

## **Enabling Legislation New York Thoroughbred Breeding and Development Fund**

### **Racing, Pari-Mutuel Wagering and Breeding Law**

§ 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 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, 2018

\* 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.

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b. The fund is authorized to receive one percent of the total wagered after payout of prizes for the first year of operation of video lottery gaming at Aqueduct racetrack, one and one-quarter percent of the total wagered after payout of prizes for the second year of operation, and one and one-half percent of the total wagered after payout of prizes for the third year of operation and thereafter, 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 board. 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 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 which 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, 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, 2018

\* 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.

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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 which are not restricted to New York-breds provided that the revenues so allocated shall only be used 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.

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\* 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, 2018

\* 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, 2018

\* 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, 2018

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.

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.