand twenty-one which amended this subdivision. A licensed gaming facility may request a revision to its plan in its initial report due to unforeseen circumstances.

* NB Effective until April 1, 2026

* 1. (a) For a gaming facility in zone two, there is hereby imposed a tax on gross gaming revenues. The amount of such tax imposed shall be as follows; provided, however, should a licensee have agreed within its application to supplement the tax with a binding supplemental fee payment exceeding the aforementioned tax rate, such tax and supplemental fee shall apply for a gaming facility:

(1) in region two, forty-five percent of gross gaming revenue from

slot machines and ten percent of gross gaming revenue from all other sources.

(2) in region one, thirty-nine percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources.

(3) in region five, thirty-seven percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources.

(b) (1) Notwithstanding the tax rates on gross gaming revenue from slot machines provided in paragraph (a) of this subdivision, for the period of April first, two thousand twenty-six through June thirtieth, two thousand thirty-one, each gaming facility in zone two shall continue to be subject to the same tax rate on gross gaming revenue from slot machines as was imposed in the preceding fiscal year.

(2) As a condition of the lower slot machine tax rate, the licensed gaming facility must:

(i) be current on all statutory obligations to the state or have entered into and be in compliance with a repayment agreement with the state. If the commission, in its sole discretion, determines that a gaming facility has not adhered to this condition for any such time period, the gaming facility shall forfeit this lower slot machine tax rate for such time period.

(ii) have provided the initial report to the governor, the speaker of the assembly, the temporary president of the senate, and the commission as required pursuant to subdivision one-b of this section.

(3) (i) Each gaming facility shall provide an annual fiscal report to the governor, the speaker of the assembly, the temporary president of the senate, director of the division of budget and the commission detailing actual use of the funds resulting from the lower slot machine tax rate. Such report shall include, but not be limited to, any impact on employment levels since receiving the lower slot machine tax rate, an accounting of the use of such funds, any other measures implemented to improve the financial stability of the gaming facility and any other information as deemed necessary by the commission. Such report shall be due no later than January first of each year and shall be posted on the commission website.

(ii) At the conclusion of each year, a licensed gaming facility shall provide an affirmation in writing to the commission stating the employment goal in subdivision one-b of this section was either met or not met as described in the initial report. If the licensed gaming facility is found to have not adhered to the plan by the commission, then the applicable slot tax rate may be adjusted at the discretion of the commission as follows:

(A) If the actual employment number is more than fifty percent less than the employment goal, then the slot tax rate shall be increased by ten percentage points.

(B) If the actual employment number is more than forty percent less than the employment goal, then the slot tax rate shall be increased by eight percentage points.

(C) If the actual employment number is more than thirty percent less than the employment goal, then the slot tax rate shall be increased by six percentage points.

(D) If the actual employment number is more than twenty percent less than the employment goal, then the slot tax rate shall be increased by four percentage points.

(E) If the actual employment number is more than ten percent less than the employment goal, then the slot tax rate shall be increased by two percentage points.

(iii) Such finding and the reasoning thereof shall occur no later than thirty days following submission of the written affirmation.

* NB Effective April 1, 2026 until July 1, 2031

* 1. (a) For a gaming facility in zone two, there is hereby imposed a tax on gross gaming revenues. The amount of such tax imposed shall be as follows; provided, however, should a licensee have agreed within its application to supplement the tax with a binding supplemental fee payment exceeding the aforementioned tax rate, such tax and supplemental fee shall apply for a gaming facility:

(1) in region two, forty-five percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources.

(2) in region one, thirty-nine percent of gross gaming revenue from slot machines and ten percent of gross gaming revenue from all other sources.

(3) in region five, thirty-seven percent of gross gaming revenue from

slot machines and ten percent of gross gaming revenue from all other sources; provided however, that in the Tioga county portion of region five, for the period of fiscal years two thousand twenty-four, two thousand twenty-five, and two thousand twenty-six, during which both of the following criteria are met (i) any facility's tax rate is adjusted by the commission pursuant to paragraph (b) of this subdivision, and (ii) a vendor track that is located within Oneida county, within fifteen miles of a Native American class III gaming facility maintains at least seventy percent of full-time equivalent employees as they employed in the year two thousand sixteen, the tax rate on facilities located in the Tioga county portion of region five shall be thirty percent of gross gaming revenue from slot machines, and ten percent of gross gaming revenue from all other sources. Any money realized from the decrease in their slot machine tax rate shall only be used by the facility to offer childcare for employees, food and beverage conversion, any other project or use that improves the economic infrastructure of the facility, or for rehiring laid-off workers, hiring new workers or retaining current workers at the facility. The facility shall provide an initial report to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing the projected use of funds resulting from such tax adjustment and a plan that prescribes the manner in which the licensed gaming facility receiving the reduction in its slot machine tax rate will rebuild their economic infrastructure through the offering of childcare for employees, food and beverage conversion, or any other project or use that improves the economic infrastructure of the facility, or for rehiring laid-off workers, hiring new workers, or retaining current workers at the facility or the creation of new jobs. Such plan shall also clearly establish quarterly and annual employment goals of increasing full-time employees. The facility shall be subject to the conditions set forth in clause (ii) of subparagraph three of paragraph (b) of this subdivision. Such initial report and accompanying plan shall be due ninety days after such reduction goes into effect. Thereafter, an annual report shall be made to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing actual use of the funds resulting from such tax adjustment. Such report shall include, but not be limited to, any impact on employment levels since receiving the funds, an accounting of the use of such funds, any other measures implemented to improve the financial stability of the gaming facility, and any other information as deemed necessary by the commission. Such report shall be due no later than the first day of the fourth quarter in each year such tax rate has been granted.

(b) (1) Notwithstanding the rates in paragraph (a) of this subdivision, a gaming facility may petition the commission to lower the tax rate applicable to its slot machines to no lower than thirty percent. In analyzing such request, the commission shall evaluate the petition using the following criteria:

(i) the ability of the licensee to satisfy the license criterion of financial stability absent the tax rate reduction;

(ii) a complete examination of all financial projections, as well as gaming revenues generated for the prior annual period;

(iii) the licensee's intended use of the funds resulting from a tax adjustment;

(iv) the inability of the operator to remain competitive under the current tax structure;

(v) positions advanced by other gaming operators in the state in response to the petition;

(vi) the impact on the competitive landscape;

(vii) other economic factors such as employment and the potential impact upon other businesses in the region; and

(viii) the public interest to be served by a tax adjustment, including the impact upon the state in the event the operator is unable to remain financially viable.

(2) The commission shall report their recommendation solely based on the criteria listed in subparagraph one of this paragraph to the director of the division of budget who will make a final approval.

(3) (i) As a condition of the lower slot machine tax rate, such gaming facility shall provide an initial report to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing the projected use of funds resulting from such tax adjustment and a plan that prescribes the manner in which the licensed gaming facility potentially receiving the reduction in its slot machine tax rate will rebuild their economic infrastructure through the rehiring of laid-off employees or the creation of new jobs. Such plan shall also

clearly establish quarterly and annual employment goals of increasing full-time employees. Such initial report and accompanying plan shall be due at the time a facility is granted a tax adjustment. Thereafter, an annual report shall be made to the governor, the speaker of the assembly, the temporary president of the senate, and the commission detailing actual use of the funds resulting from such tax adjustment. Such report shall include, but not be limited to, any impact on employment levels since receiving the funds, an accounting of the use of such funds, any other measures implemented to improve the financial stability of the gaming facility, any relevant information that helped in the determination of such slot tax rate reduction, and any other information as deemed necessary by the commission. Such report shall be due no later than the first day of the fourth quarter after such tax rate has been granted.

(ii) (A) At the conclusion of each year, a licensed gaming facility shall provide an affirmation in writing to the commission stating the employment goal in clause (i) of this subparagraph or subparagraph three of paragraph (a) of this subdivision, was either met or not met as described in the initial report. If the licensed gaming facility is found to have not adhered to the plan by the commission, then the applicable slot tax rate shall be adjusted at the discretion of the commission as follows:

1. If the actual employment number is more than fifty percent less than the employment goal, then the slot tax rate shall be increased by ten percentage points.

2. If the actual employment number is more than forty percent less than the employment goal, then the slot tax rate shall be increased by eight percentage points.

3. If the actual employment number is more than thirty percent less than the employment goal, then the slot tax rate shall be increased by six percentage points.

4. If the actual employment number is more than twenty percent less than the employment goal, then the slot tax rate shall be increased by

four percentage points.

5. If the actual employment number is more than ten percent less than the employment goal, then the slot tax rate shall be increased by two percentage points.

(B) Such finding and the reasoning thereof shall occur no later than thirty days following submission of the written affirmation.

(iii) A licensed gaming facility may petition the commission to lower the tax rate applicable to its slot machines to no lower than thirty percent no more than once annually after the effective date of the chapter of the laws of two thousand twenty-one which amended this subdivision. A licensed gaming facility may request a revision to its plan in its initial report due to unforeseen circumstances.

* NB Effective July 1, 2031

1-a. For a gaming facility licensed pursuant to title two-A of this article, there is hereby imposed a tax on gross gaming revenues with the rates to be determined by the gaming commission pursuant to a competitive bidding process as outlined in title two-A of this article; provided however that the tax rate on gross gaming revenue from slot machines shall be no less than twenty-five percent and the tax rate on gross gaming revenue from all other sources shall be no less than ten percent.

* 1-b. As a condition of the lower slot machine tax rate taking effect April first, two thousand twenty-six, pursuant to subdivision one of this section, the licensed gaming facility must provide an initial report to the governor, the speaker of the assembly, the temporary president of the senate, and the commission clearly detailing the established quarterly and annual employment goals of increasing full-time employees for each year that the facility will receive a lower tax rate and any substantial changes to the initial plan. This report is due no later than January first, two thousand twenty-six and shall be posted on the commission's website.

* NB Repealed July 1, 2031

2. Permissible deductions. (a) A gaming facility may deduct from gross gaming revenue the amount of approved promotional gaming credits issued

to and wagered by patrons of such gaming facility. The amount of approved promotional credits shall be calculated as follows:

(1) for the period commencing on April first, two thousand eighteen and ending on March thirty-first, two thousand twenty-one, an aggregate maximum amount equal to nineteen percent of the base taxable gross gaming revenue amount during the specified period;

(2) for the period commencing on April first, two thousand twenty-one and ending on March thirty-first, two thousand twenty-three, a maximum amount equal to nineteen percent of the base taxable gross gaming revenue amount for each fiscal year during the specified period; and

(3) for the period commencing on April first, two thousand twenty-three and thereafter, a maximum amount equal to fifteen percent of the base taxable gross gaming revenue amount for each fiscal year during the specified period.

(b) For purposes of paragraph (a) of this subdivision, "base taxable gross gaming revenue amount" means that portion of gross gaming revenue not attributable to deductible promotional credit.

(c) Any tax due on promotional credits deducted during the fiscal year in excess of the allowable deduction shall be paid within thirty days from the end of the fiscal year.

(d) Only promotional credits that are issued pursuant to a written plan approved by the commission as designed to increase revenue at the facility may be eligible for such deduction. The commission, in conjunction with the director of the budget, may suspend approval of any plan whenever they jointly determine that the use of the promotional credits under such plan is not effective in increasing the amount of revenue earned.

§ 1352. Commercial gaming revenue fund. 1. (a) The commission shall pay into an account, to be known as the commercial gaming revenue fund as established pursuant to section ninety-seven-nnnn of the state finance law, under the joint custody of the comptroller and the commissioner of taxation and finance, all taxes and fees imposed by this article paid by a gaming facility licensed under title two of this article or title two-A of this article located within zone two; any interest and penalties imposed by the commission relating to those taxes; the appropriate percentage of the value of expired gaming related obligations; all penalties levied and collected by the commission; and the appropriate funds, cash or prizes forfeited from gambling activity.

(b) For any gaming facility that does not qualify under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and is located within New York City, revenues shall be distributed in the following manner:

(i) fifty percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law; and

(ii) fifty percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be appropriated or transferred only for elementary and secondary education or real property tax relief.

(c) For any gaming facility that does not qualify under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and located within zone one but not located within New York City, revenues shall be distributed in the following manner:

(i) forty percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law;

(ii) forty percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be appropriated or transferred only for elementary and secondary education or real property tax relief from the commercial gaming revenue fund;

(iii) five percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be allocated to the host county for the purpose of real property tax relief or for education assistance;

(iv) ten percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be allocated to the host municipality for the purpose of real property tax relief or education assistance; and

(v) five percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be allocated among counties within the region, as defined by section one thousand three hundred ten of this article, for the purpose of real property tax relief or education assistance. Such distribution from the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law shall be made among the counties on a per capita basis, subtracting the population of host municipality and county.

(d) For any gaming facility that qualifies under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and is located within zone one but not located within New York City, revenues shall be distributed in the following manner:

(i) Eighty percent of all deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be directed to the commercial gaming revenue fund until the total of such deposits for the state fiscal year is equal to the education aid hold harmless amount. The education aid hold harmless amount shall be equal to the greater of (A) the revenue received from the facility for education aid deposits into the state lottery fund as a video lottery gaming licensee pursuant to section sixteen hundred seventeen-a of the tax law for the twelve months immediately preceding the date on which such facility began operations as a commercial casino pursuant to title two-A of this article, or (B) the revenue received from the facility for education aid deposits into the state lottery fund as a video lottery gaming licensee pursuant to section sixteen hundred seventeen-a of the tax law for state fiscal year two thousand twenty-two. For the first fiscal year of gaming facility operations, the hold harmless amount shall reflect a pro-rata amount based on the opening date of the gaming facility. Notwithstanding section ninety-seven-nnnn of the state finance law, such deposits into the commercial gaming revenue fund shall be available exclusively for elementary and secondary education. Should these deposits resulting from taxes imposed pursuant to subdivision one-a of section thirteen hundred fifty-one of this article on the operations of a qualifying gaming facility at the conclusion of a given state fiscal year be less than the total required under this paragraph, such gaming facility shall remit the necessary payment accounting for the difference to the commission for deposit into the commercial gaming revenue fund no later than the next occurring May first.

(ii) Twenty percent of all deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be distributed in the same manner as subparagraphs (iii), (iv), and (v) of paragraph (c) of this subdivision.

(iii) Once the deposits from a qualifying gaming facility as prescribed in subparagraph (i) of this paragraph exceed the education aid hold harmless amount as determined in subparagraph (i) of this paragraph in a given state fiscal year, eighty percent of all subsequent deposits in such state fiscal year from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law and the remaining twenty percent shall continue to be distributed in the same manner as subparagraphs (iii), (iv), and

(v) of paragraph (c) of this subdivision; provided however, that once the dollar amount paid directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law matches the same dollar amount paid pursuant to the education aid hold harmless amount as determined in subparagraph (i) of this paragraph in a given state fiscal year, twenty percent of any excess dollar amounts shall be distributed in the same manner as subparagraphs (iii), (iv), and (v) of paragraph (c) of this subdivision, forty percent of any excess dollar amounts shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law, and forty percent of any excess dollar amounts shall be deposited by the commission into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law for the sole purposes of education aid.

* (e) For any gaming facility that qualifies under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and is located within New York City, upon receiving tax payments from such gaming facility, the commission shall estimate and may forward from such receipts such amount due to maintain racing support payments pursuant to section thirteen hundred fifty-five of this title and remaining tax revenues shall be distributed in the following manner:

(i) Eighty percent of all remaining deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited in the same manner as in subparagraph (i) of paragraph (d) of this subdivision. For the first fiscal year of gaming facility operations, the hold harmless amount shall reflect a pro-rata amount based on the opening date of the gaming facility.

(ii) Twenty percent of all remaining deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law until the applicable education aid hold harmless amount as prescribed in subparagraph (i) of paragraph (d) of this subdivision has been met.

(iii) Once the remaining deposits from a qualifying gaming facility as prescribed in subparagraph (i) of this paragraph exceed the education aid hold harmless amount as determined in subparagraph (i) of paragraph (d) of this subdivision in a given state fiscal year, all subsequent remaining deposits in such state fiscal year from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law; provided however, that once the dollar amount paid directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law matches the same dollar amount paid pursuant to the education aid hold harmless amount as determined in subparagraph (i) of paragraph (d) of this subdivision in a given state fiscal year, fifty percent of any excess dollar amounts shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law, and fifty percent of any excess dollar amounts shall be deposited by the commission into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law for the sole purposes of education aid.

* NB Effective until June 5, 2027

* (e) For any gaming facility that qualifies under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and is located within New York City, revenues shall be distributed in the following manner:

(i) Eighty percent of all deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited in the same manner as in subparagraph (i) of paragraph (d) of this subdivision. For the first fiscal year of gaming facility operations, the hold harmless amount shall reflect a pro-rata amount based on the opening date of the gaming facility.

(ii) Twenty percent of all deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law until the applicable education aid hold harmless amount as prescribed in subparagraph (i) of paragraph (d) of this subdivision has been met.

(iii) Once the deposits from a qualifying gaming facility as prescribed in subparagraph (i) of this paragraph exceed the education aid hold harmless amount as determined in subparagraph (i) of paragraph (d) of this subdivision in a given state fiscal year, all subsequent deposits in such state fiscal year from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law; provided however, that once the dollar amount paid directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law matches the same dollar amount paid pursuant to the education aid hold harmless amount as determined in subparagraph (i) of paragraph (d) of this subdivision in a given state fiscal year, fifty percent of any excess dollar amounts shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law, and fifty percent of any excess dollar amounts shall be deposited by the commission into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law for the sole purposes of education aid.

* NB Effective June 5, 2027

(f) For a municipality that was appropriated video lottery terminal aid in the year two thousand twenty-three pursuant to section fifty-four-l of the state finance law, the gaming facility licensed under title two-A of this article that was previously authorized to operate video lottery gaming pursuant to section one thousand six hundred seventeen-a of the tax law must hold the municipality harmless so that the host municipality does not receive less money in any state fiscal year under the provisions of subparagraph (ii) of paragraph (d) of this subdivision than such host municipality received in annual video lottery terminal aid in the year two thousand twenty-three. The provisions of this paragraph shall apply as of the first full state fiscal year in which video lottery terminal aid is not received by the municipality and gaming facility operations have commenced.

2. The commission shall require at least monthly deposits by the licensee of any payments pursuant to section one thousand three hundred fifty-one of this article, at such times, under such conditions, and in such depositories as shall be prescribed by the state comptroller. The deposits shall be deposited to the credit of the commercial gaming revenue fund as established by section ninety-seven-nnnn of the state finance law or to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law, according to the requirements of subdivision one of this section. The commission may require a monthly report and reconciliation statement to be filed with it on or before the tenth day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

§ 1353. Determination of tax liability. The commission may perform audits of the books and records of a gaming facility licensee, at such times and intervals as it deems appropriate, for the purpose of determining the sufficiency of tax or fee payments. If a return or deposit required with regard to obligations imposed is not filed or paid, or if a return or deposit when filed or paid is determined by the commission to be incorrect or insufficient with or without an audit, the amount of tax, fee or deposit due shall be determined by the commission. Notice of such determination shall be given to the licensee liable for the payment of the tax or fee or deposit. Such determination shall finally and irrevocably fix the tax or fee unless the person against whom it is assessed, within thirty days after receiving notice of such determination, shall apply to the commission for a hearing in accordance with the regulations of the commission.

§ 1354. Unclaimed funds. Unclaimed funds, cash and prizes shall be retained by the gaming facility licensee for the person entitled to the funds, cash or prize for one year after the game in which the funds, cash or prize was won. If no claim is made for the funds, cash or prize within one year, the funds, cash or equivalent cash value of the prize shall be deposited in the commercial gaming revenue fund.

§ 1355. Racing support payments. 1. If an applicant who possesses a pari-mutuel wagering franchise or license awarded pursuant to article two or three of this chapter, or who possessed in two thousand thirteen a franchise or a license awarded pursuant to article two or three of this chapter or is an affiliated entity of such applicant, is issued a gaming facility license pursuant to this article, the licensee shall:

(a) Maintain payments made from video lottery gaming operations to the relevant horsemen and breeders organizations at the same dollar level realized in two thousand thirteen, to be adjusted annually pursuant to changes in the consumer price index for all urban consumers, as published annually by the United States department of labor bureau of labor statistics;

(b) All racetrack locations awarded a gaming facility license shall maintain racing activity and race dates pursuant to articles two and three of this chapter.

2. If an applicant that does not possess either a pari-mutuel wagering license or franchise awarded pursuant to article two or three of this chapter is issued a gaming facility license pursuant to this article:

(a) For the periods prior to March sixteenth, two thousand twenty, the licensee shall pay:

(i) an amount to horsemen for purses at the licensed racetracks in the region that will assure the purse support from video lottery gaming facilities in the region to the licensed racetracks in the region to be maintained at the same dollar levels realized in two thousand thirteen to be adjusted by the consumer price index for all urban consumers, as published annually by the United States department of labor bureau of labor statistics; and

(ii) amounts to the agricultural and New York state horse breeding development fund and the New York state thoroughbred breeding and development fund to maintain payments from video lottery gaming facilities in the region to such funds to be maintained at the same dollar levels realized in two thousand thirteen to be adjusted by the consumer price index for all urban consumers, as published annually by the United States department of labor bureau of labor statistics; and

(b) Beginning on March sixteenth, two thousand twenty and for all time thereafter, the licensee shall pay an amount to horsemen for purses at the licensed racetracks in the region and an amount to the agricultural and New York state horse breeding development fund and the New York state thoroughbred breeding and development fund that, in aggregate, shall be equal to the product of three and eight-tenths percent multiplied by the gross gaming revenue from slot machines of the licensee for the applicable calendar year, provided that such amount shall not exceed the amount paid by the licensee to such horsemen and breeders funds for the full two thousand nineteen calendar year adjusted annually by the lesser of (i) consumer price index for all urban consumers, as published annually by the United States department of labor bureau of labor statistics or (ii) two and four-tenths percent. Of the amount paid pursuant to this paragraph, eighty-seven percent will be paid to the horsemen and the remainder will be paid to the agricultural and New York state horse breeding development fund and the New York state thoroughbred breeding and development fund.

(c) Aggregate payments owed for the calendar year of two thousand twenty pursuant to paragraphs (a) and (b) of this subdivision shall be payable in two thousand twenty-one in three installments of four hundred sixty thousand dollars in April, July and October with the remainder payable in December, with eighty-seven percent of the aggregate payable to the horsemen and the remainder payable to the breeders funds. Payments owed for calendar years two thousand twenty-one and thereafter shall be payable in calendar quarterly installments, within thirty days of the completion of the preceding calendar quarter.

3. As part of the final gaming facility license award process for licenses authorized under title two-A of this article, the commission shall determine the obligations of such entity or entities required to maintain certain racing support payments at the same dollar level realized in two thousand nineteen, to be adjusted annually pursuant to changes in the consumer price index for all urban consumers, as published annually by the United States department of labor bureau of labor statistics.

(a) In either region two or three of zone one, one or more licensees shall pay an amount to horsemen for the purpose of enhancing purses at Aqueduct racetrack, Belmont Park racetrack and Saratoga race course, an amount to the franchise corporation, and an amount to the New York state thoroughbred breeding and development fund that, in aggregate, shall be equal to the racing support payments made from video lottery gaming operations to the relevant horsemen, breeders organizations or franchised corporation at the same dollar level realized in two thousand nineteen, to be adjusted annually pursuant to changes in the consumer price index for all urban consumers, as published annually by the United States department of labor bureau of labor statistics.

(b) In region one of zone one, one or more licensees shall pay an amount to the relevant horsemen and the breeders organizations at Yonkers Raceway at the same dollar level realized in two thousand nineteen, to be adjusted annually pursuant to changes in the consumer price index for all urban consumers, as published annually by the United States department of labor bureau of labor statistics.

TITLE 7

PROBLEM GAMBLING

Section 1362. Prevention and outreach efforts.
1363. Advertising restrictions.

§ 1362. Prevention and outreach efforts. 1. Each gaming facility licensee, management company, and holding company involved in the application and ownership or management of a gaming facility shall provide to the commission, as applicable, an applicant's problem gambling plan. An applicant's problem gambling plan shall be approved by the commission before the commission issues or renews a license. Each plan shall at minimum include the following:

(a) The goals of the plan and procedures and timetables to implement the plan;

(b) The identification of the individual who will be responsible for the implementation and maintenance of the plan;

(c) Policies and procedures including the following:

(1) The commitment of the applicant and the gaming facility licensee to train appropriate employees;

(2) The duties and responsibilities of the employees designated to implement or participate in the plan;

(3) The responsibility of patrons with respect to responsible gambling;

(4) Procedures for compliance with the voluntary exclusion program;

(5) Procedures to identify patrons and employees with suspected or known problem gambling behavior, including procedures specific to loyalty and other rewards and marketing programs;

(6) Procedures for providing information to individuals regarding the voluntary exclusion program and community, public and private treatment services, gamblers anonymous programs and similar treatment or addiction therapy programs designed to prevent, treat, or monitor problem gamblers and to counsel family members;

(7) Procedures for responding to patron and employee requests for information regarding the voluntary exclusion program and community, public and private treatment services, gamblers anonymous programs and similar treatment or addiction therapy programs designed to prevent, treat, or monitor compulsive and problem gamblers and to counsel family

members;

(8) The provision of printed material to educate patrons and employees about problem gambling and to inform them about the voluntary exclusion program and treatment services available to problem gamblers and their families. The applicant shall provide examples of the materials to be used as part of its plan, including, brochures and other printed material and a description of how the material will be disseminated;

(9) Advertising and other marketing and outreach to educate the general public about the voluntary exclusion program and problem gambling;

(10) An employee training program, including training materials to be utilized and a plan for periodic reinforcement training and a certification process established by the applicant to verify that each employee has completed the training required by the plan;

(11) Procedures to prevent underage gambling;

(12) Procedures to prevent patrons impaired by drugs or alcohol, or both, from gambling; and

(13) The plan for posting signs within the gaming facility, containing information on gambling treatment and on the voluntary exclusion program. The applicant shall provide examples of the language and graphics to be used on the signs as part of its plan;

(d) A list of community, public and private treatment services, gamblers anonymous programs and similar treatment or addiction therapy programs designed to prevent, treat, or monitor problem gamblers and to counsel family members; and

(e) Any other information, documents, and policies and procedures that the commission requires.

2. Each applicant or gaming facility licensee shall submit any amendments to the problem gambling plan to the commission for review and approval before implementing the amendments.

3. Each gaming facility licensee shall submit an annual summary of its problem gambling plan to the commission.

4. Each gaming facility licensee shall submit quarterly updates and an annual report to the commission of its adherence to the plans and goals

submitted under this section.

§ 1363. Advertising restrictions. 1. As used in this section:

(a) "advertisement" shall mean any notice or communication to the public or any information concerning the gaming-related business of a gaming facility licensee or applicant or a mobile sports wagering licensee as defined in section thirteen hundred sixty-seven of this article through broadcasting, publication or any other means of dissemination, including electronic dissemination. Promotional activities are considered advertisements for purposes of this section.

(b) "direct advertisement" shall mean any advertisement as described in paragraph (a) of this subdivision that is disseminated to a specific individual or individuals.

2. Advertising shall be based upon fact, and shall not be false, deceptive or misleading, and no advertising by or on behalf of a gaming facility licensee shall:

(a) Use any type, size, location, lighting, illustration, graphic depiction or color resulting in the obscuring of any material fact;

(b) Fail to clearly and conspicuously specify and state any material conditions or limiting factors;

(c) Depict any person under the age of twenty-one engaging in gaming and related activities; or

(d) Fail to designate and state the name and location of the gaming facility conducting the advertisement. The location of the gaming facility need not be included on billboards within thirty miles of the gaming facility.

3. Each advertisement shall, clearly and conspicuously, state a problem gambling hotline number.

4. Each direct advertisement shall, clearly and conspicuously, describe a method or methods by which an individual may designate that the individual does not wish to receive any future direct advertisement.

(a) The described method must be by at least two of the following:

(1) Telephone;

(2) Regular U.S. mail; or

(3) Electronic mail.

(b) Upon receipt of an individual's request to discontinue receipt of future advertisement, a gaming facility licensee or applicant shall block the individual in the gaming facility licensee's database so as to prevent the individual from receiving future direct advertisements within fifteen days of receipt of the request.

5. Each gaming facility licensee or applicant shall provide to the commission at its main office a complete and accurate copy of all advertisements within five business days of the advertisement's public dissemination. Gaming facility licensees or applicants shall discontinue the public dissemination upon receipt of notice from the commission to discontinue an advertisement.

6. A gaming facility licensee or applicant shall maintain a complete record of all advertisements for a period of at least two years. Records shall be made available to the commission upon request.

TITLE 8

MISCELLANEOUS PROVISIONS

Section 1364. Smoking prohibited.
1365. Conservatorship.
1366. Zoning.
1367. Sports wagering.
1367-a. Mobile sports wagering.

§ 1364. Smoking prohibited. Smoking shall not be permitted, and no person shall smoke in the indoor areas of facilities licensed pursuant to this article, except that the provisions of section one thousand three hundred ninety-nine-q of the public health law shall be applicable to facilities licensed pursuant to this article.

§ 1365. Conservatorship. 1. Upon revocation or suspension of a gaming facility license or upon the failure or refusal to renew a gaming facility license, the commission may appoint a conservator to temporarily manage and operate the business of the gaming licensee relating to the gaming facility. Such conservator shall be a person of similar experience in the field of gaming management and, in the case of replacing a gaming facility licensee, shall have experience operating a gaming facility of similar caliber in another jurisdiction, and shall be in good standing in all jurisdictions in which the conservator operates a gaming facility. Upon appointment, a conservator shall agree to all licensing provisions of the former gaming licensee.

2. A conservator shall, before assuming, managerial or operational duties, execute and file a bond for the faithful performance of its duties payable to the commission with such surety and in such form and amount as the commission shall approve.

3. The commission shall require that the former or suspended gaming licensee purchase liability insurance, in an amount determined by the commission, to protect a conservator from liability for any acts or omissions of the conservator during the conservator's appointment which are reasonably related to and within the scope of the conservator's duties.

4. During the period of temporary management of the gaming facility, the commission shall initiate proceedings under this article to award a new gaming facility license to a qualified applicant whose gaming facility shall be located at the site of the preexisting gaming facility.

5. An applicant for a new gaming facility license shall be qualified for licensure under this article; provided, however, that the commission shall determine an appropriate level of investment by an applicant into the preexisting gaming facility.

6. Upon award of a new gaming facility license, the new gaming facility licensee shall pay the original licensing fee required under this article.

§ 1366. Zoning. Notwithstanding any inconsistent provision of law, gaming authorized at a location pursuant to this article shall be deemed an approved activity for such location under the relevant city, county, town, or village land use or zoning ordinances, rules, or regulations.

§ 1367. Sports wagering. 1. As used in this section and in section thirteen hundred sixty-seven-a of this title:

(a) "Platform provider" means an entity selected by the commission to conduct mobile sports wagering pursuant to a competitive bidding process;

(b) "Authorized sports bettor" means an individual who is physically present in this state when placing a sports wager, who is not a prohibited sports bettor, and who participates in sports wagering offered by a casino or a mobile sports wagering licensee;

(c) "Casino" means a licensed gaming facility at which gambling is conducted pursuant to the provisions of this article;

(d) "Commission" means the New York state gaming commission established pursuant to section one hundred two of this chapter;

(e) "Collegiate sport or athletic event" means a sport or athletic event offered or sponsored by, or played in connection with a public or private institution that offers educational services beyond the secondary level;

(f) "Covered persons" includes: athletes; players; umpires; referees; officials; personnel associated with players, clubs, teams, leagues, and athletic associations; medical professionals, including athletic trainers, who provide services to athletes and players; and the family members of these persons;

(g) "High school sport or athletic event" means a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers education services at the secondary level;

(h) "In-play sports wager" means a sports wager placed on a sports event after the sports event has begun and before it ends;

(i) "Layoff bet" means a sports wager placed by a casino sports pool with another casino sports pool;

(j) "Minor" means any person under the age of twenty-one years;

(k) "Mobile sports wagering platform" or "platform" means the combination of hardware, software, and data networks used to manage, administer, or control sports wagering and any associated wagers accessible by any electronic means including mobile applications and internet websites accessed via a mobile device or computer;

(l) "Mobile sports wagering operator" means a mobile sports wagering skin which has been licensed by the commission to operate a sports pool through a mobile sports wagering platform;

(m) "Mobile sports wagering licensee" means a platform provider and a mobile sports wagering operator licensed by the commission;

(n) "Operator" means a casino which has elected to operate a sports pool;

(o) "Professional sport or athletic event" means an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event;

(p) "Conduct potentially warranting further investigation" means any statement, action, or other communication intended to unlawfully influence, manipulate, or control a wagering outcome of a sporting contest or performance in a sporting contest in exchange for a benefit or to avoid financial or physical harm. "Conduct potentially warranting further investigation" may include, but not be limited to, statements, actions, and communications made to a covered person;

(q) "Professional sports stadium or arena" means a stadium, ballpark, or arena in which a professional sport or athletic event occurs;

(r) "Prohibited sports bettor" means:

(i) any officer or employee of the commission;

(ii) any principal or key employee of a casino, mobile sports wagering licensee, and its affiliates, except as may be permitted by the commission;

(iii) any casino gaming or non-gaming employee at the casino that employs such person and any gaming or non-gaming employee at the mobile sports wagering licensee that employs such person;

(iv) any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, of a casino or a mobile sports wagering licensee if such person is directly involved in the operation or observation of sports wagering, or the processing of sports wagering claims or payments;

(v) any person subject to a contract with the commission if such contract contains a provision prohibiting such person from participating in sports wagering;

(vi) any spouse, child, sibling or parent residing in the principal place of abode of any of the foregoing persons at the same casino or mobile sports wagering licensee where the foregoing person is prohibited from participating in sports wagering;

(vii) any amateur or professional athlete if the sports wager is based on any sport or athletic event that the athlete participates in at such amateur or professional level;

(viii) any sports agent, owner or employee or independent contractor of a team, player and umpire union personnel, and employee referee, coach or official of a sports governing body, if the sports wager is based on any sport or athletic event overseen by the individual's sports governing body;

(ix) any individual placing a wager as an agent or proxy for another person known to be a prohibited sports bettor; or

(x) any minor.

(s) "Prohibited sports event" means a sport or athletic event in which any New York college team participates regardless of where the event takes place, or high school sport or athletic event. The following shall not be considered prohibited sports events: (i) a collegiate tournament, and (ii) a sports event within such tournament so long as no New York college team is participating in that particular sports event;

(t) "Sports event" means any professional sport or athletic event and any collegiate sport or athletic event, except a prohibited sports event;

(u) "Sports governing body" means the organization that prescribes final rules and enforces codes of conduct with respect to a sporting event and participants therein;

(v) "Sports pool" means the business of accepting wagers on any sports event by any system or method of wagering;

(w) "Sports wager" means cash or cash equivalent that is paid by an authorized sports bettor to a casino or a mobile sports wagering licensee to participate in sports wagering offered by such casino or mobile sports wagering licensee;

(x) "Sports wagering" means wagering on sporting events or any portion thereof, or on the individual performance statistics of athletes participating in a sporting event, or combination of sporting events, by any system or method of wagering, including, but not limited to, in-person communication and electronic communication through internet websites accessed via a mobile device or computer, and mobile device applications; provided however that sports wagers shall include, but are not limited to, single-game bets, teaser bets, parlays, over-under bets, money line, pools, in-game wagering, in-play bets, proposition bets, and straight bets;

(y) "Sports wagering gross revenue" means: (i) the amount equal to the total of all sports wagers not attributable to prohibited sports events that a mobile sports wagering licensee collects from all sports bettors, less the total of all sums not attributable to prohibited sports events paid out as winnings to all sports bettors, however, that the total of all sums paid out as winnings to sports bettors shall not include the cash equivalent value of any merchandise or thing of value awarded as a prize;

(z) "Sports wagering lounge" means an area wherein a sports pool is operated at a casino for placement of in-person wagers;

(aa) "Unusual wagering activity" means abnormal wagering activity exhibited by patrons and deemed by the casino, the mobile sports wagering licensee, or commission pursuant to rules and regulations promulgated by the commission, as a potential indicator of suspicious activity. Abnormal wagering activity may include, but is not limited to, the size of a patron's wager or increased wagering volume on a particular event or wager type;

(bb) "Suspicious wagering activity" means unusual wagering activity that cannot be explained and is indicative of match fixing, the manipulation of an event, misuse of inside information, or other prohibited activity; and

(cc) "Independent integrity monitor" means an independent individual or entity approved by the commission to receive reports of unusual wagering activity from a casino, mobile sports wagering licensee, or commission for the purpose of assisting in identifying suspicious wagering activity.

2. (a) In addition to authorized gaming activities, a casino may operate a sports pool upon the approval of the commission and in accordance with the provisions of this section and applicable regulations promulgated pursuant to this article. The commission shall hear and decide promptly and in reasonable order all applications for a license to operate a sports pool, shall have the general responsibility for the implementation of this section and shall have all other duties specified in this section with regard to the operation of a sports pool. The license to operate a sports pool shall be in addition to any other license required to be issued to operate a casino. No license to operate a sports pool shall be issued by the commission to any entity unless it has established its financial stability, integrity and responsibility and its good character, honesty and integrity.

No later than five years after the date of the issuance of a license and every five years thereafter or within such lesser periods as the commission may direct, a licensee shall submit to the commission such documentation or information as the commission may by regulation require, to demonstrate to the satisfaction of the executive director of the commission that the licensee continues to meet the requirements of the law and regulations.

(b) A sports pool shall be operated in a sports wagering lounge located at a casino. The lounge shall conform to all requirements concerning square footage, design, equipment, security measures and related matters which the commission shall by regulation prescribe. Provided, however, the commission may also approve additional locations for a sports pool within the casino, in areas that have been approved by the commission for the conduct of other gaming, to be operated in a manner and methodology as regulation shall prescribe.

(c) The operator of a sports pool shall establish or display the odds at which wagers may be placed on sports events.

(d) An operator shall accept wagers on sports events only from persons physically present in the sports wagering lounge, through mobile sports wagering offered pursuant to section thirteen hundred sixty-seven-a of this title, if such operator is also a mobile sports wagering licensee, or any additional locations for a sports pool within the casino, approved by the gaming commission. A person placing a wager shall be at least twenty-one years of age.

(e) An operator or mobile sports wagering licensee may also accept layoff bets as long as the authorized sports pool places such wagers with another authorized sports pool or pools in accordance with regulations of the commission. A sports pool that places a layoff bet shall inform the sports pool accepting the wager that the wager is being placed by a sports pool and shall disclose its identity.

(f) An operator or mobile sports wagering licensee may utilize global risk management pursuant to the approval of the commission.

(g) An operator or mobile sports wagering licensee shall not admit into the sports wagering lounge, or accept wagers from, any person whose name appears on the exclusion list.

(h) The holder of a license to operate a sports pool may contract with an entity to conduct that operation, in accordance with the regulations of the commission. That entity shall obtain a license as a casino vendor enterprise prior to the execution of any such contract, and such license shall be issued pursuant to the provisions of section one thousand three hundred twenty-seven of this article and in accordance with the regulations promulgated by the commission.

(i) If any provision of this article or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

3. (a) All persons employed directly in wagering-related activities conducted within a sports wagering lounge shall be licensed as a casino key employee or registered as a gaming employee, as determined by the commission. All other employees who are working in the sports wagering lounge may be required to be registered, if appropriate, in accordance with regulations of the commission.

(b) Each operator of a sports pool shall designate one or more casino key employees who shall be responsible for the operation of the sports pool. At least one such casino key employee shall be on the premises whenever sports wagering is conducted.

4. Except as otherwise provided by this article, the commission shall have the authority to regulate sports pools and the conduct of sports wagering under this article to the same extent that the commission regulates other gaming. No casino or mobile sports wagering licensee shall be authorized to operate a sports pool unless it has produced information, documentation, and assurances concerning its financial background and resources, including cash reserves, that are sufficient to demonstrate that it has the financial stability, integrity, and responsibility to operate a sports pool. In developing rules and regulations applicable to sports wagering, the commission shall examine the regulations implemented in other states where sports wagering is conducted and shall, as far as practicable, adopt a similar regulatory framework. The commission shall promulgate regulations necessary to carry out the provisions of this section, including, but not limited to, regulations governing the:

(a) amount of cash reserves to be maintained by casinos and mobile sports wagering licensees to cover winning wagers;

(b) acceptance of wagers on a series of sports events;

(c) maximum wagers which may be accepted by a casino or mobile sports wagering licensee from any one patron on any one sports event;

(d) type of wagering tickets which may be used;

(e) method of issuing tickets;

(f) method of accounting to be used by casinos and mobile sports wagering licensees;

(g) types of records which shall be kept;

(h) use of credit and checks by authorized sports bettors;

(i) the process by which a casino may place a layoff bet;

(j) the use of global risk management;

(k) type of system for wagering; and

(l) protections for a person placing a wager.

5. Each casino and mobile sports wagering licensee shall adopt comprehensive house rules governing sports wagering transactions with its authorized sports bettors. The rules shall specify the amounts to be paid on winning wagers and the effect of schedule changes. The house rules, together with any other information the commission deems

appropriate, shall be conspicuously displayed in the sports wagering lounge and included in the terms and conditions of the account wagering system, and copies shall be made readily available to authorized sports bettors. Mobile sports wagering operators shall develop and prominently display procedures on the main page of such mobile sports wagering operator's platform for the filing of complaints by authorized sports bettors against such mobile sports wagering operator. An initial response shall be given by such mobile sports wagering operator to such bettor filing the complaint within forty-eight hours. A complete response shall be given by such mobile sports wagering operator to such bettor filing the complaint within ten business days. An authorized sports bettor may file a complaint alleging a violation of the provisions of this article with the commission.

6. (a) Each casino and mobile sports wagering operator that offers sports wagering shall annually submit a report to the commission no later than the twenty-eighth of February of each year, which shall include the following information:

(i) the total amount of sports wagers received from authorized sports bettors;

(ii) the total amount of prizes awarded to authorized sports bettors;

(iii) the total amount of sports wagering gross revenue received by the casino or mobile sports wagering operator;

(iv) the total amount of wagers received on each sports governing body's sporting events;

(v) the number of accounts held by authorized sports bettors;

(vi) the total number of new accounts established in the preceding year, as well as the total number of accounts permanently closed in the preceding year;

(vii) the total number of authorized sports bettors that requested to exclude themselves in a prior year who participated in sports wagering; and

(viii) any additional information that the commission deems necessary to carry out the provisions of this article.

(b) The commission shall annually publish a report based on the aggregate information provided by all casinos and mobile sports wagering operators pursuant to paragraph (a) of this subdivision, which shall be published on the commission's website no later than one hundred eighty days after the deadline for the submission of individual reports as specified in such paragraph (a).

7. For the privilege of conducting sports wagering in the state, casinos shall pay a tax equivalent to ten percent of their sports wagering gross gaming revenue, excluding sports wagering gross gaming revenue attributed to mobile sports wagering offered pursuant to section thirteen hundred sixty-seven-a of this title. Platform providers shall pay a tax constituting a certain percentage of the sports wagering gross gaming revenue attributed to mobile sports wagering offered through such platform provider's platform pursuant to section thirteen hundred sixty-seven-a of this title; provided however, that such percentage shall be determined pursuant to a competitive bidding process conducted by the commission as outlined in subdivision seven of section thirteen hundred sixty-seven-a of this title; and provided further, that such percentage shall be no lower than twelve percent. When awarding a license pursuant to section thirteen hundred sixty-seven-a of this title, the commission may set graduated tax rates; provided however, that any such tax rates may not be lower than the minimum rate established in this subdivision.

8. Notwithstanding section thirteen hundred fifty-one of this article, mobile sports wagering gross gaming revenue and tax revenue shall be excluded from sports wagering gross gaming revenue and tax revenue. Mobile sports wagering tax revenue shall be separately maintained and returned to the state for deposit into the state lottery fund for education aid except as otherwise provided in this subdivision. Any interest and penalties imposed by the commission relating to those taxes, all penalties levied and collected by the commission, and the appropriate funds, cash or prizes forfeited from sports wagering shall be deposited into the state lottery fund for education. In fiscal year two thousand twenty-two, the commission shall pay into the commercial gaming fund one percent of the state tax imposed on mobile sports wagering by this section to be distributed for problem gambling education and treatment purposes pursuant to paragraph a of subdivision four of section ninety-seven-nnnn of the state finance law; provided

however, that such amount shall be equal to six million dollars for each fiscal year through fiscal year two thousand twenty-six and twelve million dollars for each fiscal year thereafter, provided that this amount may only be expended pursuant to a plan approved by the director of the budget. In fiscal year two thousand twenty-two, the commission shall pay one percent of the state tax imposed on mobile sports wagering by this section to the general fund, a program to be administered by the office of children and family services for a statewide youth sports activities and education grant program for the purpose of providing annual awards to sports programs for underserved youth under the age of eighteen years; provided however, that such amount shall be equal to five million dollars for each fiscal year thereafter. The commission shall require at least monthly deposits by a platform provider of any payments pursuant to subdivision seven of this section, at such times, under such conditions, and in such depositories as shall be prescribed by the state comptroller. The deposits shall be deposited to the credit of the state commercial gaming revenue fund. The commission shall require a monthly report and reconciliation statement to be filed with it on or before the tenth day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

9. The commission may perform audits of the books and records of a casino or mobile sports wagering licensee pursuant to section one hundred four of this chapter.

10. Nothing in this section shall apply to interactive fantasy sports offered pursuant to article fourteen of this chapter. Nothing in this section authorizes any entity that conducts interactive fantasy sports offered pursuant to article fourteen of this chapter to conduct sports wagering unless it separately qualifies for, and obtains, authorization pursuant to this section.

11. A sports governing body may notify the commission that it desires to restrict, limit, or exclude wagering on its sporting events by providing notice in the form and manner as the commission may require. Upon receiving such notice, the commission shall review the request in

good faith, seek input from the casinos or mobile sports wagering licensees on such a request, and if the commission deems it appropriate, promulgate regulations to restrict such sports wagering.

12. (a) When potential criminal activity is suspected by the commission, the commission shall designate the division of the state police to have primary responsibility for assisting the commission in conducting investigations into unusual wagering activity, match fixing, and other conduct that corrupts a wagering outcome of a sporting event or events.

(b) Casinos and mobile sports wagering licensees shall maintain records of sports wagering operations in accordance with regulations promulgated by the commission. These regulations shall, at a minimum, require a casino or mobile sports wagering operator to adopt procedures to obtain personally identifiable information from any individual who places any single wager in an amount of ten thousand dollars or greater or making a potential payout or actual payout of ten thousand dollars or greater on a winning wager.

(c) Casinos, mobile sports wagering licensees and sports governing bodies shall cooperate with the commission to ensure the timely, efficient, and accurate sharing of information.

(d) Casinos, mobile sports wagering licensees and sports governing bodies shall cooperate with investigations conducted by the commission or law enforcement agencies, including but not limited to providing or facilitating the provision of account-level wagering information and audio or video files relating to persons placing wagers; provided, however, that the casino and mobile sports wagering operator shall not be required to share any personally identifiable information of an authorized sports bettor with any sports governing body unless ordered to do so by the commission, a law enforcement agency or court of competent jurisdiction.

(e) (i) Casinos and mobile sports wagering licensees shall promptly report to the commission and any third party integrity monitoring provider approved by the commission, as applicable and in accordance with rules and regulations established by the commission, any information relating to:

(1) criminal or disciplinary proceedings commenced against the casino

or mobile sports wagering licensee in connection with its operations;

(2) unusual wagering activity or patterns that may indicate a concern with the integrity of a sporting event or events;

(3) any potential breach of the relevant sports governing body's internal rules and codes of conduct pertaining to sports wagering, as they have been provided by the sports governing body to the casino or the mobile sports wagering operator;

(4) any other conduct that corrupts a wagering outcome of a sporting event or events, including match fixing; and

(5) suspicious or illegal wagering activities, including use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, using agents to place wagers, using confidential non-public information, and using false identification.

(ii) The commission may share information relating to conduct described in clauses two, three and four of subparagraph (i) of this paragraph with the relevant sports governing body.

(iii) The commission shall be authorized to share any information under this section with any law enforcement entity, team, sports governing body, or regulatory agency the commission deems appropriate. Such sharing of information may include, but is not limited to, account level wagering information and any audio or video files related to the investigation.

(iv) A casino or mobile sports wagering licensee may be required to share any personally identifiable information of an authorized sports bettor with a sports governing body only pursuant to an order to do so by the commission, a law enforcement agency or a court of competent jurisdiction.

(f) The confidentiality of information shared between a sports governing body and a casino or a mobile sports wagering operator shall be maintained pursuant to all applicable data privacy laws, unless disclosure is required by this section, the commission, other law, or court order. Furthermore, the information shared between a sports governing body, a casino, a mobile sports wagering operator or any other party pursuant to this act may not be used for business or marketing purposes by the recipient without the express written approval of the party that provides such information.

(g) The commission, by regulation, may authorize and promulgate any rules necessary to implement agreements with other states, or authorized agencies thereof to enable the sharing of information to facilitate integrity monitoring and the conduct of investigations into abnormal wagering activity, match fixing, and other conduct that corrupts a wagering outcome of a sporting event or events.

(h) In the event of the creation of an entity that maintains an interstate database of sports wagering information for the purpose of integrity monitoring, the commission may share information and cooperate with such entity pursuant to regulations promulgated by the commission.

(i) Casinos and mobile sports wagering licensees shall adopt procedures to prevent persons from wagering on sports events who are prohibited from placing sports wagers. A casino or mobile sports wagering licensee shall not accept wagers from any person:

(i) whose name appears on the exclusion list maintained by the commission and provided to the casino or mobile sports wagering licensee;

(ii) whose name appears on any self-exclusion list maintained by the commission and provided to the casino or mobile sports wagering licensee;

(iii) who is the operator, director, officer, owner, or employee of the casino or mobile sports wagering licensee or any spouse, child, sibling or parent living in the same principal place of abode as such individual;

(iv) who has been identified as a prohibited sports bettor in a list provided by the sports governing body to the commission and casino or mobile sports wagering operator, that identifies the individual by such personally identifiable information as specified by rules and regulations promulgated by the commission; or

(v) who is an agent or proxy for a prohibited sports bettor.

(j) The commission shall establish a method of communication, which may include, but is not limited to a website form, that allows any person to confidentially report information about conduct potentially warranting further investigation to the commission. The identity of any person reporting conduct potentially warranting further investigation to the commission shall remain confidential unless that person authorizes disclosure of his or her identity or until such time as the allegation of conduct potentially warranting further investigation is referred to law enforcement. The commission shall promulgate rules governing the investigation and resolution of a charge of any person purported to have engaged in conduct potentially warranting further investigation.

13. The commission shall promulgate rules that require a casino or mobile sports wagering licensees to implement responsible gaming programs that include comprehensive employee trainings on responding to circumstances in which individuals present signs of a gambling addiction and requirements for casinos and mobile sports wagering licensees under section thirteen hundred sixty-seven-a of this title to assess, prevent, and address problem gaming by such casino's or mobile sports wagering licensee's users.

14. For purposes of wager determination, the commission shall provide a preference for the use of official league data unless the use of other objective wager determination criteria has been justified to the satisfaction of the commission.

15. The conduct of sports wagering in violation of this section is prohibited.

16. (a) In addition to any criminal penalties provided for under article two hundred twenty-five of the penal law, any person, firm, corporation, association, agent, or employee, who is not authorized to offer sports wagering under this section or section thirteen hundred sixty-seven-a of this title, and who knowingly offers or attempts to offer sports wagering or mobile sports wagering in New York shall be liable for a civil penalty of not more than one hundred thousand dollars for each violation, not to exceed five million dollars for violations arising out of the same transaction or occurrence, which shall accrue to the state and may be recovered in a civil action brought by the attorney general.

(b) Any person, firm, corporation, association, agent, or employee who knowingly violates any procedure implemented under this section, or section thirteen hundred sixty-seven-a of this title, shall be liable for a civil penalty as described in section one hundred sixteen of this chapter which shall accrue to the state and may be recovered in a civil action brought by the commission.

§ 1367-a. Mobile sports wagering. 1. (a) Except as provided in this subdivision, the terms in this section shall have the same meanings as such terms are defined in subdivision one of section thirteen hundred sixty-seven of this title.

(b) "Mobile sports wagering operator" for purposes of this section, means a mobile sports wagering operator as defined by section thirteen hundred sixty-seven of this title.

2. (a) No entity shall administer, manage, or otherwise make available a mobile sports wagering platform to persons located in New York state unless licensed with the commission pursuant to this section.

(b) Licenses issued by the commission shall remain in effect for up to ten years. The commission shall establish a process for renewal.

(c) The commission shall publish a list of all casinos and mobile sports wagering licensees licensed to offer mobile sports wagering in New York state pursuant to this section on the commission's website for public use.

(d) All sports wagers through electronic communication placed in accordance with this section are considered placed or otherwise made when and where received by the mobile sports wagering licensee on such mobile sports wagering licensee's server or other equipment used to accept mobile sports wagering at a licensed gaming facility, regardless of the authorized sports bettor's physical location within the state at the time the sports wager is placed; and provided further that the intermediate routing of electronic data in connection with mobile sports wagering shall not determine the location or locations in which a wager is initiated, received or otherwise made.

3. As a condition of licensure the commission shall require that each platform provider authorized to conduct mobile sports wagering pay a one-time fee of twenty-five million dollars. Such fee shall be paid within thirty days of gaming commission approval prior to license issuance and deposited into the state lottery fund for education aid.

4. (a) As a condition of licensure, each mobile sports wagering operator shall implement the following measures:

(i) limit each authorized sports bettor to one active account on their platform, and prevent anyone they know, or should have known to be a prohibited sports bettor from maintaining accounts or participating in any sports wagering offered by such mobile sports wagering operator;

(ii) adopt appropriate safeguards to ensure, to a reasonable degree of certainty, as defined by rules and regulations promulgated by the commission, that authorized sports bettors are physically located within the state when engaging in mobile sports wagering;

(iii) prohibit minors from participating in any sports wagering pursuant to rules and regulations promulgated by the commission;

(iv) when referencing the chances or likelihood of winning in advertisements or upon placement of a sports wager, make clear and conspicuous statements that are not inaccurate or misleading concerning the chances of winning and the number of winners;

(v) permit any authorized sports bettor to permanently close an account registered to such bettor, on any and all platforms supported by such mobile sports wagering operator, at any time and for any reason;

(vi) offer introductory procedures for authorized sports bettors, that shall be prominently displayed on the main page of such mobile sports wagering operator platform, that explain sports wagering;

(vii) implement measures to protect the privacy and online security of authorized sports bettors and their accounts;

(viii) offer all authorized sports bettors access to his or her account history and account details;

(ix) ensure authorized sports bettors' funds are protected upon deposit and segregated from the operating funds of such mobile sports wagering operator and otherwise protected from corporate insolvency, financial risk, or criminal or civil actions against such mobile sports wagering operator;

(x) list on each website, in a prominent place, information concerning assistance for compulsive play in New York state, including a toll-free number directing callers to reputable resources containing further information, which shall be free of charge;

(xi) ensure no sports wagering shall be based on a prohibited sports event;

(xii) permit account holders to establish self-exclusion gaming limits on a daily, weekly, and monthly basis that enable the account holder to identify the maximum amount of money an account holder may deposit during such period of time;

(xiii) when an account holder's lifetime deposits exceed two thousand five hundred dollars, the mobile sports wagering operator shall prevent any wagering until the patron immediately acknowledges that the account holder has met the deposit threshold and may elect to establish responsible gaming limits or close the account, and the account holder has received disclosures from the mobile sports wagering operator concerning problem gambling resources. Once a patron has reached their lifetime deposit, such patron shall annually make the acknowledgement required by this paragraph;

(xiv) maintain a publicly accessible internet page dedicated to responsible play, a link to which must appear on the mobile sports wagering operator's website and in any mobile application or electronic platform on which a bettor may place wagers. The responsible play page shall include: a statement of the mobile sports wagering operator's policy and commitment to responsible gaming; information regarding, or links to information regarding, the risks associated with gambling and the potential signs of problem gaming; the availability of self-imposed responsible gaming limits; a link to a problem gaming webpage maintained by the office of addiction services and supports; and such other information or statements as the commission may require by rule; and

(xv) submit annually a problem gaming plan that was approved by the commission in consultation with the office of addiction services and supports that includes: the objectives of and timetables for implementing the plan; identification of the persons responsible for implementing and maintaining the plan; procedures for identifying users with suspected or known problem gaming behavior; procedures for providing information to users concerning problem gaming identification and resources; procedures to prevent gaming by minors and self-excluded persons; and such other problem gaming information as the commission may require by rule.

(b) No entity shall directly or indirectly operate an unlicensed sports wagering platform in the state of New York, or advertise or promote such unlicensed platform to persons located in the state of New

York.

(c) Mobile sports wagering licensees shall not offer any sports wagering based on any prohibited sports event.

(d) Mobile sports wagering licensees shall not permit sports wagering by anyone they know, or should have known, to be a prohibited sports bettor.

(e) Advertisements for contests and prizes offered by a mobile sports wagering operator shall not target prohibited sports bettors, minors, or self-excluded persons.

(f) Mobile sports wagering operators shall develop and prominently display procedures on the main page of such mobile sports wagering operator's platform for the filing of a complaint by an authorized sports bettor against such mobile sports wagering operator. An initial response shall be given by such mobile sports wagering operator to such bettor filing the complaint within forty-eight hours. A complete response shall be given by such mobile sports wagering operator to such bettor filing the complaint within ten business days. An authorized sports bettor may file a complaint alleging a violation of the provisions of this article with the commission.

(g) Mobile sports wagering licensees shall maintain records of all accounts belonging to authorized sports bettors and retain such records of all transactions in such accounts for the preceding five years; provided however that such records belonging to an authorized sports bettor shall be readily accessible and downloadable, without cost, by such authorized sports bettor.

(h) The server or other equipment which is used by a mobile sports wagering licensee to accept mobile sports wagering shall be physically located in the licensed gaming facility and be limited to sports wagering related activities in accordance with regulations promulgated by the commission.

(i) All mobile sports wagering initiated in this state shall be deemed to take place at the licensed gaming facility where the server or other equipment used by a mobile sports wagering licensee to accept mobile sports wagering is located, regardless of the authorized sports bettor's physical location within this state.

(j) All mobile sports wagering shall be conducted in compliance with this section and section thirteen hundred sixty-seven of this title.

5. (a) Subject to regulations promulgated by the commission, a mobile sports wagering operator may allow for authorized bettors to sign up to create and fund accounts on its mobile sports wagering platform.

(b) Authorized sports bettors may deposit and withdraw funds to and from their account on a mobile sports wagering operator through electronically recognized payment methods, including but not limited to credit cards and debit cards, or via any other means approved by the commission; provided however, that in the case of credit card payments, each authorized sports bettor's account per operator shall be limited to a credit card spending amount of two thousand five hundred dollars per year; and provided further, that this limitation shall not apply to other payment methods or to debit cards. No operator shall be authorized to provide a line of credit to any authorized sports bettor.

6. The commission, in conjunction with the office of addiction services and supports, shall annually cause a report to be prepared and distributed to the governor and the legislature on the impact of mobile sports wagering on problem gamblers in New York, including, to the extent practicable, an analysis of demographics which are disproportionately impacted by the problem gambling. The costs associated with the preparation and distribution of the report shall be borne by mobile sports wagering licensees and the commission shall be authorized to assess a fee against mobile sports wagering licensees for these purposes. The commission, or in the case that an independent integrity monitor has been established, such independent integrity monitor shall also report biannually to the governor and the legislature on the effectiveness of the statutory and regulatory controls in place to ensure the integrity of mobile sports wagering operations.

7. A platform provider may be licensed by the commission only after having been selected for potential licensure by the commission following a competitive bidding process in which the commission shall issue a request for applications no later than July first, two thousand twenty-one; provided however, that the deadline for submission of applications shall be no later than thirty days after the date upon which the commission issues such request for applications.

(a) The commission shall select platform providers based upon the criteria set forth in this section no later than one hundred fifty days, to the extent practicable, after the final application is received. The commission may disqualify applicants from licensure consideration if the applicant or the mobile sports wagering operator or operators included in their bid have not satisfied provision of required application information, fail to meet any platform provider and mobile sports wagering operator eligibility criteria established pursuant to the request for applications, or are deemed by the commission to have not satisfied the criteria pursuant to subdivision five of this section.

(a-1) The commission shall publish on its website the criteria that will be used to score applications based upon the criteria set forth in paragraph (c) of this subdivision; provided however, that such scoring methodology shall award additional points to an applicant that has entered into an agreement that includes revenue sharing related to such mobile sports wagering with compacted Native American tribe(s) or nation(s).

(b) The commission shall determine the form of application for bidders, which shall require, at a minimum, the following information:

(i) Different scenarios for the number of platform providers and number of mobile sports wagering operators licensed by the commission. For each scenario, this shall include estimates of mobile sports wagering gross gaming revenue and the bases for such estimates, the percentage of gross revenue from mobile sports wagering the applicant will pay to the state for the privilege of licensure if chosen, and the percentage of overall mobile sports wagering gross gaming revenue estimated to be generated;

(ii) The number of mobile sports wagering operators the applicant will host on its mobile sports wagering platform, if the applicant is licensed as a platform provider;

(iii) A description of how the applicant will use technology to ensure all bettors are physically within approved locations within the state, that any wager is accepted through equipment physically located at a licensed gaming facility and that necessary safeguards against abuses and addictions are in place;

(iv) The applicant and any associated operators such applicant proposes in its application possess the qualifications, capabilities and experience to provide a mobile sports wagering platform;

(v) A list of all jurisdictions where the applicant and parent company, and mobile sports wagering operator or operators and parent company or companies have been licensed or otherwise authorized by contract or otherwise to conduct sports wagering operations. This shall include the applicant and its mobile sports wagering operator or operators' experience in such other markets;

(vi) Player acquisition model, advertising and affiliate programs and marketing budget, including details on how the applicant and its mobile sports wagering operator or operators will convert customers from wagering through illegal channels to wagering legally in the state;

(vii) Timeframe to implement mobile sports wagering from award of license;

(viii) The applicant and mobile sports wagering operator or operators' capacity to bring authorized sports bettors into their mobile sports wagering platform; and

(ix) Integrity monitoring and reporting including any current affiliations related to integrity monitoring.

(c) In determining whether an applicant shall be eligible for a platform provider license, the commission shall evaluate how each applicant proposes to maximize sustainable, long-term revenue for the state by evaluating the following factors:

(i) A market analysis detailing the benefits of the applicant's bid as it relates to maximizing revenue to the state;

(ii) Estimates of mobile sports wagering gross gaming revenue generated by the applicant under different scenarios;

(iii) The percentage of mobile sports wagering gross gaming revenue to be paid to the state under different scenarios;

(iv) The potential market share of the mobile sports wagering operator or operators under different scenarios;

(v) Advertising and promotional plans of the mobile sports wagering operator or operators;

(vi) Past experience and expertise in the market of the applicant and any mobile sports wagering operator or operators which are part of such applicant's application;

(vii) The applicant's capacity to rapidly and effectively bring authorized sports bettors into its platform;

(viii) A demonstration of how and to what degree the applicant fosters racial, ethnic, and gender diversity in its workforce;

(ix) Timeframe to implement mobile sports wagering from award of license;

(x) Any other factors that could impact the integrity, sustainability or safety of the mobile sports wagering system; and

(xi) Any other factors that could impact revenue to the state.

(d) The commission shall award a license to each of the two highest scoring platform providers that submit applications; provided however, that such awards shall require that both winning platform providers pay the same tax rate; and provided further, that the commission shall require that no less than four mobile sports wagering operators will be operating in the state. The commission may award additional licenses if it determines that such additional awards are in the best interests of the state; provided however, that any additional platform providers awarded licenses must also agree to pay the same tax rate as those platform providers that were initially awarded licenses by the commission. The award of any such license shall require each applicant to remit the highest percentage of gross gaming revenue from mobile sports wagering contained in an applicant's bid selected by the commission considered for licensure. A qualified applicant shall be afforded the ability to revise its bid in any such manner in order for such bid to meet the percentage of gross gaming revenue from mobile sports wagering as required by the commission for license award, provided that the bid does not incorporate any additional operators not already included in the bid; and provided however that it is not determined by the commission that the revised bid no longer meets all requirements and criteria established pursuant to this section and the request for applications. Any applicant that does not revise its bid to meet the percentage of gross gaming revenue from mobile sports wagering required by the commission for license award shall not be awarded a license.

ARTICLE 14

INTERACTIVE FANTASY SPORTS

Section 1400. Legislative findings and purpose.

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§ 1400. Legislative findings and purpose. 1. The legislature hereby finds and declares that:

(a) Interactive fantasy sports are not games of chance because they consist of fantasy or simulation sports games or contests in which the fantasy or simulation sports teams are selected based upon the skill and knowledge of the participants and not based on the current membership of an actual team that is a member of an amateur or professional sports organization;

(b) Interactive fantasy sports contests are not wagers on future contingent events not under the contestants' control or influence because contestants have control over which players they choose and the outcome of each contest is not dependent upon the performance of any one player or any one actual team. The outcome of any fantasy sports contest does not correspond to the outcome of any one sporting event. Instead, the outcome depends on how the performances of participants' fantasy roster choices compare to the performance of others' roster choices.

2. Based on the findings in subdivision one of this section, the legislature declares that interactive fantasy sports do not constitute gambling in New York state as defined in article two hundred twenty-five of the penal law.

3. The legislature further finds that as the internet has become an

integral part of society, and interactive fantasy sports a major form of entertainment for many consumers, any interactive fantasy sports enforcement and regulatory structure must begin from the bedrock premise that participation in a lawful and licensed interactive fantasy sports industry is a privilege and not a right, and that regulatory oversight is intended to safeguard the integrity of the games and participants and to ensure accountability and the public trust.

§ 1401. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Authorized player" shall mean an individual located in New York state, who is not a prohibited player, that participates in an interactive fantasy sports contest offered by a registrant.

2. "Collegiate sport or athletic event" shall mean a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers education services beyond the secondary level.

3. "Commission" shall mean the New York state gaming commission.

4. "Entry fee" shall mean cash or cash equivalent that is paid by an authorized player to an operator or registrant to participate in an interactive fantasy sports contest offered by such operator or registrant.

5. "High school sport or athletic event" shall mean a sport or athletic event offered or sponsored by or played in connection with a public or private institution that offers education services at the secondary level.

6. "Highly experienced player" shall mean an authorized player who has:
(a) entered more than one thousand contests offered by a single operator or registrant; or

(b) won more than three prizes valued at one thousand dollars each or more from a single operator or registrant.

7. "Horse racing event" shall mean any sport or athletic event conducted in New York state subject to the provisions of articles two, three, four, five, six, nine, ten and eleven of this chapter, or any sport or athletic event conducted outside of New York state, which if conducted in New York state would be subject to the provisions of this chapter.

8. "Interactive fantasy sports contest" or "contest" shall mean a game of skill wherein one or more contestants compete against each other by using their knowledge and understanding of athletic events and athletes to select and manage rosters of simulated players whose performance directly corresponds with the actual performance of human competitors on sports teams and in sports events.

9. "Interactive fantasy sports gross revenue" shall mean the amount equal to the total of all entry fees not attributable to New York state prohibited sports events that a registrant collects from all players, less the total of all sums not attributable to New York state prohibited sports events paid out as winnings to all players, multiplied by the resident percentage for New York state; provided, however, that the total of all sums paid out as winnings to players shall not include the cash equivalent value of any merchandise or thing of value awarded as a prize.

10. "Interactive fantasy sports operator" or "operator" shall mean any person or entity that offers any interactive fantasy sports contest to any authorized player through any interactive fantasy sports platform.

11. "Interactive fantasy sports platform" or "platform" shall mean the combination of hardware, software, and data networks used to manage, administer, or control contests and any associated entry fees.

12. "Interactive fantasy sports registrant" or "registrant" shall mean an operator that is registered by the commission. A registrant may

utilize multiple interactive fantasy sports platforms and offer multiple contests, provided that each platform and each contest has been reviewed and approved by the commission.

13. "Minor" shall mean any person under the age of eighteen years.

14. "Prohibited player" shall mean:
(a) any member, officer, employee or agent of an operator or registrant;
(b) any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any member, officer, employee or agent of an operator or registrant;
(c) any individual with access to non-public confidential information about contests;
(d) any amateur or professional athlete whose performance may be used to determine the outcome of a contest;
(e) any sports agent, team employee, referee, or league official associated with any sport or athletic event on which contests are based;
(f) any individual located in a state where the conduct of contests is expressly prohibited; or
(g) any minor.

15. "Prohibited sports event" shall mean any collegiate sport or athletic event, any high school sport or athletic event or any horse racing event.

16. "Resident percentage" shall mean, for each interactive fantasy sports contest, the percentage, rounded to the nearest tenth of a percent, of the total entry fees collected from players located in New York state, divided by the total entry fees collected from all players in interactive fantasy sports contests not prohibited in New York state.

17. "Sports event" shall mean any amateur or professional sport or athletic event, except a prohibited sports event.

§ 1402. Registration. 1. (a) No operator shall administer, manage, or otherwise make available an interactive fantasy sports platform to persons located in New York state unless registered with the commission pursuant to section fourteen hundred three of this article. A registrant may use multiple interactive fantasy sports platforms and offer multiple types of contests, provided that each platform and each type of contest has been reviewed and approved by the commission. This article, and any and all rules and regulations adopted under the authority of this article, shall apply only to interactive fantasy sports contests for which an authorized player pays an entry fee.

(b) Any operator that was offering contests to persons located in New York state prior to the tenth of November, two thousand fifteen, may continue to offer contests to persons located in New York state until such operator's application for registration has been approved or denied in accordance with section fourteen hundred three of this article, provided that such operator receives a temporary permit pursuant to subdivision two of this section and files an application for registration with the commission within ninety days of the promulgation of regulations to effectuate this article.

2. The commission shall provide a temporary permit to each operator that was offering contests pursuant to paragraph (b) of subdivision one of this section to allow such operator to continue to offer such contests, on a provisional basis, until such operator's application for registration has been approved or denied in accordance with section fourteen hundred three of this article, provided that such operator meets all the requirements in section fourteen hundred four of this article.

3. Registrations issued by the commission shall remain in effect for three years. The commission shall establish a process for renewal.

4. Interactive fantasy sports contests offered by a registrant in accordance with the provisions of this article shall not constitute gambling as defined in article two hundred twenty-five of the penal law.

5. The commission shall publish a list of all operators registered in New York state pursuant to this section on the commission's website for

public use.

6. The commission shall promulgate regulations to implement the provisions of this article, including the development of the initial form of the application for registration. Such regulations shall provide for the registration and operation of contests in New York state and shall include, but not be limited to, responsible protections with regard to compulsive play and safeguards for fair play.

§ 1403. Scope of registration review. 1. The commission shall prescribe the initial form of the application for registration which shall require, but not be limited to:

(a) the full name and principal address of the operator;

(b) if a corporation, the name of the state in which incorporated and the full names and addresses of any partner, officer, director, shareholder holding ten percent or more equity, and ultimate equitable owners;

(c) if a business entity other than a corporation, the full names and addresses of the principals, partners, shareholders holding five percent or more equity, and ultimate equitable owners;

(d) whether such corporation or entity files information and reports with the United States Securities and Exchange Commission as required by section thirteen of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a-78kk; or whether the securities of the corporation or entity are regularly traded on an established securities market in the United States;

(e) the type and estimated number of contests to be conducted annually;

(f) a statement of the assets and liabilities of the operator.

2. The commission may require the full names and addresses of the officers and directors of any creditor of the operator, and of those stockholders who hold more than ten percent of the stock of the creditor.

3. Upon receipt of an application for registration for each individual

listed on such application as an officer or director, the commission shall submit to the division of criminal justice services a set of fingerprints, and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. Upon receipt of the fingerprints, the division of criminal justice services shall promptly forward a set of the individual's fingerprints to the federal bureau of investigation for the purpose of a nationwide criminal history record check to determine whether such individual has been convicted of a criminal offense in any state other than New York or in a federal jurisdiction. The division of criminal justice services shall promptly provide the requested criminal history information to the commission. For the purposes of this section, the term "criminal history information" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. All such criminal history information sent to the commission pursuant to this subdivision shall be confidential and shall not be published or in any way disclosed to persons other than the commission, unless otherwise authorized by law.

4. Upon receipt of criminal history information pursuant to subdivision three of this section, the commission shall make a determination to approve or deny an application for registration; provided, however, that before making a determination on such application, the commission shall provide the subject of the record with a copy of such criminal history information and a copy of article twenty-three-A of the correction law and inform such prospective applicant seeking to be credentialed of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to the regulations and procedures established by the division of criminal justice services. The commission shall deny any application for registration, or suspend, refuse to renew, or revoke any existing registration issued pursuant to this article, upon the finding that the operator or registrant, or any partner, officer, director, or shareholder:

(a) has knowingly made a false statement of material fact or has deliberately failed to disclose any information required by the commission;

(b) has had a registration or license to offer or conduct contests denied, suspended, or revoked in any other state or country for just cause;

(c) has legally defaulted in the payment of any obligation or debt due to any state or political subdivision; or

(d) has at any time knowingly failed to comply with any requirement outlined in section fourteen hundred four of this article, any other provision of this article, any regulations promulgated by the commission or any additional requirements of the commission.

5. All determinations to approve or deny an application pursuant to this article shall be performed in a manner consistent with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law. When the commission denies an application, the operator shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with the regulations of the commission.

§ 1404. Required safeguards, minimum standards. 1. As a condition of registration in New York state, each operator and registrant shall implement the following measures:

(a) limit each authorized player to one active and continuously used account, and prevent prohibited players from maintaining accounts or participating in any contest offered by such operator or registrant;

(b) prohibit minors from participating in any contest, which includes:

(i) if a registrant becomes or is made aware that a minor has participated in one of its contests, such registrant shall promptly, within no more than two business days, refund any deposit received from the minor, whether or not the minor has engaged in or attempted to engage in a contest; provided, however, that any refund may be offset by any prizes already awarded;

(ii) each registrant shall publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any contest or platform. Such procedures shall include a toll-free number to call for help in establishing such parental controls; and

(iii) each registrant shall take appropriate steps to confirm that an individual opening an account is not a minor.

(c) when referencing the chances or likelihood of winning in advertisements or upon contest entry, make clear and conspicuous statements that are not inaccurate or misleading concerning the chances of winning and the number of winners;

(d) enable authorized players to exclude themselves from contests and take reasonable steps to prevent such players from entering a contest from which they have excluded themselves;

(e) permit any authorized player to permanently close an account registered to such player, on any and all platforms supported by such operator or registrant, at any time and for any reason;

(f) offer introductory procedures for authorized players, that shall be prominently displayed on the main page of such operator or registrant's platform, that explain contest play and how to identify a highly experienced player;

(g) identify all highly experienced players in any contest by a symbol attached to such players' usernames, or by other easily visible means, on all platforms supported by such operator or registrant;

(h) disclose the number of entries a single authorized player may submit to each contest;

(i) disclose the maximum number of total entries allowed for each contest;

(j) implement measures to protect the privacy and online security of authorized players and their accounts;

(k) offer all authorized players access to his or her account history and account details;

(l) ensure authorized players' funds are protected upon deposit and segregated from the operating funds of such operator or registrant and otherwise protected from corporate insolvency, financial risk, or criminal or civil actions against such operator or registrant;

(m) list on each website, in a prominent place, information concerning assistance for compulsive play in New York state, including a toll-free number directing callers to reputable resources containing further information, which shall be free of charge;

(n) ensure the value of any prizes and awards offered to authorized players shall be established and made known to such players in advance of the contest, and such value shall not be determined by the number of authorized players or the amount of any entry fees paid by such players;

(o) ensure all winning outcomes reflect the relative knowledge and skill of the authorized players and shall be determined predominantly by accumulated statistical results of the performance of individuals in sports events;

(p) ensure no winning outcome shall be based on the score, point spread, or performance of a single sports team, or any combination of such teams;

(q) ensure no winning outcome shall be based solely on any single performance of an individual athlete in a single sport or athletic event; and

(r) ensure no game or contest shall be based on a prohibited sports event.

2. Each registrant shall restrict the number of entries submitted by a single authorized player for any contest to a maximum of one hundred fifty entries per player per contest, or a maximum of three percent of the total number of entries by all players for any contest, whichever is less, or as determined by the commission. Registrants shall take reasonable steps to prevent authorized players from submitting more than the allowable number of entries per contest. The commission shall promulgate regulations to further effectuate this subdivision to ensure that the number of entries submitted by a single authorized player for any contest will lead to a fair and equitable distribution of number of entries.

3. (a) Operators shall not directly or indirectly operate, promote, or advertise any platform or contest to persons located in New York state unless registered pursuant to this article.

(b) Unless otherwise approved by regulation of the commission, operators and registrants shall not directly or indirectly promote or advertise any online fantasy or simulation sports games or contests with an entry fee during the conduct of any online fantasy or simulation sports games or contests without an entry fee. This paragraph shall not apply to any operator or registrant that prohibits prohibited players from participating in online fantasy or simulation sports games or contests without an entry fee.

4. Registrants shall not offer any contest based on any prohibited sports event.

5. Registrants shall not permit any minor or prohibited participant to enter any contest.

6. Advertisements for contests and prizes offered by a registrant shall not target prohibited participants, minors, or self-excluded persons. Representations or implications about average winnings from contests shall not be unfair or misleading. Such representations shall include, at a minimum:

(a) the median and mean net winnings of all authorized players participating in contests offered by such registrant; and

(b) the percentage of winnings awarded by the registrant to highly experienced players participating in contests offered by such registrant within the preceding calendar year.

7. Registrants shall prohibit the use of third-party scripts or scripting programs for any contest and ensure that measures are in place to deter, detect and, to the extent reasonably possible, prevent cheating, including collusion, and the use of cheating devices, including use of software programs that submit entry fees or adjust the athletes selected by an authorized player.

8. Operators and registrants shall develop and prominently display procedures on the main page of such operator's or registrant's platform for the filing of a complaint by the authorized player against such registrant. An initial response shall be given by such registrant to such player filing the complaint within forty-eight hours. A complete response shall be given by such registrant to such player filing the complaint within ten business days. An authorized player may file a complaint alleging a violation of the provisions of this article with the commission.

9. Registrants shall maintain records of all accounts belonging to authorized players and retain such records for five years from the date an account was created.

§ 1405. Powers and duties of the commission. 1. The commission shall promulgate regulations to implement the provisions of and effectuate the policy and objectives of this article as the commission may deem necessary or advisable, including the development of the initial form of the application for registration. Such regulations shall provide for the registration and operation of contests in New York state and shall include, without limitation, responsible protections with regard to compulsive play and safeguards for fair play. Such regulations may regulate the conduct and operation of contests and platforms, protect contestants and promote the fairness, honesty and integrity of contests.

2. The commission shall have the following powers and duties for purposes of administering, regulating, and enforcing the provisions of this article:

(a) all powers and duties assigned by this article, as well as all powers necessary and proper to fully and effectively execute this article;

(b) to approve and deny applications for registration to conduct contests in New York state, and to suspend, refuse or renew, or revoke any registration issued to a registrant under this article;

(c) to review and approve each platform and each contest offered by an operator or registrant;

(d) to accept and investigate complaints of any kind from an authorized player and attempt to mediate such complaints where appropriate;

(e) to investigate alleged violations of this article;

(f) to initiate proper enforcement proceedings where such action is deemed by the commission to be necessary or appropriate; and

(g) all powers and duties assigned by this chapter.

§ 1406. Annual report. 1. Each registrant shall annually submit a report to the commission no later than the thirtieth of June of each year, which shall include the following information as it shall apply to accounts held by authorized players located in New York state:

(a) the number of accounts held by authorized players on all platforms offered by the registrant, and the number of accounts held by highly experienced players on all platforms offered by the registrant;

(b) the total number of new accounts established in the preceding year, as well as the total number of accounts permanently closed in the preceding year;

(c) the total amount of entry fees received from authorized players;

(d) the total amount of prizes awarded to authorized players;

(e) the total amount of interactive fantasy sports revenue received by the registrant;

(f) the total number of authorized players that requested to exclude themselves from contests;

(g) any additional information that the commission deems necessary to carry out the provisions of this article.

2. Upon the submission of such annual report, to such extent that the commission deems it to be in the public interest, the commission shall be authorized to conduct a financial audit of any registrant, at any time, to ensure compliance with this article.

3. The commission shall annually publish a report based on the aggregate information provided by all registrants pursuant to subdivision one of this section, which shall be published on the commission's website no later than one hundred eighty days after the deadline for the submission of individual reports as specified in subdivision one of this section.

§ 1407. State tax. For the privilege of conducting interactive fantasy sports contests in the state, registrants shall pay a tax equivalent to fifteen percent of their interactive fantasy sports gross revenue generated within the state; in addition, registrants shall pay a tax equal to one-half of one percent, but not to exceed fifty thousand dollars annually.

§ 1408. Additional regulatory costs. The commission may assess annually, in arrears, on each registrant proportional to the interactive fantasy sports gross revenue of such registrant in the preceding year compared to the aggregate interactive fantasy sports gross revenue of all registrants in the preceding year actual costs necessary to regulate in accordance with the provisions of this article. Such assessments shall be made only within amounts appropriated therefor.

§ 1409. Disposition of taxes. 1. The commission shall pay into the state lottery fund all taxes imposed by this article; any interest and penalties imposed by the commission relating to those taxes; all penalties levied and collected by the commission; and the appropriate funds, cash or prizes forfeited from interactive fantasy sports.

2. The commission shall require at least monthly deposits by the interactive fantasy sports operator of any payments pursuant to section fourteen hundred seven of this article, at such times, under such conditions, and in such depositories as shall be prescribed by the state comptroller. The deposits shall be deposited to the credit of the state lottery fund. The commission shall require a monthly report and reconciliation statement to be filed with it on or before the tenth day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.

§ 1410. Determination of tax liability. The commission may perform audits of the books and records of an interactive fantasy sports operator with a permit or registrant, at such times and intervals as it deems appropriate, for the purpose of determining the sufficiency of tax payments. If a return required with regard to obligations imposed is not filed, or if a return when filed or is determined by the commission to be incorrect or insufficient with or without an audit, the amount of tax due shall be determined by the commission. Notice of such determination shall be given to the interactive fantasy sports operator liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty days after receiving notice of such determination, shall apply to the commission for a hearing in accordance with the regulations of the commission.

§ 1411. Contests authorized. Interactive fantasy sports contests registered and conducted pursuant to the provisions of this chapter are hereby authorized.

§ 1412. Contests prohibited. The conduct of unregistered interactive fantasy sports contests is prohibited.