

H. B. 3084

(By Delegates Barrett, Skinner, Sponaugle and Caputo)
[Introduced March 25, 2013; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §19-23-13b of the Code of West Virginia, 1931, as amended, relating to restricted races at pari-mutuel thoroughbred horse race tracks; permitting up to two restricted races if there are at least seven single betting interests; permitting a third restricted race if there are at least nine single betting interests; and eliminating a provision concerning if less than seventy-five percent of the restricted races fail to receive enough entries to race.

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

1 **purse supplements; preference for West Virginia**
2 **accredited thoroughbreds.**

3 (a) The Racing Commission shall deposit moneys required to be
4 withheld by an association or licensee in subsection (b), section
5 nine of this article in a banking institution of its choice in a
6 special account to be known as "West Virginia Racing Commission
7 Special Account -- West Virginia Thoroughbred Development Fund":
8 *Provided*, That after the West Virginia Lottery Commission has
9 divided moneys between the West Virginia Thoroughbred Development
10 Fund and the West Virginia Greyhound Breeding Development Fund
11 pursuant to the provisions of sections ten and ten-b, article
12 twenty-two-a, chapter twenty-nine of this code, the Racing
13 Commission shall, beginning October 1, 2005, deposit the remaining
14 moneys 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 article,
18 subsection (b), section twelve-c of this article, paragraph (B),
19 subdivision (3), subsection (b), section thirteen-c of this article
20 and sections ten and ten-b, article twenty-two-a, chapter twenty-
21 nine of this code into accounts for each thoroughbred racetrack
22 licensee with a banking institution of its choice with a separate
23 account for each association or licensee. Each separate account

1 shall be a special account to be known as "West Virginia Racing
2 Commission Special Account - West Virginia Thoroughbred Development
3 Fund" and shall name the licensee for which the special account has
4 been established: *Provided, however,* That the Racing Commission
5 shall deposit all moneys paid into the Thoroughbred Development
6 Fund by a thoroughbred racetrack licensee that did not participate
7 in the Thoroughbred Development Fund for at least four consecutive
8 calendar years prior to December 31, 1992 from July 8, 2005 until
9 the effective date of the amendment to this section passed during
10 the fourth extraordinary session of the seventy-seventh Legislature
11 shall be paid into the purse fund of that thoroughbred racetrack
12 licensee: *Provided further,* That the moneys paid into the
13 Thoroughbred Development Fund by a thoroughbred racetrack licensee
14 that did not participate in the Thoroughbred Development Fund for
15 at least four consecutive calendar years prior to December 31,
16 1992, shall be transferred into that licensee's purse fund until
17 April 1, 2006. Notice of the amount, date and place of the
18 deposits shall be given by the Racing Commission, in writing, to
19 the State Treasurer. The purpose of the funds is to promote better
20 breeding and racing of thoroughbred horses in the state through
21 awards and purses for accredited breeders/raisers, sire owners and
22 thoroughbred race horse owners: And provided further, That five
23 percent of the deposits required to be withheld by an association
24 or licensee in subsection (b), section nine of this article shall

1 be placed in a special revenue account hereby continued in the
2 State Treasury called the "Administration and Promotion Account":
3 And provided however further, That four and one-half percent of the
4 deposits into the thoroughbred development fund shall be placed in
5 the Administration and Promotion Account, except that of this
6 percentage, no more than \$305,000 shall be placed in the account in
7 any year.

8 (b) The Racing Commission is authorized to expend the moneys
9 deposited in the administration and promotion account at times and
10 in amounts as the Commission determines to be necessary for
11 purposes of administering and promoting the thoroughbred
12 development program: *Provided*, That during any fiscal year in which
13 the Commission anticipates spending any money from the account, the
14 Commission shall submit to the executive department during the
15 budget preparation period prior to the Legislature convening before
16 that fiscal year for inclusion in the executive budget document and
17 budget bill the recommended expenditures, as well as requests of
18 appropriations for the purpose of administration and promotion of
19 the program. The Commission shall make an annual report to the
20 Legislature on the status of the administration and promotion
21 account, including the previous year's expenditures and projected
22 expenditures for the next year.

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

1 (d) Funds in the Thoroughbred Development Fund or funds in the
2 separate accounts for each association or licensee as provided in
3 subsection (a) of this section shall be expended for awards and
4 purses except as otherwise provided in this section. Annually, the
5 first \$800,000 shall be available for distribution for a minimum of
6 fourteen accredited stakes races at a racetrack which has
7 participated in the West Virginia Thoroughbred Development Fund for
8 a period of more than four consecutive calendar years prior to
9 December 31, 1992. The weights for all accredited stakes races
10 shall be weight for age. One of the stakes races shall be the West
11 Virginia Futurity and the second shall be the Frank Gall Memorial
12 Stakes. For the purpose of participating in the West Virginia
13 Futurity only, all mares, starting with the breeding season
14 beginning February 1 through July 31, 2004, and each successive
15 breeding season thereafter shall be bred back that year to an
16 accredited West Virginia stallion only which is registered with the
17 West Virginia Thoroughbred Breeders Association. The accredited
18 stake races shall be chosen by the committee set forth in
19 subsection (f) of this section.

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

21 (1) The breeders/raisers of accredited thoroughbred horses
22 that earn a purse at a participating West Virginia meet shall
23 receive a bonus award calculated at the end of the year as a
24 percentage of the fund dedicated to the breeders/raisers, which

1 shall be sixty percent of the fund available for distribution in
2 any one year. The total amount available for the breeders'/raisers'
3 awards shall be distributed according to the ratio of purses earned
4 by an accredited race horse to the total amount earned in the
5 participating races by all accredited race horses for that year as
6 a percentage of the fund dedicated to the breeders/raisers.
7 However, no breeder/raiser may receive from the fund dedicated to
8 breeders'/raisers' awards an amount in excess of the earnings of
9 the accredited horse at West Virginia meets. In addition, should
10 a horse's breeder and raiser qualify for the same award on the same
11 horse, they will each be awarded one half of the proceeds. The
12 bonus referred to in this subdivision may only be paid on the first
13 \$100,000 of any purse and not on any amounts in excess of the first
14 \$100,000.

15 (2) The owner of an accredited West Virginia sire of an
16 accredited thoroughbred horse that earns a purse in any race at a
17 participating West Virginia meet shall receive a bonus award
18 calculated at the end of the year as a percentage of the fund
19 dedicated to sire owners, which shall be fifteen percent of the
20 fund available for distribution in any one year. The total amount
21 available for the sire owners' awards shall be distributed
22 according to the ratio of purses earned by the progeny of
23 accredited West Virginia stallions in the participating races for
24 a particular stallion to the total purses earned by the progeny of

1 all accredited West Virginia stallions in the participating races.
2 However, no sire owner may receive from the fund dedicated to sire
3 owners an amount in excess of thirty-five percent of the accredited
4 earnings for each sire. The bonus referred to in this subdivision
5 shall only be paid on the first \$100,000 of any purse and not on
6 any amounts in excess of the first \$100,000.

7 (3) The owner of an accredited thoroughbred horse that earns
8 a purse in any participating race at a West Virginia meet shall
9 receive a restricted purse supplement award calculated at the end
10 of the year, which shall be twenty-five percent of the fund
11 available for distribution in any one year, based on the ratio of
12 the earnings in the races of a particular race horse to the total
13 amount earned by all accredited race horses in the participating
14 races during that year as a percentage of the fund dedicated to
15 purse supplements. However, the owners may not receive from the
16 fund dedicated to purse supplements an amount in excess of thirty-
17 five percent of the total accredited earnings for each accredited
18 race horse. The bonus referred to in this subdivision shall only
19 be paid on the first \$100,000 of any purse and not on any amounts
20 in excess of the first \$100,000.

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

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

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

9 (f) (1) Each pari-mutuel thoroughbred horse track shall provide
10 at least one restricted race per racing day: *Provided*, That
11 sufficient horses and funds are available. For purposes of this
12 subsection, there are sufficient horses if there are at least seven
13 single betting interests received for ~~the race~~ up to two restricted
14 races required by this subsection and at least nine single betting
15 interests received for a third restricted race required by this
16 subsection: *Provided, however*, That if sufficient horses and funds
17 are available, any thoroughbred horse racetrack whose licensee
18 participated in the Thoroughbred Development Fund for at least four
19 consecutive calendar years prior to December 31, 1992, shall
20 provide ~~two~~ three restricted races per racing day, at least one of
21 which may be split at the discretion of the racing secretary. The
22 restricted race required by this section must be included in the
23 first nine races written in the condition book for that racing day.
24 (2) The restricted races established in this subsection shall

1 be administered by a three-member committee at each track
2 consisting of:

3 (A) The racing secretary at each track;

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

6 (C) A member appointed by the West Virginia Thoroughbred
7 Breeders Association.

8 (3) Restricted races shall be funded by each racing
9 association from:

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

15 (B) Moneys as provided in subdivision (5), subsection (e) of
16 this section, which shall be placed in a special fund called the
17 "West Virginia Accredited Race Fund".

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

20 ~~(5) If less than seventy five percent of the restricted races~~
21 ~~required by this subsection fail to receive enough entries to race,~~
22 ~~the Racing Commission shall, on a quarterly basis, dedicate funds~~
23 ~~in each fund back to the general purse fund of the racing~~
24 ~~association or licensee: *Provided, That* no moneys may be dedicated~~

1 ~~back to a general purse fund if the dedication would leave less~~
2 ~~than \$250,000 in the fund.~~

3 (g) As used in this section, "West Virginia bred-foal" means
4 a horse that was born in the State of West Virginia.

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

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

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

12 (3) The breeder of the West Virginia bred-foal is not a West
13 Virginia resident and does not qualify under subdivision (2) of
14 this subsection, but either the sire of the West Virginia bred-foal
15 is a West Virginia stallion, or the mare is covered only by a West
16 Virginia accredited stallion or stallions before December 31 of the
17 calendar year following the birth of that West Virginia bred-foal.

18 (i) From July 1, 2001, West Virginia accredited thoroughbred
19 horses have preference for entry in all accredited races at a
20 thoroughbred race track at which the licensee participates in the
21 West Virginia Thoroughbred Development Fund.

22 (j) Beginning July 1, 2006, any racing association licensed by
23 the Racing Commission to conduct thoroughbred racing and permitting
24 and conducting pari-mutuel wagering under the provisions of this

1 article must have a West Virginia Thoroughbred Racing Breeders
2 Program.

NOTE: The purpose of this bill is to permit up to two restricted races at pari-mutuel thoroughbred horse race tracks if there are at least seven single betting interests. The bill permits a third restricted race if there are at least nine single betting interests. The bill eliminates a provision concerning if less than seventy-five percent of the restricted races fail to receive enough entries to race.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.