

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2011



ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 2959

(By Delegates Doyle, Swartzmiller, Guthrie
and Morgan)



Passed March 12, 2011

In Effect Ninety Days From Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2959

(BY DELEGATES DOYLE, SWARTZMILLER, GUTHRIE AND
MORGAN)

[Passed March 12, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §19-23-13b of the Code of West Virginia, 1931, as amended, relating to providing additional funds to the West Virginia Racing Commission for its Administration and Promotion Account.

Be it enacted by the Legislature of West Virginia:

That §19-23-13b of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 23. HORSE AND DOG RACING.

§19-23-13b. West Virginia Thoroughbred Development Fund; distribution; restricted races; nonrestricted purse supplements; preference for West Virginia accredited thoroughbreds.

1 (a) The Racing Commission shall deposit moneys
2 required to be withheld by an association or licensee in
3 subsection (b), section nine of this article in a banking
4 institution of its choice in a special account to be known as
5 “West Virginia Racing Commission Special Account -- West
6 Virginia Thoroughbred Development Fund”: *Provided*, That
7 after the West Virginia Lottery Commission has divided
8 moneys between the West Virginia Thoroughbred
9 Development Fund and the West Virginia Greyhound
10 Breeding Development Fund pursuant to the provisions of
11 sections ten and ten-b, article twenty-two-a, chapter
12 twenty-nine of this code, the Racing Commission shall,
13 beginning October 1, 2005, deposit the remaining moneys
14 required to be withheld from an association or licensee
15 designated to the Thoroughbred Development Fund under the
16 provisions of subsection (b), section nine of this article,
17 subdivision (3), subsection (e), section twelve-b of this
18 article, subsection (b), section twelve-c of this article,
19 paragraph (B), subdivision (3), subsection (b), section
20 thirteen-c of this article and sections ten and ten-b, article
21 twenty-two-a, chapter twenty-nine of this code into accounts
22 for each thoroughbred racetrack licensee with a banking
23 institution of its choice with a separate account for each
24 association or licensee. Each separate account shall be a
25 special account to be known as “West Virginia Racing
26 Commission Special Account -- West Virginia Thoroughbred
27 Development Fund” and shall name the licensee for which
28 the special account has been established: *Provided, however*,
29 That the Racing Commission shall deposit all moneys paid
30 into the Thoroughbred Development Fund by a thoroughbred
31 racetrack licensee that did not participate in the

32 Thoroughbred Development Fund for at least four
33 consecutive calendar years prior to December 31, 1992 from
34 July 8, 2005 until the effective date of the amendment to this
35 section passed during the fourth extraordinary session of the
36 seventy-seventh Legislature shall be paid into the purse fund
37 of that thoroughbred racetrack licensee: *Provided further,*
38 That the moneys paid into the Thoroughbred Development
39 Fund by a thoroughbred racetrack licensee that did not
40 participate in the Thoroughbred Development Fund for at
41 least four consecutive calendar years prior to December 31,
42 1992, shall be transferred into that licensee's purse fund until
43 April 1, 2006. Notice of the amount, date and place of the
44 deposits shall be given by the Racing Commission, in
45 writing, to the state Treasurer. The purpose of the funds is to
46 promote better breeding and racing of thoroughbred horses in
47 the state through awards and purses for accredited
48 breeders/raisers, sire owners and thoroughbred race horse
49 owners: *Provided,* That five percent of the deposits required
50 to be withheld by an association or licensee in subsection (b),
51 section nine of this article shall be placed in a special revenue
52 account hereby continued in the state Treasury called the
53 "Administration and Promotion Account": *Provided,*
54 *however,* That four and one-half percent of the deposits into
55 the Thoroughbred Development Fund shall be placed in the
56 Administration and Promotion Account, except that of this
57 percentage, no more than \$305,000 shall be placed in the
58 account in any year.

59 (b) The Racing Commission is authorized to expend the
60 moneys deposited in the Administration and Promotion
61 Account at times and in amounts as the Commission
62 determines to be necessary for purposes of administering and
63 promoting the thoroughbred development program: *Provided,*
64 That during any fiscal year in which the Commission
65 anticipates spending any money from the account, the
66 Commission shall submit to the executive department during

67 the budget preparation period prior to the Legislature
68 convening before that fiscal year for inclusion in the
69 executive budget document and budget bill the recommended
70 expenditures, as well as requests of appropriations for the
71 purpose of administration and promotion of the program.
72 The Commission shall make an annual report to the
73 Legislature on the status of the Administration and Promotion
74 Account, including the previous year's expenditures and
75 projected expenditures for the next year.

76 (c) The fund or funds and the account or accounts
77 established in subsection (a) of this section shall operate on
78 an annual basis.

79 (d) Funds in the Thoroughbred Development Fund or
80 funds in the separate accounts for each association or licensee
81 as provided in subsection (a) of this section shall be expended
82 for awards and purses except as otherwise provided in this
83 section. Annually, the first \$800,000 shall be available for
84 distribution for a minimum of fourteen accredited stakes
85 races at a racetrack which has participated in the West
86 Virginia Thoroughbred Development Fund for a period of
87 more than four consecutive calendar years prior to December
88 31, 1992. The weights for all accredited stakes races shall be
89 weight for age. One of the stakes races shall be the West
90 Virginia Futurity and the second shall be the Frank Gall
91 Memorial Stakes. For the purpose of participating in the
92 West Virginia Futurity only, all mares, starting with the
93 breeding season beginning February 1 through July 31, 2004,
94 and each successive breeding season thereafter shall be bred
95 back that year to an accredited West Virginia stallion only
96 which is registered with the West Virginia Thoroughbred
97 Breeders Association. The accredited stake races shall be
98 chosen by the committee set forth in subsection (f) of this
99 section.

100 (e) Awards and purses shall be distributed as follows:

101 (1) The breeders/raisers of accredited thoroughbred
102 horses that earn a purse at a participating West Virginia meet
103 shall receive a bonus award calculated at the end of the year
104 as a percentage of the fund dedicated to the breeders/raisers,
105 which shall be sixty percent of the fund available for
106 distribution in any one year. The total amount available for
107 the breeders'/raisers' awards shall be distributed according to
108 the ratio of purses earned by an accredited race horse to the
109 total amount earned in the participating races by all
110 accredited race horses for that year as a percentage of the
111 fund dedicated to the breeders/raisers. However, no
112 breeder/raiser may receive from the fund dedicated to
113 breeders'/raisers' awards an amount in excess of the earnings
114 of the accredited horse at West Virginia meets. In addition,
115 should a horse's breeder and raiser qualify for the same
116 award on the same horse, they will each be awarded one half
117 of the proceeds. The bonus referred to in this subdivision
118 may only be paid on the first \$100,000 of any purse and not
119 on any amounts in excess of the first \$100,000.

120 (2) The owner of an accredited West Virginia sire of an
121 accredited thoroughbred horse that earns a purse in any race
122 at a participating West Virginia meet shall receive a bonus
123 award calculated at the end of the year as a percentage of the
124 fund dedicated to sire owners, which shall be fifteen percent
125 of the fund available for distribution in any one year. The
126 total amount available for the sire owners' awards shall be
127 distributed according to the ratio of purses earned by the
128 progeny of accredited West Virginia stallions in the
129 participating races for a particular stallion to the total purses
130 earned by the progeny of all accredited West Virginia
131 stallions in the participating races. However, no sire owner
132 may receive from the fund dedicated to sire owners an
133 amount in excess of thirty-five percent of the accredited

134 earnings for each sire. The bonus referred to in this
135 subdivision shall only be paid on the first \$100,000 of any
136 purse and not on any amounts in excess of the first \$100,000.

137 (3) The owner of an accredited thoroughbred horse that
138 earns a purse in any participating race at a West Virginia
139 meet shall receive a restricted purse supplement award
140 calculated at the end of the year, which shall be twenty-five
141 percent of the fund available for distribution in any one year,
142 based on the ratio of the earnings in the races of a particular
143 race horse to the total amount earned by all accredited race
144 horses in the participating races during that year as a
145 percentage of the fund dedicated to purse supplements.
146 However, the owners may not receive from the fund
147 dedicated to purse supplements an amount in excess of
148 thirty-five percent of the total accredited earnings for each
149 accredited race horse. The bonus referred to in this
150 subdivision shall only be paid on the first \$100,000 of any
151 purse and not on any amounts in excess of the first \$100,000.

152 (4) In no event may purses earned at a meet held at a
153 track which did not make a contribution to the Thoroughbred
154 Development Fund out of the daily pool on the day the meet
155 was held qualify or count toward eligibility for an award
156 under this subsection.

157 (5) Any balance in the breeders/raisers, sire owners and
158 purse supplement funds after yearly distributions shall first be
159 used to fund the races established in subsection (f) of this
160 section. Any amount not so used shall revert into the general
161 account of the Thoroughbred Development Fund for each
162 racing association or licensee for distribution in the next year.

163 Distribution shall be made on the fifteenth day of each
164 February for the preceding year's achievements.

165 (f)(1) Each pari-mutuel thoroughbred horse track shall
166 provide at least one restricted race per racing day: *Provided,*
167 That sufficient horses and funds are available. For purposes
168 of this subsection, there are sufficient horses if there are at
169 least seven single betting interests received for the race:
170 *Provided,* That if sufficient horses and funds are available,
171 any thoroughbred horse racetrack whose licensee participated
172 in the Thoroughbred Development Fund for at least four
173 consecutive calendar years prior to December 31, 1992, shall
174 provide two restricted races per racing day, at least one of
175 which may be split at the discretion of the racing secretary.
176 The restricted race required by this section must be included
177 in the first nine races written in the condition book for that
178 racing day.

179 (2) The restricted races established in this subsection
180 shall be administered by a three-member committee at each
181 track consisting of:

182 (A) The racing secretary at each track;

183 (B) A member appointed by the authorized representative
184 of a majority of the owners and trainers at the thoroughbred
185 track; and

186 (C) A member appointed by the West Virginia
187 Thoroughbred Breeders Association.

188 (3) Restricted races shall be funded by each racing
189 association from:

190 (A) Moneys placed in the general purse fund: *Provided,*
191 That a thoroughbred horse racetrack which did not participate
192 in the West Virginia Thoroughbred Development Fund for a
193 period of more than four consecutive years prior to December
194 31, 1992, may fund restricted races in an amount not to
195 exceed \$1,000,000 per year.

196 (B) Moneys as provided in subdivision (5), subsection (e)
197 of this section, which shall be placed in a special fund called
198 the “West Virginia Accredited Race Fund”.

199 (4) The racing schedules, purse amounts and types of
200 races are subject to the approval of the West Virginia Racing
201 Commission.

202 (5) If less than seventy-five percent of the restricted races
203 required by this subsection fail to receive enough entries to
204 race, the Racing Commission shall, on a quarterly basis,
205 dedicate funds in each fund back to the general purse fund of
206 the racing association or licensee: *Provided*, That no moneys
207 may be dedicated back to a general purse fund if the
208 dedication would leave less than \$250,000 in the fund.

209 (g) As used in this section, “West Virginia bred-foal”
210 means a horse that was born in the State of West Virginia.

211 (h) To qualify for the West Virginia Accredited Race
212 Fund, the breeder must qualify under one of the following:

213 (1) The breeder of the West Virginia bred-foal is a West
214 Virginia resident;

215 (2) The breeder of the West Virginia bred-foal is not a
216 West Virginia resident, but keeps his or her breeding stock in
217 West Virginia year round; or

218 (3) The breeder of the West Virginia bred-foal is not a
219 West Virginia resident and does not qualify under
220 subdivision (2) of this subsection, but either the sire of the
221 West Virginia bred-foal is a West Virginia stallion, or the
222 mare is covered only by a West Virginia accredited stallion
223 or stallions before December 31 of the calendar year
224 following the birth of that West Virginia bred-foal.

225 (i) From July 1, 2001, West Virginia accredited
226 thoroughbred horses have preference for entry in all
227 accredited races at a thoroughbred racetrack at which the
228 licensee participates in the West Virginia Thoroughbred
229 Development Fund.

230 (j) Beginning July 1, 2006, any racing association
231 licensed by the Racing Commission to conduct thoroughbred
232 racing and permitting and conducting pari-mutuel wagering
233 under the provisions of this article must have a West Virginia
234 Thoroughbred Racing Breeders Program.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2011.

Governor