

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **Senate Bill 437**

<b>FISCAL NOTE</b>
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BY SENATORS KARNES, BOSO, CLINE, TRUMP AND BLAIR

[Introduced February 24, 2017; Referred  
to the Committee on Finance]

1 A BILL to amend and reenact §19-23-7, §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of  
2 the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a  
3 new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to  
4 amend and reenact §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-  
5 22A-10e and §29-22A-12 of said code; and to amend and reenact §29-22C-3, §29-22C-  
6 8, §29-22C-10, §29-22C-27 and §29-22C-27a of said code, all relating generally to horse  
7 and dog racing lottery; discontinuing the West Virginia Racing Commission special  
8 account known as the West Virginia Greyhound Breeding Development Fund; transferring  
9 all moneys in the West Virginia Greyhound Breeding Development Fund to the State  
10 Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that upon  
11 transfer of moneys from the West Virginia Greyhound Breeding Development Fund to the  
12 State Excess Lottery Revenue Fund, a certain amount be withheld and deposited in the  
13 special account known as the Administration, Promotion, Education, Capital Improvement  
14 and Greyhound Adoption Programs to include Spaying and Neutering Account; requiring  
15 that all moneys previously required to be directed to the West Virginia Greyhound  
16 Breeding Development Fund be redirected to the State Excess Lottery Revenue Fund for  
17 appropriation by the Legislature; requiring that all moneys previously required to be  
18 directed into any fund or paid for the purpose of funding purses, awards or provide any  
19 other funding for greyhound races be redirected to the State Excess Lottery Revenue  
20 Fund for appropriation by the Legislature; eliminating the requirement that an applicant for  
21 a dog racing license race a minimum number of dates to qualify for such license;  
22 eliminating the requirement that an applicant for a dog racing license race a minimum  
23 number of dates to contract to receive telecasts and accept wagers; eliminating the  
24 requirement that a video lottery licensee at a dog track must hold a racing license to renew  
25 a video lottery license or racetrack table games license; eliminating the requirement, for a  
26 video lottery licensee at a dog track, that operational video lottery must be located in the

27 same building or structure as a racetrack and area where pari-mutuel wagering is  
 28 permitted; eliminating the requirement that an applicant for a video lottery license or  
 29 license renewal at a dog track must provide evidence of the existence of an agreement  
 30 regarding proceeds from lottery terminals with certain parties; eliminating the requirement  
 31 that a racetrack table games licensee at a dog track must race a minimum number of  
 32 dates; and eliminating the requirement that a video lottery licensee at a dog track must  
 33 hold a racing license to conduct simulcast racing.

*Be it enacted by the Legislature of West Virginia:*

1 That §19-23-7, §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West  
 2 Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding  
 3 thereto a new section, designated §19-23-10a; that §29-22-18a of said code be amended and  
 4 reenacted; that §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-22A-10e  
 5 and §29-22A-12 of said code be amended and reenacted; and that §29-22C-3, §29-22C-8, §29-  
 6 22C-10, §29-22C-27 and §29-22C-27a of said code be amended and reenacted, all to read as  
 7 follows:

## **CHAPTER 19. AGRICULTURE.**

### **PART VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL**

#### **WAGERING; DISPOSITION OF REVENUES.**

#### **ARTICLE 23. HORSE AND DOG RACING.**

##### **§19-23-7. Application for license; forms; time for filing; disclosure required; verification; bond; application for permit.**

1 (a) Any racing association desiring to hold or conduct a horse or dog race meeting, where  
 2 the pari-mutuel system of wagering is permitted and conducted, during any calendar year, shall  
 3 file with the Racing Commission an application for a license to hold or conduct such horse or dog  
 4 race meeting. A separate application shall be filed for each separate license sought for each horse

5 or dog race meeting which such applicant proposes to hold or conduct. The Racing Commission  
6 shall prescribe blank forms to be used in making such application. Such application shall be filed  
7 on or before a day to be fixed by the Racing Commission and shall disclose, but not be limited to,  
8 the following:

9 (1) If the applicant be an individual, the full name and address of the applicant;

10 (2) If the applicant be a partnership, firm or association, the full name and address of each  
11 partner or member thereof, the name of the partnership, firm or association and its post-office  
12 address;

13 (3) If the applicant be a corporation, its name, the state of its incorporation, its post-office  
14 address, the full name and address of each officer and director thereof, and if a foreign  
15 corporation, whether it is qualified to do business in this state;

16 (4) The dates, totaling not less than two hundred, such applicant intends to hold or conduct  
17 such horse or dog race meeting (which may be on any day including Sundays): Provided, That  
18 beginning on July 1, 2017, an applicant is not required to race any minimum number of dates in  
19 order to qualify for a license to hold a dog race meeting;

20 (5) The location of the horse or dog racetrack, place or enclosure where such applicant  
21 proposes to hold or conduct such horse or dog race meeting;

22 (6) Whether the applicant, any partner, member, officer or director has previously applied  
23 for a license under the provisions of this article or for a similar license in this or any other state,  
24 and if so, whether such license was issued or refused, and, if issued, whether it was ever  
25 suspended or revoked; and

26 (7) Such other information as the Racing Commission may reasonably require which may  
27 include information relating to any criminal record of the applicant, if an individual, or of each  
28 partner or member, if a partnership, firm or association, or of each officer and director, if a  
29 corporation.

30 (b) Such application shall be verified by the oath or affirmation of the applicant for such

31 license, if an individual, or if the applicant is a partnership, firm, association or corporation, by a  
32 partner, member or officer thereof, as the case may be. When required by the Racing  
33 Commission, an applicant for a license shall also furnish evidence satisfactory to the Racing  
34 Commission of such applicant's ability to pay all taxes due the state, purses, salaries of officials  
35 and other expenses incident to the horse or dog race meeting for which a license is sought. In the  
36 event the applicant is not able to furnish such satisfactory evidence of such applicant's ability to  
37 pay such expenses and fees, the Racing Commission may require bond or other adequate  
38 security before the requested license is issued.

39 (c) Any person desiring to obtain a permit, as required by the provisions of section two of  
40 this article, shall make application therefor on a form prescribed by the Racing Commission. The  
41 application for any such permit shall be accompanied by the fee prescribed therefor by the Racing  
42 Commission. Each applicant for a permit shall set forth in the application such information as the  
43 Racing Commission shall reasonably require.

**§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes paid; alternate tax; credits.**

1 (a) Any racing association conducting thoroughbred racing at any horse racetrack in this  
2 state shall pay each day upon which horse races are run a daily license tax of \$250. Any racing  
3 association conducting harness racing at any horse racetrack in this state shall pay each day  
4 upon which horse races are run a daily license tax of \$150. Any racing association conducting  
5 dog races shall pay each day upon which dog races are run a daily license tax of \$150. In the  
6 event thoroughbred racing, harness racing, dog racing or any combination of the foregoing are  
7 conducted on the same day at the same racetrack by the same racing association, only one daily  
8 license tax in the amount of \$250 shall be paid for that day. Any daily license tax shall not apply  
9 to any local, county or state fair, horse show or agricultural or livestock exposition at which horse  
10 racing is conducted for not more than six days.

11 (b) Any racing association licensed by the Racing Commission to conduct thoroughbred  
12 racing and permitting and conducting pari-mutuel wagering under the provisions of this article

13 shall, in addition to the daily license tax set forth in subsection (a) of this section, pay to the Racing  
14 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools  
15 on thoroughbred racing a tax calculated on the total daily contribution of all pari-mutuel pools  
16 conducted or made at any and every thoroughbred race meeting of the licensee licensed under  
17 the provisions of this article. The tax, on the pari-mutuel pools conducted or made each day during  
18 the months of January, February, March, October, November and December, shall be calculated  
19 at four-tenths of one percent of the pool; and, on the pari-mutuel pools conducted or made each  
20 day during all other months, shall be calculated at one and four-tenths percent of the pool:  
21 *Provided*, That out of the amount realized from the three-tenths of one percent decrease in the  
22 tax effective for fiscal year 1991 and thereafter, which decrease correspondingly increases the  
23 amount of commission retained by the licensee, the licensee shall annually expend or dedicate:  
24 (i) One half of the realized amount for capital improvements in its barn area at the track, subject  
25 to the Racing Commission's prior approval of the plans for the improvements; and (ii) the  
26 remaining one half of the realized amount for capital improvements as the licensee may determine  
27 appropriate at the track. The term "capital improvement" shall be as defined by the Internal  
28 Revenue Code: *Provided, however*, That any racing association operating a horse racetrack in  
29 this state having an average daily pari-mutuel pool on horse racing of \$280,000 or less per day  
30 for the race meetings of the preceding calendar year shall, in lieu of payment of the pari-mutuel  
31 pool tax, calculated as in this subsection, be permitted to conduct pari-mutuel wagering at the  
32 horse racetrack on the basis of a daily pari-mutuel pool tax fixed as follows: On the daily pari-  
33 mutuel pool not exceeding \$300,000 the daily pari-mutuel pool tax shall be \$1,000 plus the  
34 otherwise applicable percentage rate imposed by this subsection of the daily pari-mutuel pool, if  
35 any, in excess of \$300,000: *Provided further*, That upon the effective date of the reduction of the  
36 daily pari-mutuel pool tax to \$1,000 from the former \$2,000, the association or licensee shall daily  
37 deposit \$500 into the special fund for regular purses established by subdivision (1), subsection  
38 (b), section nine of this article: *And provided further*, That if an association or licensee qualifying

39 for the foregoing alternate tax conducts more than one racing performance, each consisting of up  
40 to thirteen races in a calendar day, the association or licensee shall pay both the daily license tax  
41 imposed in subsection (a) of this section and the alternate tax in this subsection for each  
42 performance: *And provided further*, That a licensee qualifying for the foregoing alternate tax is  
43 excluded from participation in the fund established by section thirteen-b of this article: *And*  
44 *provided further*, That this exclusion shall not apply to any thoroughbred racetrack at which the  
45 licensee has participated in the West Virginia Thoroughbred Development Fund for more than  
46 four consecutive years prior to December 31, 1992.

47 (c) Any racing association licensed by the Racing Commission to conduct harness racing  
48 and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in  
49 addition to the daily license tax required under subsection (a) of this section, pay to the Racing  
50 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools  
51 on harness racing, as a tax, three percent of the first \$100,000 wagered, or any part thereof; four  
52 percent of the next \$150,000; and five and three-fourths percent of all over that amount wagered  
53 each day in all pari-mutuel pools conducted or made at any and every harness race meeting of  
54 the licensee licensed under the provisions of this article.

55 (d) Any racing association licensed by the Racing Commission to conduct dog racing and  
56 permitting and conducting pari-mutuel wagering under the provisions of this article shall, in  
57 addition to the daily license tax required under subsection (a) of this section, pay to the Racing  
58 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools  
59 on dog racing, as a tax, four percent of the first \$50,000 or any part thereof of the pari-mutuel  
60 pools, five percent of the next \$50,000 of the pari-mutuel pools, six percent of the next \$100,000  
61 of the pari-mutuel pools, seven percent of the next \$150,000 of the pari-mutuel pools, and eight  
62 percent of all over \$350,000 wagered each day: *Provided*, That the licensee shall deduct daily  
63 from the pari-mutuel tax an amount equal to one-tenth of one percent of the daily pari-mutuel  
64 pools in dog racing in fiscal year 1990; fifteen-hundredths of one percent in fiscal year 1991; two-

65 tenths of one percent in fiscal year 1992; one quarter of one percent in fiscal year 1993; and three-  
66 tenths of one percent in fiscal year 1994 and every fiscal year thereafter. The amounts deducted  
67 shall be paid to the Racing Commission to be deposited by the Racing Commission in a banking  
68 institution of its choice in a special account to be known as "West Virginia Racing Commission-  
69 Special Account-West Virginia Greyhound Breeding Development Fund": Provided, That effective  
70 July 1, 2017, the amounts deducted and any other moneys required by this section to be  
71 deposited in the West Virginia Greyhound Breeding Development Fund shall instead be deposited  
72 into the state Excess Lottery Revenue Fund pursuant to section ten-a of this article: *Provided*  
73 *however, That beginning July 1, 2017, any expenditures from the West Virginia Racing*  
74 *Commission-Special Account-West Virginia Greyhound Breeding Development Fund required by*  
75 *this section shall be discontinued: *Provided further, That effective July 1, 2017, all amounts**  
76 *required by this section to be deposited into any fund or paid for the purpose of funding purses,*  
77 *awards or provide any other funding for greyhound races shall be discontinued pursuant to section*  
78 *ten-a of this article.* The purpose of the West Virginia Racing Commission-Special Account-West  
79 Virginia Greyhound Breeding Development Fund is to promote better breeding, training track  
80 facilities and racing of greyhounds in the state through awards and purses to bona fide resident  
81 registered greyhound owners of accredited West Virginia whelped greyhounds. In order to  
82 participate and be eligible to receive an award or purse through the fund, the registered greyhound  
83 owner must have an appropriate license from the Racing Commission to race in West Virginia.  
84 The registered greyhound dam at the time of breeding must be wholly or solely owned or leased  
85 by a bona fide resident or residents of West Virginia. The accredited West Virginia whelped  
86 greyhound must be wholly or solely owned by a bona fide resident or residents of this state. To  
87 qualify as a bona fide resident of West Virginia, a registered greyhound owner may not claim  
88 residency in any other state. A registered greyhound owner must prove bona fide residency by  
89 providing to the commission personal income tax returns filed in the State of West Virginia for the  
90 most recent tax year and the three previous tax years, has real or personal property in this state



91 on which the owner has paid real or personal property taxes during the most recent tax year and  
92 the previous three tax years and an affidavit stating that the owner claims no other state of  
93 residency. The Racing Commission shall maintain a registry for West Virginia bred greyhounds.  
94 The moneys shall be expended by the Racing Commission for purses for stake races, training  
95 track facilities, supplemental purse awards, administration, promotion, education and greyhound  
96 adoption programs involving West Virginia whelped dogs, owned by residents of this state under  
97 rules promulgated by the Racing Commission. The Racing Commission shall pay out of the  
98 greyhound breeding development fund to each of the licensed dog racing tracks the sum of  
99 \$75,000 for the fiscal year ending June 30, 1994. The licensee shall deposit the sum into the  
100 special fund for regular purses established under the provisions of section nine of this article. The  
101 funds shall be expended solely for the purpose of supplementing regular purses under rules  
102 promulgated by the Racing Commission.

103 Supplemental purse awards will be distributed as follows: Supplemental purses shall be  
104 paid directly to the registered greyhound owner of an accredited greyhound.

105 The registered greyhound owner of accredited West Virginia whelped greyhounds that  
106 earn points at any West Virginia meet will receive a bonus award calculated at the end of each  
107 month as a percentage of the fund dedicated to the owners as purse supplements, which shall be  
108 a minimum of fifty percent of the total moneys deposited into the West Virginia Greyhound  
109 Breeding Development fund monthly.

110 The total amount of the fund available for the owners' awards shall be distributed  
111 according to the ratio of points earned by an accredited greyhound to the total amount earned in  
112 races by all accredited West Virginia whelped greyhounds for that month as a percentage of the  
113 funds dedicated to the owners' purse supplements. The point value at all greyhound tracks shall  
114 be the same as approved by the Racing Commission to be effective April 1, 2007. The West  
115 Virginia Greyhound Owners and Breeders Association shall submit a list of any additions or  
116 deletions to the registry of accredited West Virginia whelped greyhounds on the first of each

117 month. The Racing Commission shall not require anyone to be a member of a particular  
118 association in order to participate in the West Virginia Greyhound Breeding Development Fund.

119         The registered greyhound owner of an accredited West Virginia whelped greyhound shall  
120 file a purse distribution form with the Racing Commission for a percentage of his or her dog's  
121 earnings to be paid directly to the registered greyhound owner or owners of the greyhound.  
122 Distribution shall be made on the fifteenth day of each month for the preceding month's  
123 achievements.

124         In no event shall points earned at a meet held at a track which did not make contributions  
125 to the West Virginia Greyhound Breeding Development Fund out of the daily pool on the day the  
126 meet was held qualify or count toward eligibility for supplemental purse awards.

127         Any balance in the purse supplement funds after all distributions have been made for the  
128 year revert to the general account of the fund for distribution in the following year: *Provided*, That  
129 not more than \$2 million from the balance in the purse supplemental fund shall be used for the  
130 construction and maintenance of two dog training track facilities if such be approved by the Racing  
131 Commission: *Provided, however*, That not more than \$1 million may be allocated for the  
132 construction and maintenance of each training track: *Provided further*, That both training track  
133 facilities must be located in West Virginia. The West Virginia Racing Commission shall be  
134 authorized to promulgate rules governing dog training tracks: *And provided further*, That the  
135 Racing Commission shall: (1) Provide a process in its rules for competitive bidding of the  
136 construction or maintenance, or both, of the training tracks; and (2) set standards to assure that  
137 only the actual costs of construction and maintenance shall be paid out of the foregoing fund.

138         In an effort to further promote the breeding of quality West Virginia whelped greyhounds,  
139 a bonus purse supplement shall be established in the amount of \$50,000 per annum, to be paid  
140 in equal quarterly installments of \$12,500 per quarter using the same method to calculate and  
141 distribute these funds as the regular supplemental purse awards. This bonus purse supplement  
142 is for three years only, commencing on July 1, 1993, and ending June 30, 1996. This money

143 would come from the current existing balance in the greyhound development fund.

144 Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia  
145 whelped greyhounds: *Provided*, That each pari-mutuel track shall have one juvenile and one open  
146 stake race annually. Each pari-mutuel dog track shall provide at least three restricted races for  
147 accredited West Virginia whelped greyhounds per race card: *Provided, however*, That sufficient  
148 dogs are available. To assure breeders of accredited West Virginia whelped greyhounds an  
149 opportunity to participate in the West Virginia Greyhound Breeding Development Fund the West  
150 Virginia Racing Commission by July 1, each year shall establish and announce the minimum  
151 number of accredited West Virginia whelped greyhounds that greyhound racing kennels at West  
152 Virginia dog tracks must have on their racing active list during the calendar year following such  
153 action. The minimum number may vary from dog track to dog track. The minimum number shall  
154 be established after consultation with the West Virginia Greyhound Owners and Breeders  
155 Association and kennel owners and operators. Factors to be considered in establishing this  
156 minimum number shall be the number of individually registered accredited West Virginia whelped  
157 greyhounds whelped in the previous two years. The number of all greyhounds seeking  
158 qualification at each West Virginia dog track, the ratio of active running greyhounds to housed  
159 number of greyhounds at each West Virginia dog track, and the size and number of racing kennels  
160 at each West Virginia dog track. Any greyhound racing kennel not having the minimum number  
161 of accredited West Virginia whelped greyhounds determined by the West Virginia Racing  
162 Commission on their active list shall only be permitted to race the maximum allowable number on  
163 the active list less the number of accredited West Virginia whelped greyhounds below the  
164 established minimum number. Consistent violations of this minimum requirement may be  
165 reviewed by the Racing Commission and may constitute cause for denial or revocation of a  
166 kennel's racing license. The Racing Commission shall oversee and approve racing schedules and  
167 purse amounts.

168 Ten percent of the deposits into the greyhound breeding development fund beginning July

169 1, 1993 and continuing each year thereafter, shall be withheld by the Racing Commission and  
170 placed in a special revenue account hereby created in the State Treasury called the  
171 "administration, promotion, education, capital improvement and greyhound adoption programs to  
172 include spaying and neutering account". The Racing Commission is authorized to expend the  
173 moneys deposited in the administration, promotion, education, capital improvement and  
174 greyhound adoption programs to include spaying and neutering account at such times and in such  
175 amounts as the commission determines to be necessary for purposes of administering and  
176 promoting the greyhound development program: *Provided*, That beginning with fiscal year 1995  
177 and in each fiscal year thereafter in which the commission anticipates spending any money from  
178 the account, the commission shall submit to the executive department during the budget  
179 preparation period prior to the Legislature convening before that fiscal year for inclusion in the  
180 executive budget document and budget bill, the recommended expenditures, as well as requests  
181 of appropriations for the purpose of administration, promotion, education, capital improvement  
182 and greyhound adoption programs to include spaying and neutering. The commission shall make  
183 an annual report to the Legislature on the status of the administration, promotion, education,  
184 capital improvement and greyhound adoption programs to include spaying and neutering account,  
185 including the previous year's expenditures and projected expenditures for the next year.

186 The Racing Commission, for the fiscal year 1994 only, may expend up to \$35,000 from  
187 the West Virginia Greyhound Breeding Development Fund to accomplish the purposes of this  
188 section without strictly following the requirements in the previous paragraph.

189 (e) All daily license and pari-mutuel pools tax payments required under the provisions of  
190 this section shall be made to the Racing Commission or its agent after the last race of each day  
191 of each horse or dog race meeting, and the pari-mutuel pools tax payments shall be made from  
192 all contributions to all pari-mutuel pools to each and every race of the day.

193 (f) Every association or licensee subject to the provisions of this article, including the  
194 changed provisions of sections nine and ten of this article, shall annually submit to the Racing

195 Commission and the Legislature financial statements, including a balance sheet, income  
196 statement, statement of change in financial position and an audit of any electronic data system  
197 used for pari-mutuel tickets and betting, prepared in accordance with generally accepted auditing  
198 standards, as certified by an experienced public accountant or a certified public accountant.

**§19-23-10a. West Virginia Greyhound Breeding Development Fund; transfer of current funds and future deposits.**

1 (a) Notwithstanding any other provision of this code, effective July 1, 2017, the West  
2 Virginia Greyhound Breeding Development Fund created in section ten of this article is  
3 discontinued. On or before July 1, 2017, all amounts remaining in the West Virginia Greyhound  
4 Breeding Development Fund shall be transferred to the state Excess Lottery Revenue Fund  
5 created in section eighteen-a, article twenty-two, chapter twenty-nine of this code for appropriation  
6 by the Legislature: *Provided*, That \$1 million shall be withheld by the Racing Commission and  
7 placed in the special revenue account called the “administration, promotion, education, capital  
8 improvement and greyhound adoption programs to include spaying and neutering account”  
9 created in subsection (d), section ten of this article, to be allocated specifically to facilitate care  
10 for and adoption of or placement in no-kill animal shelters of accredited West Virginia whelped  
11 greyhounds actively running at each West Virginia dog track.

12 (b) Notwithstanding any other provision of this code, effective July 1, 2017, all amounts  
13 required to be deposited into the West Virginia Greyhound Breeding Development Fund prior to  
14 the enactment of this section shall, in lieu thereof, be deposited into the state Excess Lottery  
15 Revenue Fund for appropriation by the Legislature.

16 (c) Notwithstanding any other provision of this code, effective July 1, 2017, all amounts  
17 required to be deposited into any fund or paid for the purpose of funding purses, awards or provide  
18 any other funding for greyhound races shall, in lieu thereof, be deposited into state Excess Lottery  
19 Fund for appropriation by the Legislature.

**§19-23-12b. Televised racing days; merging of pari-mutuel wagering pools.**

1 (a) For the purposes of this section:

2 (1) "Televised racing day" means a calendar day, assigned by the commission, at a  
3 licensed racetrack on which pari-mutuel betting is conducted on horse or dog races run at other  
4 racetracks in this state or at racetracks outside of this state which are broadcast by television at  
5 a licensed racetrack and which day or days have had the prior written approval of the  
6 representative of the majority of the owners and trainers who hold permits required by section two  
7 of this article; and

8 (2) "Host racing association" means any person who, pursuant to a license or other  
9 permission granted by the host governmental entity, conducts the horse or dog race upon which  
10 wagers are placed.

11 (b) A licensee conducting not less than two hundred twenty live racing dates for each  
12 horse or dog race meeting may, with the prior approval of the state Racing Commission, contract  
13 with any legal wagering entity in this state or in any other governmental jurisdiction to receive  
14 telecasts and accept wagers on races conducted by the legal wagering entity: Provided, That  
15 beginning on July 1, 2017, a licensee is not required to conduct a minimum number of live racing  
16 dates to contract with a legal wagering entity in this state or in any other governmental jurisdiction  
17 to receive telecasts and accept wagers on dog races: Provided, however, That at those  
18 thoroughbred racetracks the licensee, in applying for racing dates, shall apply for not less than  
19 two hundred ten live racing dates for each horse race meeting: Provided however further, That at  
20 those thoroughbred racetracks that have participated in the West Virginia thoroughbred  
21 development fund for a period of more than four consecutive calendar years prior to December  
22 31, 1992, the licensee may apply for not less than one hundred fifty-nine live racing dates during  
23 the calendar year 1997. If, thereafter, for reasons beyond the licensee's control, related to adverse  
24 weather conditions, unforeseen casualty occurrences or a shortage of thoroughbred horses  
25 eligible to compete for purses, the licensee concludes that this number of racing days cannot be  
26 attained, the licensee may file a request with the Racing Commission to reduce the authorized

27 live racing days. Upon receipt of the request the Racing Commission shall within seventy-two  
28 hours of the receipt of the request notify the licensee and the representative of a majority of the  
29 owners and trainers at the requesting track and the representative of the majority of the mutuel  
30 clerks at the requesting track that such request has been received and that if no objection to the  
31 request is received within ten days of the notification the request will be approved: *And provided*  
32 *further*, That the commission shall give consideration to whether there existed available  
33 unscheduled potential live racing dates following the adverse weather or casualty and prior to the  
34 end of the race meeting which could be used as new live racing dates in order to maintain the full  
35 live racing schedule previously approved by the Racing Commission. If an objection is received  
36 by the commission within the time limits, the commission shall, within thirty days of receipt of such  
37 objection, set a hearing on the question of reducing racing days, which hearing shall be conducted  
38 at a convenient place in the county in which the requesting racetrack is located. The commission  
39 shall hear from all parties concerned and, based upon testimony and documentary evidence  
40 presented at the hearing, shall determine the required number of live racing days: *And provided*  
41 *further*, That the commission shall not reduce the number of live racing days below one hundred  
42 eighty-five days for a horse race meeting unless the licensee requesting such reduction has: (i)  
43 Filed with the commission a current financial statement, which shall be subject to independent  
44 audit; and (ii) met the burden of proving that just cause exists for such requested reduction in live  
45 racing days. The telecasts may be received and wagers accepted at any location authorized by  
46 the provisions of section twelve-a of this article. The contract must receive the approval of the  
47 representative of the majority of the owners and trainers who hold permits required by section two  
48 of this article at the receiving thoroughbred racetrack.

49 (c) The commission may allow the licensee to commingle its wagering pools with the  
50 wagering pools of the host racing association. If the pools are commingled, the wagering at the  
51 licensee's racetrack must be on tabulating equipment capable of issuing pari-mutuel tickets and  
52 be electronically linked with the equipment at the sending racetrack. Subject to the approval of

53 the commission, the types of betting, licensee commissions and distribution of winnings on pari-  
54 mutuel pools of the sending licensee racetrack are those in effect at the licensee racetrack.  
55 Breakage for pari-mutuel pools on a televised racing day must be calculated in accordance with  
56 the law or rules governing the sending racetrack and must be distributed in a manner agreed to  
57 between the licensee and the sending racetrack. For the televised racing services it provides, the  
58 host racing association shall receive a fee to be paid by the receiving licensee racetrack which  
59 shall be in an amount to be agreed upon by the receiving licensee racetrack and the host racing  
60 association.

61 (d) The commission may assign televised racing days at any time. When a televised racing  
62 day is assigned, the commission shall assign either a steward or an Auditor to preside over the  
63 televised races at the licensee racetrack.

64 (e) (1) From the licensee commissions authorized by subsection (c) of this section, the  
65 licensee shall pay one tenth of one percent of each commission into the General Fund of the  
66 county, in which the racetrack is located and at which the wagering occurred and there is imposed  
67 and the licensee shall pay, for each televised racing day on which the total pari-mutuel pool  
68 exceeds \$100,000, the greater of either: (i) The total of the daily license tax and the pari-mutuel  
69 pools tax required by section ten of this article; or (ii) a daily license tax of \$1,250. For each  
70 televised racing day on which the total pari-mutuel pool is \$100,000, the licensee shall pay a daily  
71 license tax of \$500 plus an additional license tax of \$100 for each \$10,000, or part thereof, that  
72 the pari-mutuel pool exceeds \$50,000, but does not exceed \$100,000. The calculation of the total  
73 pari-mutuel pool for purposes of this subsection shall include only one half of all wagers placed  
74 at a licensed racetrack in this state on televised races conducted at another licensed racetrack  
75 within this state. Payments of the tax imposed by this section are subject to the requirements of  
76 subsection (e), section ten of this article.

77 (2) From the licensee commissions authorized by subsection (c) of this section, after  
78 payments are made in accordance with the provisions of subdivision (1) of this subsection, the



79 licensee shall pay, for each televised racing day, one-fourth of one percent of the total pari-mutuel  
80 pools for and on behalf of all employees of the licensed racing association by making a deposit  
81 into a special fund to be established by the Racing Commission and to be used for payments into  
82 the pension plan for all employees of the licensed racing association.

83 (3) From the licensee commissions authorized by subsection (c) of this section, after  
84 payments are made in accordance with the provisions of subdivisions (1) and (2) of this  
85 subsection, thoroughbred licensees shall pay, one-half percent of net simulcast income and for  
86 each televised racing day on or after July 1, 1997, an additional five and one-half percent of net  
87 simulcast income into the West Virginia thoroughbred development fund established by the  
88 Racing Commission according to section thirteen-b of this article: *Provided*, That no licensee  
89 qualifying for the alternate tax provisions of subsection (b), section ten of this article shall be  
90 required to make the payments unless the licensee has participated in the West Virginia  
91 thoroughbred development fund for a period of more than four consecutive calendar years prior  
92 to December 31, 1992. For the purposes of this section, the term "net simulcast income" means  
93 the total commission deducted each day by the licensee from the pari-mutuel pools on simulcast  
94 horse or dog races, less direct simulcast expenses, including, but not limited to, the cost of  
95 simulcast signals, telecommunication costs and decoder costs.

96 (f) After deducting the tax and other payments required by subsection (e) of this section,  
97 the amount required to be paid under the terms of the contract with the host racing association  
98 and the cost of transmission, the horse racing association shall make a deposit equal to fifty  
99 percent of the remainder into the purse fund established under the provisions of subdivision (1),  
100 subsection (b), section nine of this article. After deducting the tax and other payments required  
101 by subsection (e) of this section, dog racetracks shall pay an amount equal to two-tenths of one  
102 percent of the daily simulcast pari-mutuel pool to the "West Virginia Racing Commission Special  
103 Account-West Virginia Greyhound Breeding Development Fund": *Provided, That beginning on*  
104 July 1, 2017, the amount required to be paid to the West Virginia Greyhound Breeding

105 Development Fund by this subsection shall instead be paid to the state Excess Lottery Revenue  
106 Fund pursuant to section ten-a of this article.

107 (g) The provisions of the "Federal Interstate Horseracing Act of 1978", also known as  
108 Public Law 95-515, Section 3001-3007 of Title 15, U.S. Code, as amended, controls in  
109 determining the intent of this section.

**§19-23-13. Disposition of funds for payment of outstanding and unredeemed pari-mutuel tickets; publication of notice; irredeemable tickets; payment of past obligations.**

1 (a) All moneys held by any licensee for the payment of outstanding and unredeemed pari-  
2 mutuel tickets, if not claimed within ninety days after the close of a horse or dog race meeting or  
3 the televised racing day, as the case may be, in connection with which the tickets were issued,  
4 shall be turned over by the licensee to the Racing Commission within fifteen days after the  
5 expiration of the ninety-day period, and the licensee shall give any information required by the  
6 Racing Commission concerning the outstanding and unredeemed tickets. The moneys shall be  
7 deposited by the Racing Commission in a banking institution of its choice in a special account to  
8 be known as "West Virginia Racing Commission Special Account - Unredeemed Pari-Mutuel  
9 Tickets." Notice of the amount, date and place of each deposit shall be given by the Racing  
10 Commission, in writing, to the State Treasurer. The Racing Commission shall then cause to be  
11 published a notice to the holders of the outstanding and unredeemed pari-mutuel tickets, notifying  
12 them to present their unredeemed tickets for payment at the principal office of the Racing  
13 Commission within ninety days from the date of the publication of the notice. The notice shall be  
14 published within fifteen days following the receipt of the outstanding and unredeemed pari-mutuel  
15 ticket moneys by the commission from the licensee as a Class I legal advertisement in compliance  
16 with the provisions of article three, chapter fifty-nine of this code, and the publication area for the  
17 publication shall be the county in which the horse or dog race meeting was held and the county  
18 in which the televised racing day wagering was conducted in this state.

19 (b) Any outstanding and unredeemed pari-mutuel tickets that are not presented for

20 payment within ninety days from the date of the publication of the notice are thereafter  
21 irredeemable, and the moneys theretofore held for the redemption of the pari-mutuel tickets shall  
22 become the property of the Racing Commission and shall be expended as provided in  
23 subsections (c) and (d) of this section. The Racing Commission shall maintain separate accounts  
24 for each licensee and shall record in each separate account the moneys turned over by the  
25 licensee and the amount expended at the licensee's track for the purposes set forth in this  
26 subsection.

27 (c) In the fiscal year beginning on July 1, 2010, the Racing Commission shall keep  
28 separate the unredeemed pari-mutuel tickets received from each of the two licensee horse  
29 racetracks.

30 (1) The unredeemed pari-mutuel tickets attributable to each licensee horse racetrack  
31 together with funds distributed pursuant to section eighteen-a, article twenty-two, chapter twenty-  
32 nine of this code shall be used for claims received pursuant to this subsection by the Racing  
33 Commission each calendar quarter: *Provided*, That the first distribution after the effective date of  
34 amendments to this section made during the 2010 regular legislative session shall not occur until  
35 February 2011 and then each calendar quarter thereafter. Any claims made pursuant to this  
36 subsection must be submitted to the Racing Commission no later than fifteen days after the race  
37 where the funds are awarded. The funds in the two special accounts - unredeemed pari-mutuel  
38 tickets shall be distributed based on claims received from each horse racetrack as follows:

39 (A) To the owner of the winning horse in any horse race at a horse race meeting held or  
40 conducted by any licensee: *Provided*, That the owner of the horse is at the time of the horse race  
41 a bona fide resident of this state, a sum equal to ten percent of the purse won by the horse at that  
42 race: *Provided, however*, That in the event there are more than ten races in any performance, the  
43 award to the resident owner of the winning horse will be that fractional share of the purse with a  
44 numerator of one and a denominator representing the number of races on the day of the  
45 performance. The commission may require proof that the owner was, at the time of the race, a

46 bona fide resident of this state. Upon proof by the owner that he or she filed a personal income  
47 tax return in this state for the previous two years and that he or she owned real or personal  
48 property in this state and paid taxes in this state on real or personal property for the previous two  
49 years, he or she shall be presumed to be a bona fide resident of this state; and

50 (B) To the breeder (that is, the owner of the mare) of the winning horse in any horse race  
51 at a horse race meeting held or conducted by any licensee: *Provided*, That the mare foaled in this  
52 state, a sum equal to ten percent of the purse won by the horse: *Provided, however*, That in the  
53 event there are more than ten races in any performance, the award to the breeder will be that  
54 fractional share of the purse with a numerator of one and a denominator representing the number  
55 of races on the day of the performance; and

56 (C) To the owner of the stallion which sired the winning horse in any horse race at a horse  
57 race meeting held or conducted by any licensee: *Provided*, That the mare which foaled the  
58 winning horse was served by a stallion standing and registered in this state, a sum equal to ten  
59 percent of the purse won by the horse: *Provided, however*, That in the event there are more than  
60 ten races in any performance, the award to the owner of the stallion will be percentage of the  
61 purse based upon the fractional share represented by the number of races on the day of the  
62 performance.

63 (2) If in any calendar quarter insufficient funds are available in each licensee horse  
64 racetrack's special account - unredeemed pari-mutuel tickets administered by the Racing  
65 Commission for payments pursuant to subdivision (1), payments shall be made on a pro rata  
66 basis pursuant to paragraphs (A), (B) and (C) of subdivision (1) of this subsection of the claims  
67 submitted from races won at each horse racetrack. Once payments on each claim are made,  
68 whether in full or on a pro rata basis, no further obligation for payment is created by this  
69 subdivision. Claims received after the deadline are not valid.

70 (3) If after paying any claims pursuant to this subsection and funds remain in the accounts,  
71 those funds shall carry over to the next calendar quarter. If in any quarter the surplus in either

72 account reaches a balance of \$1 million, then that surplus balance shall be placed in to the regular  
73 purse fund of that licensee horse racetrack whose unredeemed pari-mutuel account achieves the  
74 surplus.

75 (d) Any unredeemed pari-mutuel tickets received from licensee dog racetracks shall be  
76 combined into a single balance and distributed quarterly to the West Virginia Racing Commission  
77 special account - West Virginia Greyhound Breeding Development Fund: Provided, That  
78 beginning on July 1, 2017, the balance shall instead be distributed to the state Excess Lottery  
79 Revenue Fund pursuant to section ten-a of this article. The deposit made pursuant to this  
80 subsection does not create a continuing obligation of payment except to the extent that there are  
81 unredeemed pari-mutuel tickets from the licensee dog racetracks.

82 (e) The amendments to this section made during the 2010 regular legislative session shall  
83 become effective July 1, 2010.

84 (f) The Racing Commission shall satisfy obligations of the prior enactment of this section  
85 for all claims received on purses won on or before June 30, 2010. Claimants must submit all  
86 claims on or before July 15, 2010 for verification by the Racing Commission. Claims received  
87 after July 15, 2010 are not valid.

88 (1) A transfer of \$2.5 million from the state Excess Lottery Revenue Fund available on the  
89 last day of the fiscal year which began July 1, 2009 shall be made to the nonappropriated fund  
90 with the State Treasurer known as the Unredeemed Pari-Mutuel Tickets Fund. The Racing  
91 Commission shall also transfer to the account with the State Treasurer ~~monies~~ moneys from the  
92 Racing Commission special accounts - unredeemed pari-mutuel tickets for deposits received in  
93 each of those accounts that have been credited with unredeemed pari-mutuel tickets for races  
94 completed at any licensee racetrack as of June 30, 2010, and any other ~~monies~~ moneys  
95 appropriated by the Legislature. Unredeemed pari-mutuel tickets for races completed after June  
96 30, 2010 must remain in the special accounts - unredeemed pari-mutuel tickets to satisfy future  
97 payments pursuant to this section.

98           (2) The Racing Commission is authorized to pay claims received for races completed on  
99 or before June 30, 2010 without regard to date of deposit or date of claim. Claims shall be paid in  
100 date order, with the oldest claims being paid first, until all claims have been satisfied. All payments  
101 made pursuant to this subsection for claims received on purses won on or before June 30, 2010  
102 shall extinguish any further obligation by the state with respect to those claims.

103           (g) The commission shall submit to the Legislative Auditor a quarterly report and  
104 accounting of the income and expenditures in the special account created by this section known  
105 as the West Virginia Racing Commission special account - unredeemed pari-mutuel tickets.

106           (h) Nothing contained in this article shall prohibit one person from qualifying for all or more  
107 than one of the aforesaid awards or for awards under section thirteen-b of this article.

108           (i) The cost of publication of the notice provided for in this section shall be paid from the  
109 funds in the hands of the State Treasurer collected from the pari-mutuel pools' tax provided for in  
110 section ten of this article, when not otherwise provided in the budget; but no such costs shall be  
111 paid unless an itemized account thereof, under oath, be first filed with the State Auditor.

112           (j) The Racing Commission is authorized to promulgate emergency rules, prior to  
113 September 1, 2010, to incorporate the revisions to this article enacted during the 2010 regular  
114 legislative session.

**§19-23-13c. Expenditure of racetrack video lottery distribution.**

1           (a) Funds received by the Racing Commission pursuant to subdivision (6), subsection (c),  
2 section ten, article twenty-two-a, chapter twenty-nine of this code, and subdivision (5), subsection  
3 (a), section ten-b, article twenty-two-a, chapter twenty-nine of this code, after the effective date of  
4 this section together with the balance in the bank account previously established by the  
5 Commission to receive those funds shall be deposited in a banking institution of its choice in a  
6 special account to be known as "West Virginia Racing Commission Racetrack Video Lottery  
7 Account". Notice of the amount, date and place of each deposit shall be given by the Racing  
8 Commission, in writing, to the State Treasurer.

9 (b) Funds in this account shall be allocated and expended as follows:

10 (1) For each fiscal year, the first \$800,000 deposited in the separate account plus the  
11 amount then remaining of the June 30, 1997, balance in the separate account previously  
12 established for the West Virginia breeders classic under section thirteen of this article, shall be  
13 used by the Commission for promotional activities, advertising, administrative costs and purses  
14 for the West Virginia Thoroughbred Breeders Classic, which shall give equal consideration to all  
15 horses qualifying under the West Virginia breeders program for each stake race, based solely on  
16 the horses' sex, age and earnings.

17 (2) For each fiscal year, the next \$200,000 deposited into the separate account shall be  
18 used by the Commission for promotional activities and purses for open stake races for a race  
19 event to be known as the West Virginia Derby to be held at a thoroughbred racetrack which does  
20 not participate in the West Virginia Breeders Classic.

21 (3) For each fiscal year, once the amounts provided in subdivisions (1) and (2) of this  
22 subsection have been deposited into separate bank accounts for use in connection with the West  
23 Virginia Thoroughbred Breeders Classics and the West Virginia Derby, the Commission shall  
24 return to each racetrack all additional amounts deposited which originate during that fiscal year  
25 from each respective racetrack pursuant to subdivision (6), subsection (c), section ten, article  
26 twenty-two-a, chapter twenty-nine of this code, which returned excess funds shall be used as  
27 follows:

28 (A) For each dog racetrack, one half of the returned excess funds shall be used for capital  
29 improvements at the racetrack and one half of the returned excess funds shall be deposited into  
30 the West Virginia Racing Commission Special Account - West Virginia Greyhound Breeding  
31 Development Fund: Provided, That beginning on July 1, 2017, the funds required by this  
32 paragraph to be deposited in the West Virginia Racing Commission Special Account - West  
33 Virginia Greyhound Breeding Development Fund shall instead be deposited into the state Excess  
34 Lottery Revenue Fund pursuant to section ten-a of this article.

35 (B) At those thoroughbred racetracks that have participated in the West Virginia  
36 Thoroughbred Development Fund for a period of more than four consecutive calendar years prior  
37 to December 31, 1992, one half of the returned excess funds shall be used for capital  
38 improvements at the licensee's racetrack and one half of the returned excess funds shall be  
39 equally divided between the West Virginia Thoroughbred Breeders Classic and the West Virginia  
40 Thoroughbred Development Fund.

41 (C) At those thoroughbred horse racetracks which do not participate in the West Virginia  
42 Breeders Classic, one half of the returned excess funds shall be used for capital improvements  
43 at the licensee's racetrack and one half of the returned excess funds shall be used for purses for  
44 the open stakes race event known as the West Virginia Derby.

45 (c) All expenditures that are funded under this section must be approved in writing by the  
46 West Virginia Racing Commission before the funds are expended for any of the purposes  
47 authorized by this section.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 22. STATE LOTTERY ACT.**

#### **§29-22-18a. State Excess Lottery Revenue Fund.**

1 (a) The State Lottery Fund in the State Treasury which is designated and known as the  
2 state Excess Lottery Revenue Fund is continued. The fund consists of all appropriations to the  
3 fund and all interest earned from investment of the fund and any gifts, grants or contributions  
4 received by the fund. All revenues received under the provisions of sections ten-b and ten-c,  
5 article twenty-two-a of this chapter and under article twenty-two-b of this chapter, except the  
6 amounts due the commission under subdivision (1), subsection (a), section one thousand four  
7 hundred eight, article twenty-two-b of this chapter, shall be deposited in the State Treasury and  
8 placed into the state Excess Lottery Revenue Fund. The revenue shall be disbursed in the manner  
9 provided in this section for the purposes stated in this section and shall not be treated by the State



10 Auditor and the State Treasurer as part of the general revenue of the state.

11 (b) For the fiscal year beginning July 1, 2002, the commission shall deposit: (1) \$65 million  
12 into the subaccount of the state Excess Lottery Revenue Fund hereby created in the State  
13 Treasury to be known as the General Purpose Account to be expended pursuant to appropriation  
14 of the Legislature; (2) \$10 million into the Education Improvement Fund for appropriation by the  
15 Legislature to the PROMISE Scholarship Fund created in section seven, article seven, chapter  
16 eighteen-c of this code; (3) \$19 million into the Economic Development Project Fund created in  
17 subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance  
18 with the provisions of said subsection; (4) \$20 million into the School Building Debt Service Fund  
19 created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue  
20 bonds; (5) \$40 million into the West Virginia Infrastructure Fund created in section nine, article  
21 fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said  
22 article; (6) \$10 million into the Higher Education Improvement Fund for Higher Education; and (7)  
23 \$5 million into the state Park Improvement Fund for Park Improvements. For the fiscal year  
24 beginning July 1, 2003, the commission shall deposit: (1) \$65 million into the General Purpose  
25 Account to be expended pursuant to appropriation of the Legislature; (2) \$17 million into the  
26 Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship  
27 Fund created in section seven, article seven, chapter eighteen-c of this code; (3) \$19 million into  
28 the Economic Development Project Fund created in subsection (e) of this section for the issuance  
29 of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) \$20  
30 million into the School Building Debt Service Fund created in section six, article nine-d, chapter  
31 eighteen of this code for the issuance of revenue bonds; (5) \$40 million into the West Virginia  
32 Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of this code to be  
33 spent in accordance with the provisions of said article; (6) \$10 million into the Higher Education  
34 Improvement Fund for Higher Education; and (7) \$7 million into the state Park Improvement Fund  
35 for Park Improvements.

36 (c) For the fiscal year beginning July 1, 2004, and subsequent fiscal years through the  
37 fiscal year ending June 30, 2009, the commission shall deposit: (1) \$65 million into the General  
38 Purpose Account to be expended pursuant to appropriation of the Legislature; (2) \$27 million into  
39 the Education Improvement Fund for appropriation by the Legislature to the PROMISE  
40 Scholarship Fund created in section seven, article seven, chapter eighteen-c of this code; (3) \$19  
41 million into the Economic Development Project Fund created in subsection (e) of this section for  
42 the issuance of revenue bonds and to be spent in accordance with the provisions of said  
43 subsection; (4) \$19 million into the School Building Debt Service Fund created in section six,  
44 article nine-d, chapter eighteen of this code for the issuance of revenue bonds: *Provided*, That for  
45 the fiscal year beginning July 1, 2008, and subsequent fiscal years, no moneys shall be deposited  
46 in the School Building Debt Service Fund pursuant to this subsection and instead \$19 million shall  
47 be deposited into the Excess Lottery School Building Debt Service Fund; (5) \$40 million into the  
48 West Virginia Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of  
49 this code to be spent in accordance with the provisions of said article; (6) \$10 million into the  
50 Higher Education Improvement Fund for Higher Education; and (7) \$5 million into the state Park  
51 Improvement Fund for Park Improvements. No portion of the distributions made as provided in  
52 this subsection and subsection (b) of this section, except distributions made in connection with  
53 bonds issued under subsection (e) of this section, may be used to pay debt service on bonded  
54 indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment  
55 of debt service on the bonds through statutory enactment or the adoption of a concurrent  
56 resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption  
57 of a resolution that expressly authorizes issuance of the bonds and payment of debt service on  
58 the bonds with funds distributed under this subsection and subsection (b) of this section, except  
59 distributions made in connection with bonds issued under subsection (d) of this section, the  
60 distributions may be used only to fund capital improvements that are not financed by bonds and  
61 only pursuant to appropriation of the Legislature.

62 (d) For the fiscal year beginning July 1, 2009, and subsequent fiscal years, the commission  
63 shall deposit: (1) \$65 million into the General Purpose Account to be expended pursuant to  
64 appropriation of the Legislature; (2) \$29 million into the Education Improvement Fund for  
65 appropriation by the Legislature to the PROMISE Scholarship Fund created in section seven,  
66 article seven, chapter eighteen-c of this code; (3) \$19 million into the Economic Development  
67 Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to  
68 be spent in accordance with the provisions of said subsection; (4) \$19 million into the Excess  
69 Lottery School Building Debt Service Fund created in section six, article nine-d, chapter eighteen  
70 of this code; (5) \$40 million into the West Virginia Infrastructure Fund created in section nine,  
71 article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of  
72 said article; (6) \$10 million into the Higher Education Improvement Fund for Higher Education;  
73 and (7) \$5 million into the state Park Improvement Fund for Park Improvements. No portion of the  
74 distributions made as provided in this subsection and subsection (b) of this section, except  
75 distributions made in connection with bonds issued under subsection (e) of this section, may be  
76 used to pay debt service on bonded indebtedness until after the Legislature expressly authorizes  
77 issuance of the bonds and payment of debt service on the bonds through statutory enactment or  
78 the adoption of a concurrent resolution by both houses of the Legislature. Until subsequent  
79 legislative enactment or adoption of a resolution that expressly authorizes issuance of the bonds  
80 and payment of debt service on the bonds with funds distributed under this subsection and  
81 subsection (b) of this section, except distributions made in connection with bonds issued under  
82 subsection (e) of this section, the distributions may be used only to fund capital improvements  
83 that are not financed by bonds and only pursuant to appropriation of the Legislature.

84 (e) The Legislature finds and declares that in order to attract new business, commerce  
85 and industry to this state, to retain existing business and industry providing the citizens of this  
86 state with economic security and to advance the business prosperity of this state and the  
87 economic welfare of the citizens of this state, it is necessary to provide public financial support for

88 constructing, equipping, improving and maintaining economic development projects, capital  
89 improvement projects and infrastructure which promote economic development in this state.

90 (1) The West Virginia Economic Development Authority created and provided for in article  
91 fifteen, chapter thirty-one of this code shall, by resolution, in accordance with the provisions of  
92 this article and article fifteen, chapter thirty-one of this code, and upon direction of the Governor,  
93 issue revenue bonds of the Economic Development Authority in no more than two series to pay  
94 for all or a portion of the cost of constructing, equipping, improving or maintaining projects under  
95 this section or to refund the bonds at the discretion of the authority. Any revenue bonds issued on  
96 or after July 1, 2002, which are secured by State Excess Lottery revenue proceeds shall mature  
97 at a time or times not exceeding thirty years from their respective dates. The principal of and the  
98 interest and redemption premium, if any, on the bonds shall be payable solely from the special  
99 fund provided in this section for the payment.

100 (2) The special revenue fund named the Economic Development Project Fund into which  
101 shall be is deposited the amounts to be deposited in the fund as specified in subsections (b), (c)  
102 and (d) of this section is continued. The Economic Development Project Fund shall consist of all  
103 such moneys, all appropriations to the fund, all interest earned from investment of the fund and  
104 any gifts, grants or contributions received by the fund. All amounts deposited in the fund shall be  
105 pledged to the repayment of the principal, interest and redemption premium, if any, on any  
106 revenue bonds or refunding revenue bonds authorized by this section, including any and all  
107 commercially customary and reasonable costs and expenses which may be incurred in  
108 connection with the issuance, refunding, redemption or defeasance of the bonds. The West  
109 Virginia Economic Development Authority may further provide in the resolution and in the trust  
110 agreement for priorities on the revenues paid into the Economic Development Project Fund that  
111 are necessary for the protection of the prior rights of the holders of bonds issued at different times  
112 under the provisions of this section. The bonds issued pursuant to this subsection shall be  
113 separate from all other bonds which may be or have been issued, from time to time, under the

114 provisions of this article.

115 (3) After the West Virginia Economic Development Authority has issued bonds authorized  
116 by this section and after the requirements of all funds have been satisfied, including any coverage  
117 and reserve funds established in connection with the bonds issued pursuant to this subsection,  
118 any balance remaining in the Economic Development Project Fund may be used for the  
119 redemption of any of the outstanding bonds issued under this subsection which, by their terms,  
120 are then redeemable or for the purchase of the outstanding bonds at the market price, but not to  
121 exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be  
122 immediately canceled and shall not again be issued.

123 (4) Bonds issued under this subsection shall state on their face that the bonds do not  
124 constitute a debt of the State of West Virginia; that payment of the bonds, interest and charges  
125 thereon cannot become an obligation of the State of West Virginia; and that the bondholders'  
126 remedies are limited in all respects to the Special Revenue Fund established in this subsection  
127 for the liquidation of the bonds.

128 (5) The West Virginia Economic Development Authority shall expend the bond proceeds  
129 from the revenue bond issues authorized and directed by this section for projects certified under  
130 the provision of this subsection: *Provided*, That the bond proceeds shall be expended in  
131 accordance with the requirements and provisions of article five-a, chapter twenty-one of this code  
132 and either article twenty-two or twenty-two-a, chapter five of this code, as the case may be:  
133 *Provided, however*, That if the bond proceeds are expended pursuant to article twenty-two-a,  
134 chapter five of this code and if the Design-Build Board created under said article determines that  
135 the execution of a design-build contract in connection with a project is appropriate pursuant to the  
136 criteria set forth in said article and that a competitive bidding process was used in selecting the  
137 design builder and awarding the contract, the determination shall be conclusive for all purposes  
138 and shall be considered to satisfy all the requirements of said article.

139 (6) For the purpose of certifying the projects that will receive funds from the bond

140 proceeds, a committee is hereby established and comprised of the Governor, or his or her  
141 designee, the Secretary of the Department of Revenue, the Executive Director of the West  
142 Virginia Development Office and six persons appointed by the Governor: *Provided*, That at least  
143 one citizen member must be from each of the state's three congressional districts. The committee  
144 shall meet as often as necessary and make certifications from bond proceeds in accordance with  
145 this subsection. The committee shall meet within thirty days of the effective date of this section.

146 (7) Applications for grants submitted on or before July 1, 2002, shall be considered refiled  
147 with the committee. Within ten days from the effective date of this section as amended in the year  
148 2003, the lead applicant shall file with the committee any amendments to the original application  
149 that may be necessary to properly reflect changes in facts and circumstances since the  
150 application was originally filed with the committee.

151 (8) When determining whether or not to certify a project, the committee shall take into  
152 consideration the following:

153 (A) The ability of the project to leverage other sources of funding;

154 (B) Whether funding for the amount requested in the grant application is or reasonably  
155 should be available from commercial sources;

156 (C) The ability of the project to create or retain jobs, considering the number of jobs, the  
157 type of jobs, whether benefits are or will be paid, the type of benefits involved and the  
158 compensation reasonably anticipated to be paid persons filling new jobs or the compensation  
159 currently paid to persons whose jobs would be retained;

160 (D) Whether the project will promote economic development in the region and the type of  
161 economic development that will be promoted;

162 (E) The type of capital investments to be made with bond proceeds and the useful life of  
163 the capital investments; and

164 (F) Whether the project is in the best interest of the public.

165 (9) A grant may not be awarded to an individual or other private person or entity. Grants

166 may be awarded only to an agency, instrumentality or political subdivision of this state or to an  
167 agency or instrumentality of a political subdivision of this state.

168 The project of an individual or private person or entity may be certified to receive a low-  
169 interest loan paid from bond proceeds. The terms and conditions of the loan, including, but not  
170 limited to, the rate of interest to be paid and the period of the repayment, shall be determined by  
171 the Economic Development Authority after considering all applicable facts and circumstances.

172 (10) Prior to making each certification, the committee shall conduct at least one public  
173 hearing, which may be held outside of Kanawha County. Notice of the time, place, date and  
174 purpose of the hearing shall be published in at least one newspaper in each of the three  
175 congressional districts at least fourteen days prior to the date of the public hearing.

176 (11) The committee may not certify a project unless the committee finds that the project is  
177 in the public interest and the grant will be used for a public purpose. For purposes of this  
178 subsection, projects in the public interest and for a public purpose include, but are not limited to:

179 (A) Sports arenas, fields, parks, stadiums and other sports and sports-related facilities;

180 (B) Health clinics and other health facilities;

181 (C) Traditional infrastructure, such as water and wastewater treatment facilities, pumping  
182 facilities and transmission lines;

183 (D) State-of-the-art telecommunications infrastructure;

184 (E) Biotechnical incubators, development centers and facilities;

185 (F) Industrial parks, including construction of roads, sewer, water, lighting and other  
186 facilities;

187 (G) Improvements at state parks, such as construction, expansion or extensive renovation  
188 of lodges, cabins, conference facilities and restaurants;

189 (H) Railroad bridges, switches and track extension or spurs on public or private land  
190 necessary to retain existing businesses or attract new businesses;

191 (I) Recreational facilities, such as amphitheaters, walking and hiking trails, bike trails,

192 picnic facilities, restrooms, boat docking and fishing piers, basketball and tennis courts, and  
193 baseball, football and soccer fields;

194 (J) State-owned buildings that are registered on the National Register of Historic Places;

195 (K) Retail facilities, including related service, parking and transportation facilities,  
196 appropriate lighting, landscaping and security systems to revitalize decaying downtown areas;  
197 and

198 (L) Other facilities that promote or enhance economic development, educational  
199 opportunities or tourism opportunities thereby promoting the general welfare of this state and its  
200 residents.

201 (12) Prior to the issuance of bonds under this subsection, the committee shall certify to  
202 the Economic Development Authority a list of those certified projects that will receive funds from  
203 the proceeds of the bonds. Once certified, the list may not thereafter be altered or amended other  
204 than by legislative enactment.

205 (13) If any proceeds from sale of bonds remain after paying costs and making grants and  
206 loans as provided in this subsection, the surplus may be deposited in an account in the State  
207 Treasury known as the Economic Development Project Bridge Loan Fund administered by the  
208 Economic Development Authority created in article fifteen, chapter thirty-one of this code.  
209 Expenditures from the fund are not authorized from collections but are to be made only in  
210 accordance with appropriation by the Legislature and in accordance with the provisions of article  
211 three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter five-  
212 a of this code. Loan repayment amounts, including the portion attributable to interest, shall be  
213 paid into the fund created in this subdivision.

214 (f) If the commission receives revenues in an amount that is not sufficient to fully comply  
215 with the requirements of subsections (b), (c), (d) and (i) of this section, the commission shall first  
216 make the distribution to the Economic Development Project Fund; second, make the distribution  
217 or distributions to the other funds from which debt service is to be paid; third, make the distribution



218 to the Education Improvement Fund for appropriation by the Legislature to the PROMISE  
219 Scholarship Fund; and fourth, make the distribution to the General Purpose Account: *Provided,*  
220 That, subject to the provisions of this subsection, to the extent the revenues are not pledged in  
221 support of revenue bonds which are or may be issued, from time to time, under this section, the  
222 revenues shall be distributed on a pro rata basis.

223 (g) Each fiscal year, the commission shall, after meeting the requirements of subsections  
224 (b), (c), (d) and (i) of this section and after transferring to the State Lottery Fund created under  
225 section eighteen of this article an amount equal to any transfer from the State Lottery Fund to the  
226 Excess Lottery Fund pursuant to subsection (f), section eighteen of this article, deposit fifty  
227 percent of the amount by which annual gross revenue deposited in the State Excess Lottery  
228 Revenue Fund exceeds \$225 million in a fiscal year in a separate account in the State Lottery  
229 Fund to be available for appropriation by the Legislature.

230 (h) When bonds are issued for projects under subsection (d) (e) of this section or for the  
231 School Building Authority, infrastructure, higher education or park improvement purposes  
232 described in this section that are secured by profits from lotteries deposited in the State Excess  
233 Lottery Revenue Fund, the Lottery Director shall allocate first to the Economic Development  
234 Project Fund an amount equal to one-tenth of the projected annual principal, interest and  
235 coverage requirements on any and all revenue bonds issued, or to be issued as certified to the  
236 Lottery Director; and second, to the fund or funds from which debt service is paid on bonds issued  
237 under this section for the School Building Authority, infrastructure, higher education and park  
238 improvements an amount equal to one-tenth of the projected annual principal, interest and  
239 coverage requirements on any and all revenue bonds issued, or to be issued as certified to the  
240 Lottery Director. In the event there are insufficient funds available in any month to transfer the  
241 amounts required pursuant to this subsection, the deficiency shall be added to the amount  
242 transferred in the next succeeding month in which revenues are available to transfer the  
243 deficiency.

244 (i) Prior to the distributions provided in subsection (d) of this section, the Lottery  
245 Commission shall deposit into the General Revenue Fund amounts necessary to provide  
246 reimbursement for the refundable credit allowable under section twenty-one, article twenty-one,  
247 chapter eleven of this code.

248 (j)(1) The Legislature considers the following as priorities in the expenditure of any surplus  
249 revenue funds:

250 (A) Providing salary and/or increment increases for professional educators and public  
251 employees;

252 (B) Providing adequate funding for the Public Employees Insurance Agency; and

253 (C) Providing funding to help address the shortage of qualified teachers and substitutes in  
254 areas of need, both in number of teachers and in subject matter areas.

255 (2) The provisions of this subsection may not be construed by any court to require any  
256 appropriation or any specific appropriation or level of funding for the purposes set forth in this  
257 subsection.

258 (k) The Legislature further directs the Governor to focus resources on the creation of a  
259 prescription drug program for senior citizens by pursuing a Medicaid waiver to offer prescription  
260 drug services to senior citizens; by investigating the establishment of purchasing agreements with  
261 other entities to reduce costs; by providing discount prices or rebate programs for seniors; by  
262 coordinating programs offered by pharmaceutical manufacturers that provide reduced cost or free  
263 drugs; by coordinating a collaborative effort among all state agencies to ensure the most efficient  
264 and cost-effective program possible for the senior citizens of this state; and by working closely  
265 with the state's congressional delegation to ensure that a national program is implemented. The  
266 Legislature further directs that the Governor report his or her progress back to the Joint Committee  
267 on Government and Finance on an annual basis until a comprehensive program has been fully  
268 implemented.

269 (l) After all of the expenditures in subsections (a) through (i) of this section have been

270 satisfied in any fiscal year, the next \$2 million shall be distributed as follows:

271 (1) On the last day of the fiscal year that begins on July 1, 2010, and for each fiscal year  
 272 thereafter, forty-six percent shall be placed in the general purse fund of a thoroughbred racetrack  
 273 licensee that did not participate in the Thoroughbred Development Fund for at least four  
 274 consecutive calendar years prior to December 31, 1992, for payment of regular purses;

275 (2) Forty-three and one-half percent shall be distributed to the Racing Commission special  
 276 account - unredeemed pari-mutual tickets established on behalf of a thoroughbred racetrack  
 277 licensee that did participate in the Thoroughbred Development Fund for at least four consecutive  
 278 calendar years prior to December 31, 1992;

279 (3) Five and one-half percent shall be distributed to the Racing Commission special  
 280 account - unredeemed pari-mutuel tickets established on behalf of a thoroughbred racetrack  
 281 licensee that did not participate in the Thoroughbred Development Fund for at least four  
 282 consecutive calendar years prior to December 31, 1992; and

283 (4) Five percent shall be distributed to the West Virginia Racing Commission special  
 284 account Greyhound Breeding Development Fund: Provided, That beginning on July 1, 2017, the  
 285 amounts required by this subdivision to be distributed to the Greyhound Breeding Development  
 286 Fund shall instead be distributed to the state Excess Lottery Fund pursuant to section ten-a, article  
 287 twenty-three, chapter nineteen of this code.

## **ARTICLE 22A. RACETRACK VIDEO LOTTERY.**

### **§29-22A-3. Definitions.**

1 As used in this article:

2 (a) "Applicant" means any person applying for any video lottery license or permit.

3 (b) "Associated equipment" means any hardware located on a licensed racetrack's  
 4 premises which is connected to the video lottery system for the purpose of performing  
 5 communication, validation or other functions, but not including the video lottery terminals or the  
 6 communication facilities of a regulated public utility.

7 (c) "Background investigation" means a security, criminal and credit investigation of a  
8 person, as defined in this section, who has applied for a video lottery license or permit, or who  
9 has been granted a video lottery license or permit.

10 (d) "Central computer," "central control computer" or "central site system" means any  
11 central site computer provided to and controlled by the commission to which video lottery  
12 terminals communicate for purposes of information retrieval and terminal activation and to disable  
13 programs.

14 (e) "Commission" or "State Lottery Commission" means the West Virginia Lottery  
15 Commission created by article twenty-two of this chapter.

16 (f) "Control" means the authority to direct the management and policies of an applicant or  
17 a license or permit holder.

18 (g) "Costs" means the expenses incurred by the commission in the testing and  
19 examination of video lottery terminals and the performance of background investigations and  
20 other related activities which are charged to and collected from applicants or license or permit  
21 holders.

22 (h) "Director" means the individual appointed by the Governor to provide management and  
23 administration necessary to direct the state Lottery Office.

24 (i) "Disable" or "terminal disable" means the process of executing a shutdown command  
25 from the central control computer which causes video lottery terminals to cease functioning.

26 (j) "Display" means the visual presentation of video lottery game features on a video lottery  
27 terminal in the form of video images, actual symbols or both.

28 (k) "EPROM" and "erasable programmable read-only memory chips" means the electronic  
29 storage medium on which the operation software for all games playable on a video lottery terminal  
30 resides and which can also be in the form of CD-ROM, flash RAM or other new technology  
31 medium that the commission may from time to time approve for use in video lottery terminals. All  
32 electronic storage media are considered to be the property of the State of West Virginia.

33 (l) "Floor attendant" means a person, employed by a licensed racetrack, who holds a  
34 permit issued by the commission and who corrects paper jams and bill jams in video lottery  
35 terminals and also provides courtesy services for video lottery players.

36 (m) "Gross terminal income" means the total amount of cash, vouchers or tokens inserted  
37 into the video lottery terminals operated by a licensee, minus the total value of coins and tokens  
38 won by a player and game credits which are cleared from the video lottery terminals in exchange  
39 for winning redemption tickets.

40 (n) "License" or "video lottery license" means authorization granted by the commission to  
41 a racetrack which is licensed by the West Virginia Racing Commission to conduct thoroughbred  
42 or greyhound racing meetings pursuant to article twenty-three, chapter nineteen of this code  
43 permitting the racetrack to operate video lottery terminals authorized by the commission:  
44 Provided, That beginning July 1, 2017, "license" or "video lottery license" also means authorization  
45 granted pursuant to this subsection to a racetrack which was licensed to conduct greyhound  
46 racing meetings prior to January 1, 1994.

47 (o) "Lottery" means the public gaming systems or games established and operated by the  
48 state Lottery Commission.

49 (p) "Manufacturer" means any person holding a permit granted by the commission to  
50 engage in the business of designing, building, constructing, assembling or manufacturing video  
51 lottery terminals, the electronic computer components of the video lottery terminals, the random  
52 number generator of the video lottery terminals, or the cabinet in which it is housed, and whose  
53 product is intended for sale, lease or other assignment to a licensed racetrack in West Virginia,  
54 and who contracts directly with the licensee for the sale, lease or other assignment to a licensed  
55 racetrack in West Virginia.

56 (q) "Net terminal income" means gross terminal income minus an amount deducted by the  
57 commission to reimburse the commission for its actual costs of administering racetrack video  
58 lottery at the licensed racetrack. No deduction for any or all costs and expenses of a licensee

59 related to the operation of video lottery games shall be deducted from gross terminal income.

60 (r) "Noncash prize" means merchandise which a video lottery player may be given the  
61 option to receive in lieu of cash in exchange for a winning redemption ticket and which shall be  
62 assigned a redemption value equal to the actual cost of the merchandise to the licensed racetrack.

63 (s) "Own" means any beneficial or proprietary interest in any property or business of an  
64 applicant or licensed racetrack.

65 (t) "Pari-mutuel racing facility," "licensed racetrack," "racetrack" or "track" means a facility  
66 where horse or dog race meetings are held and the pari-mutuel system of wagering is authorized  
67 pursuant to the provisions of article twenty-three, chapter nineteen of this code: *Provided, That,*  
68 for the purposes of this article, "pari-mutuel racing facility," "licensed racetrack," "racetrack" or  
69 "track" includes only a facility which was licensed prior to January 1, 1994, to hold horse or dog  
70 race meetings, and which conducts not less than two hundred twenty live racing dates for each  
71 horse or dog race meeting or such other number of live racing dates as may be approved by the  
72 Racing Commission in accordance with the provisions of section twelve-b, article twenty-three,  
73 chapter nineteen of this code: *Provided, however, That beginning July 1, 2017, "pari-mutuel racing*  
74 *facility," "licensed racetrack," "racetrack" or "track" also includes any facility that was licensed to*  
75 *hold dog race meetings prior to January 1, 1994, regardless of whether the facility meets the other*  
76 *requirements of this subsection.*

77 (u) "Permit" means authorization granted by the commission to a person to function as  
78 either a video lottery manufacturer, service technician or validation manager.

79 (v) "Person" means any natural person, corporation, association, partnership, limited  
80 partnership, or other entity, regardless of its form, structure or nature.

81 (w) "Player" means a person who plays a video lottery game on a video lottery terminal at  
82 a racetrack licensed by the commission to conduct video lottery games.

83 (x) "Service technician" means a person, employed by a licensed racetrack, who holds a  
84 permit issued by the commission and who performs service, maintenance and repair on licensed

85 video lottery terminals in this state.

86 (y) "Video lottery game" means a commission approved, owned and controlled  
87 electronically simulated game of chance which is displayed on a video lottery terminal and which:

88 (1) Is connected to the commission's central control computer by an on-line or dial-up  
89 communication system;

90 (2) Is initiated by a player's insertion of coins, currency, vouchers or tokens into a video  
91 lottery terminal, which causes game play credits to be displayed on the video lottery terminal and,  
92 with respect to which, each game play credit entitles a player to choose one or more symbols or  
93 numbers or to cause the video lottery terminal to randomly select symbols or numbers;

94 (3) Allows the player to win additional game play credits, coins or tokens based upon game  
95 rules which establish the random selection of winning combinations of symbols or numbers or  
96 both and the number of free play credits, coins or tokens to be awarded for each winning  
97 combination of symbols or numbers or both;

98 (4) Is based upon computer-generated random selection of winning combinations based  
99 totally or predominantly on chance;

100 (5) Allows a player at any time to simultaneously clear all game play credits and print a  
101 redemption ticket entitling the player to receive the cash value of the free plays cleared from the  
102 video lottery terminal; and

103 (z) "Validation manager" means a person who holds a permit issued by the commission  
104 and who performs video lottery ticket redemption services.

105 (aa) "Video lottery" means a lottery which allows a game to be played utilizing an electronic  
106 computer and an interactive computer terminal device, equipped with a video screen and keys, a  
107 keyboard or other equipment allowing input by an individual player, into which the player inserts  
108 coins, currency, vouchers or tokens as consideration in order for play to be available, and through  
109 which terminal device the player may receive free games, coins, tokens or credit that can be  
110 redeemed for cash, annuitized payments over time, a noncash prize or nothing, as may be

111 determined wholly or predominantly by chance. "Video lottery" does not include a lottery game  
112 which merely utilizes an electronic computer and a video screen to operate a lottery game and  
113 communicate the results of the game, such as the game "Travel," and which does not utilize an  
114 interactive electronic terminal device allowing input by an individual player.

115 (bb) "Video lottery terminal" means a commission-approved interactive electronic terminal  
116 device which is connected with the commission's central computer system, and which is used for  
117 the purpose of playing video lottery games authorized by the commission. A video lottery terminal  
118 may simulate the play of one or more video lottery games.

119 (cc) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

**§29-22A-7. License and permit qualifications; individual qualifications; applicant required to furnish information; waiver of liability; oath or affirmation; duty to provide accurate and material information.**

1 (a) No video lottery license or permit may be granted unless the commission has  
2 determined that the applicant satisfies all of the following qualifications:

3 (1) An applicant for a video lottery license must hold a valid racing license granted by the  
4 West Virginia Racing Commission under provisions of article twenty-three, chapter nineteen of  
5 this code: Provided, That an applicant that held a valid dog racing license prior to January 1, 1994,  
6 is not required to hold a valid racing license in order to renew a video lottery license: Provided,  
7 however, That an applicant that held a valid dog racing license prior to January 1, 1994, is not  
8 required to hold a current racing license to conduct simulcast racing pursuant to the provisions of  
9 article twenty-three, chapter nineteen of this code.

10 (2) An applicant must be a person of good character and integrity.

11 (3) An applicant must be a person whose background, including criminal record, reputation  
12 and associations, does not pose a threat to the security and integrity of the lottery or to the public  
13 interest of the state. All new applicants for licenses and permits issued by the commission shall  
14 furnish fingerprints for a national criminal records check by the criminal identification bureau of



15 the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be  
16 furnished by all persons required to be named in the application and shall be accompanied by a  
17 signed authorization for the release of information by the criminal investigation bureau and the  
18 Federal Bureau of Investigation. The commission may require any applicant seeking the renewal  
19 of a license or permit to furnish fingerprints for a national criminal records check by the Criminal  
20 Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. A  
21 person who has been convicted of any violation of article twenty-two of this chapter or of this  
22 article or of any crime related to theft, bribery, gambling or involving moral turpitude is not eligible  
23 for any license or permit. The commission shall revoke the license or permit of any person who is  
24 convicted of any such crime after a license or permit is granted.

25 (4) An applicant must be a person who demonstrates the business ability and experience  
26 necessary to establish, operate and maintain the business for which a video lottery license or  
27 permit application is made.

28 (5) An applicant must be a person who has secured adequate financing for the business  
29 for which a video lottery license or permit application is made. The commission shall determine  
30 whether financing is from a source which meets the qualifications of this section and is adequate  
31 to support the successful performance of the duties and responsibilities of the licensed racetrack  
32 or permit holder. An applicant for a video lottery license shall disclose all financing or refinancing  
33 arrangements for the purchase, lease or other acquisition of video lottery terminals and  
34 associated equipment in the degree of detail requested by the commission. A licensed racetrack  
35 shall request commission approval of any change in financing or lease arrangements at least  
36 thirty days before the effective date of the change.

37 (6) A horse racetrack applying for a video lottery license or a license renewal must present  
38 to the commission evidence of the existence of an agreement, regarding the proceeds from video  
39 lottery terminals, between the applicant and the representative of a majority of the horse owners  
40 and trainers, the representative of a majority of the pari-mutuel clerks for horse racing

41 associations and the representative of a majority of the horse breeders ~~or the representative of a~~  
42 ~~majority of the kennel owners~~ for the applicable racetrack who hold permits required by section  
43 two, article twenty-three, chapter nineteen of this code.

44 (7) A racetrack applying for a video lottery license or a license renewal must file with the  
45 commission a copy of any current or proposed agreement between the applicant and any  
46 manufacturer for the sale, lease or other assignment to the racetrack of video lottery terminals,  
47 the electronic computer components of the terminals, the random number generator of the  
48 terminals, or the cabinet in which it is housed. Once filed with the commission, the agreement is  
49 a public document subject to the provisions of article one, chapter twenty-nine-b of this code.

50 (b) No video lottery license or permit may be granted to an applicant until the commission  
51 determines that each person who has control of the applicant meets all applicable qualifications  
52 of subsection (a) of this section. The following persons are considered to have control of an  
53 applicant:

54 (1) Each person associated with a corporate applicant, including any corporate holding  
55 company, parent company or subsidiary company of the applicant, but not including a bank or  
56 other licensed lending institution which holds a mortgage or other lien acquired in the ordinary  
57 course of business, who has the ability to control the activities of the corporate applicant or elect  
58 a majority of the board of directors of that corporation.

59 (2) Each person associated with a noncorporate applicant who directly or indirectly holds  
60 any beneficial or proprietary interest in the applicant or who the commission determines to have  
61 the ability to control the applicant.

62 (3) Key personnel of an applicant, including any executive, employee or agent, having the  
63 power to exercise significant influence over decisions concerning any part of the applicant's  
64 business operation.

65 (c) Applicants must furnish all information, including financial data and documents,  
66 certifications, consents, waivers, individual history forms and other materials requested by the

67 commission for purposes of determining qualifications for a license or permit. No video lottery  
68 license or permit may be granted to an applicant who fails to provide information and  
69 documentation requested by the commission. The burden of proving qualification for any video  
70 lottery license or permit is on the applicant.

71 (d) Each applicant bears all risks of adverse public notice, embarrassment, criticism,  
72 damages or financial loss which may result from any disclosure or publication of any material or  
73 information obtained by the commission pursuant to action on an application. The applicant shall,  
74 as a part of its application, expressly waive any and all claims against the commission, the State  
75 of West Virginia and the employees of either for damages as a result of any background  
76 investigation, disclosure or publication relating to an application for a video lottery license or  
77 permit.

78 (e) All application, registration and disclosure forms and other documents submitted to the  
79 commission by or on behalf of the applicant for purposes of determining qualification for a video  
80 lottery license or permit shall be sworn to or affirmed before an officer qualified to administer  
81 oaths.

82 (f) An applicant who knowingly fails to reveal any fact material to qualification or who  
83 knowingly submits false or misleading material information is ineligible for a video lottery license  
84 or permit.

**§29-22A-10. Accounting and reporting; commission to provide communications protocol data; distribution of net terminal income; remittance through electronic transfer of funds; establishment of accounts and nonpayment penalties; commission control of accounting for net terminal income; settlement of accounts; manual reporting and payment may be required; request for reports; examination of accounts and records.**

1 (a) The commission shall provide to manufacturers, or applicants applying for a  
2 manufacturer's permit, the protocol documentation data necessary to enable the respective

3 manufacturer's video lottery terminals to communicate with the commission's central computer  
4 for transmitting auditing program information and for activation and disabling of video lottery  
5 terminals.

6 (b) The gross terminal income of a licensed racetrack shall be remitted to the commission  
7 through the electronic transfer of funds. Licensed racetracks shall furnish to the commission all  
8 information and bank authorizations required to facilitate the timely transfer of moneys to the  
9 commission. Licensed racetracks must provide the commission thirty days' advance notice of any  
10 proposed account changes in order to assure the uninterrupted electronic transfer of funds. From  
11 the gross terminal income remitted by the licensee to the commission:

12 (1) The commission shall deduct an amount sufficient to reimburse the commission for its  
13 actual costs and expenses incurred in administering racetrack video lottery at the licensed  
14 racetrack and the resulting amount after the deduction is the net terminal income. The amount  
15 deducted for administrative costs and expenses of the commission may not exceed four percent  
16 of gross terminal income: *Provided*, That any amounts deducted by the commission for its actual  
17 costs and expenses that exceeds its actual costs and expenses shall be deposited into the state  
18 Lottery Fund. For the fiscal years ending June 30, 2011 through June 30, 2020, the term "actual  
19 costs and expenses" may include transfers of up to \$10 million in surplus allocations for each  
20 fiscal year, as calculated by the commission when it has closed its books for the fiscal year, to  
21 the Licensed Racetrack Modernization Fund created by subdivision (2), subsection (b) of this  
22 section. For all fiscal years beginning on or after July 1, 2001, the commission shall not receive  
23 an amount of gross terminal income in excess of the amount of gross terminal income received  
24 during the fiscal year ending on June 30, 2001, but four percent of any amount of gross terminal  
25 income received in excess of the amount of gross terminal income received during the fiscal year  
26 ending on June 30, 2001, shall be deposited into the fund established in section eighteen-a, article  
27 twenty-two of this chapter; and

28 (2) A Licensed Racetrack Modernization Fund is created within the lottery fund. For all

29 fiscal years beginning on or after July 1, 2011, and ending with the fiscal year beginning July 1,  
30 2020, the commission shall deposit such amounts as are available according to subdivision (1),  
31 subsection (b) of this section into a separate facility modernization account maintained within the  
32 Licensed Racetrack Modernization Fund for each racetrack. Each racetrack's share of each year's  
33 deposit shall be calculated in the same ratio as each racetrack's apportioned contribution to the  
34 four percent administrative costs and expenses allowance provided for in subdivision (1),  
35 subsection (b) of this section for that year. For each two dollars expended by a licensed racetrack  
36 for facility modernization improvements at the racetrack, having a useful life of three or more years  
37 and placed in service after July 1, 2011, the licensed racetrack shall receive \$1 in recoupment  
38 from its facility modernization account. If the licensed racetrack's facility modernization account  
39 contains a balance in any fiscal year, the unexpended balance from that fiscal year will be  
40 available for matching for one additional fiscal year, after which time, the remaining unused  
41 balance carried forward shall revert to the lottery fund. For purposes of this section, the term  
42 "facility modernization improvements" includes acquisitions of new and unused video lottery  
43 terminals and related equipment. Video lottery terminals financed through the recoupment  
44 provided in this subdivision must be retained by the licensee in its West Virginia licensed location  
45 for a period of not less than five years from the date of initial installation.

46 (c) The amount resulting after the deductions required by subsection (b) of this section  
47 constitutes net terminal income that shall be divided as set out in this subsection. For all fiscal  
48 years beginning on or after July 1, 2001, any amount of net terminal income received in excess  
49 of the amount of net terminal income received during the fiscal year ending on June 30, 2001,  
50 shall be divided as set out in section ten-b of this article. The licensed racetrack's share is in lieu  
51 of all lottery agent commissions and is considered to cover all costs and expenses required to be  
52 expended by the licensed racetrack in connection with video lottery operations. The division shall  
53 be made as follows:

54 (1) The commission shall receive thirty percent of net terminal income, which shall be paid

55 into the state Lottery Fund as provided in section ten-a of this article;

56 (2) Until July 1, 2005, fourteen percent of net terminal income at a licensed racetrack shall  
57 be deposited in the special fund established by the licensee, and used for payment of regular  
58 purses in addition to other amounts provided for in article twenty-three, chapter nineteen of this  
59 code, on and after July 1, 2005, the rate shall be seven percent of net terminal income;

60 (3) The county where the video lottery terminals are located shall receive two percent of  
61 the net terminal income: *Provided, That:*

62 (A) Beginning July 1, 1999, and thereafter, any amount in excess of the two percent  
63 received during the fiscal year 1999 by a county in which a racetrack is located that has  
64 participated in the West Virginia Thoroughbred Development Fund since on or before January 1,  
65 1999 shall be divided as follows:

66 (i) The county shall receive fifty percent of the excess amount; and

67 (ii) The municipalities of the county shall receive fifty percent of the excess amount, said  
68 fifty percent to be divided among the municipalities on a per capita basis as determined by the  
69 most recent decennial United States census of population; and

70 (B) Beginning July 1, 1999, and thereafter, any amount in excess of the two percent  
71 received during the fiscal year 1999 by a county in which a racetrack other than a racetrack  
72 described in paragraph (A) of this proviso is located and where the racetrack has been located in  
73 a municipality within the county since on or before January 1, 1999 shall be divided, if applicable,  
74 as follows:

75 (i) The county shall receive fifty percent of the excess amount; and

76 (ii) The municipality shall receive fifty percent of the excess amount; and

77 (C) This proviso shall not affect the amount to be received under this subdivision by any  
78 other county other than a county described in paragraph (A) or (B) of this proviso;

79 (4) One percent of net terminal income shall be paid for and on behalf of all employees of  
80 the licensed racing association by making a deposit into a special fund to be established by the

81 Racing Commission to be used for payment into the pension plan for all employees of the licensed  
82 racing association;

83 (5) The West Virginia Thoroughbred Development Fund created under section thirteen-b,  
84 article twenty-three, chapter nineteen of this code and the West Virginia Greyhound Breeding  
85 Development Fund created under section ten of said article shall receive an equal share of a total  
86 of not less than one and one-half percent of the net terminal income: Provided, That effective July  
87 1, 2017, all amounts required by this subdivision to be deposited into the West Virginia Greyhound  
88 Breeding Development Fund shall instead be deposited in the state Excess Lottery Revenue Fund  
89 as provided in section ten-a, article twenty-three, chapter nineteen of this code;

90 (6) The West Virginia Racing Commission shall receive one percent of the net terminal  
91 income which shall be deposited and used as provided in section thirteen-c, article twenty-three,  
92 chapter nineteen of this code.

93 (7) A licensee shall receive forty-six and one-half percent of net terminal income.

94 (8)(A) The Tourism Promotion Fund established in section twelve, article two, chapter five-  
95 b of this code shall receive three percent of the net terminal income: *Provided*, That for the fiscal  
96 year beginning July 1, 2003, the tourism commission shall transfer from the Tourism Promotion  
97 Fund \$5 million of the three percent of the net terminal income described in this section and  
98 section ten-b of this article into the fund administered by the West Virginia Economic Development  
99 Authority pursuant to section seven, article fifteen, chapter thirty-one of this code, \$5 million into  
100 the Capitol Renovation and Improvement Fund administered by the Department of Administration  
101 pursuant to section six, article four, chapter five-a of this code and \$5 million into the Tax  
102 Reduction and Federal Funding Increased Compliance Fund; and

103 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for  
104 each fiscal year beginning after June 30, 2004, this three percent of net terminal income and the  
105 three percent of net terminal income described in paragraph (B), subdivision (8), subsection (a),  
106 section ten-b of this article shall be distributed as provided in this paragraph as follows:

107 (i) 1.375 percent of the total amount of net terminal income described in this section and  
108 in section ten-b of this article shall be deposited into the Tourism Promotion Fund created under  
109 section twelve, article two, chapter five-b of this code;

110 (ii) 0.375 percent of the total amount of net terminal income described in this section and  
111 in section ten-b of this article shall be deposited into the Development Office Promotion Fund  
112 created under section three-b, article two, chapter five-b of this code;

113 (iii) 0.5 percent of the total amount of net terminal income described in this section and in  
114 section ten-b of this article shall be deposited into the Research Challenge Fund created under  
115 section ten, article one-b, chapter eighteen-b of this code;

116 (iv) 0.6875 percent of the total amount of net terminal income described in this section and  
117 in section ten-b of this article shall be deposited into the Capitol Renovation and Improvement  
118 Fund administered by the Department of Administration pursuant to section six, article four,  
119 chapter five-a of this code; and

120 (v) 0.0625 percent of the total amount of net terminal income described in this section and  
121 in section ten-b of this article shall be deposited into the 2004 Capitol Complex Parking Garage  
122 Fund administered by the Department of Administration pursuant to section five-a, article four,  
123 chapter five-a of this code;

124 (9)(A) On and after July 1, 2005, seven percent of net terminal income shall be deposited  
125 into the Workers' Compensation Debt Reduction Fund created in section five, article two-d,  
126 chapter twenty-three of this code: *Provided*, That in any fiscal year when the amount of money  
127 generated by this subdivision totals \$11 million, all subsequent distributions under this subdivision  
128 shall be deposited in the special fund established by the licensee and used for the payment of  
129 regular purses in addition to the other amounts provided in article twenty-three, chapter nineteen  
130 of this code;

131 (B) The deposit of the seven percent of net terminal income into the Worker's  
132 Compensation Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed



133 with respect to these funds and shall be deposited in the special fund established by the licensee  
134 and used for payment of regular purses in addition to the other amounts provided in article twenty-  
135 three, chapter nineteen of this code, on and after the first day of the month following the month in  
136 which the Governor certifies to the Legislature that: (i) The revenue bonds issued pursuant to  
137 article two-d, chapter twenty-three of this code, have been retired or payment of the debt service  
138 provided for; and (ii) that an independent certified actuary has determined that the unfunded  
139 liability of the old fund, as defined in chapter twenty-three of this code, has been paid or provided  
140 for in its entirety; and

141 (10) The remaining one percent of net terminal income shall be deposited as follows:

142 (A) For the fiscal year beginning July 1, 2003, the veterans memorial program shall receive  
143 one percent of the net terminal income until sufficient moneys have been received to complete  
144 the veterans memorial on the grounds of the State Capitol Complex in Charleston, West Virginia.  
145 The moneys shall be deposited in the State Treasury in the Division of Culture and History special  
146 fund created under section three, article one-i, chapter twenty-nine of this code: *Provided*, That  
147 only after sufficient moneys have been deposited in the fund to complete the veterans memorial  
148 and to pay in full the annual bonded indebtedness on the veterans memorial, not more than  
149 \$20,000 of the one percent of net terminal income provided in this subdivision shall be deposited  
150 into a special revenue fund in the State Treasury, to be known as the "John F. 'Jack' Bennett  
151 Fund". The moneys in this fund shall be expended by the Division of Veterans Affairs to provide  
152 for the placement of markers for the graves of veterans in perpetual cemeteries in this state. The  
153 Division of Veterans Affairs shall promulgate legislative rules pursuant to the provisions of article  
154 three, chapter twenty-nine-a of this code specifying the manner in which the funds are spent,  
155 determine the ability of the surviving spouse to pay for the placement of the marker and setting  
156 forth the standards to be used to determine the priority in which the veterans grave markers will  
157 be placed in the event that there are not sufficient funds to complete the placement of veterans  
158 grave markers in any one year, or at all. Upon payment in full of the bonded indebtedness on the

159 veterans memorial, \$100,000 of the one percent of net terminal income provided in this  
160 subdivision shall be deposited in the special fund in the Division of Culture and History created  
161 under section three, article one-i, chapter twenty-nine of this code and be expended by the  
162 Division of Culture and History to establish a West Virginia Veterans Memorial Archives within the  
163 Cultural Center to serve as a repository for the documents and records pertaining to the veterans  
164 memorial, to restore and maintain the monuments and memorial on the capitol grounds: *Provided,*  
165 *however,* That \$500,000 of the one percent of net terminal income shall be deposited in the State  
166 Treasury in a special fund of the Department of Administration, created under section five, article  
167 four, chapter five-a of this code, to be used for construction and maintenance of a parking garage  
168 on the State Capitol Complex; and the remainder of the one percent of net terminal income shall  
169 be deposited in equal amounts in the Capitol Dome and Improvements Fund created under  
170 section two, article four, chapter five-a of this code and Cultural Facilities and Capitol Resources  
171 Matching Grant Program Fund created under section three, article one of this chapter.

172 (B) For each fiscal year beginning after June 30, 2004:

173 (i) Five hundred thousand dollars of the one percent of net terminal income shall be  
174 deposited in the State Treasury in a special fund of the Department of Administration, created  
175 under section five, article four, chapter five-a of this code, to be used for construction and  
176 maintenance of a parking garage on the State Capitol Complex; and

177 (ii) The remainder of the one percent of net terminal income and all of the one percent of  
178 net terminal income described in paragraph (B), subdivision (9), subsection (a), section ten-b of  
179 this article shall be distributed as follows: The net terminal income shall be deposited in equal  
180 amounts into the Capitol Dome and Capitol Improvements Fund created under section two, article  
181 four, chapter five-a of this code and the Cultural Facilities and Capitol Resources Matching Grant  
182 Program Fund created under section three, article one, chapter twenty-nine of this code until a  
183 total of \$1,500,000 is deposited into the Cultural Facilities and Capitol Resources Matching Grant  
184 Program Fund; thereafter, the remainder shall be deposited into the Capitol Dome and Capitol

185 Improvements Fund.

186 (d) Each licensed racetrack shall maintain in its account an amount equal to or greater  
187 than the gross terminal income from its operation of video lottery machines, to be electronically  
188 transferred by the commission on dates established by the commission. Upon a licensed  
189 racetrack's failure to maintain this balance, the commission may disable all of a licensed  
190 racetrack's video lottery terminals until full payment of all amounts due is made. Interest shall  
191 accrue on any unpaid balance at a rate consistent with the amount charged for state income tax  
192 delinquency under chapter eleven of this code. The interest shall begin to accrue on the date  
193 payment is due to the commission.

194 (e) The commission's central control computer shall keep accurate records of all income  
195 generated by each video lottery terminal. The commission shall prepare and mail to the licensed  
196 racetrack a statement reflecting the gross terminal income generated by the licensee's video  
197 lottery terminals. Each licensed racetrack shall report to the commission any discrepancies  
198 between the commission's statement and each terminal's mechanical and electronic meter  
199 readings. The licensed racetrack is solely responsible for resolving income discrepancies  
200 between actual money collected and the amount shown on the accounting meters or on the  
201 commission's billing statement.

202 (f) Until an accounting discrepancy is resolved in favor of the licensed racetrack, the  
203 commission may make no credit adjustments. For any video lottery terminal reflecting a  
204 discrepancy, the licensed racetrack shall submit to the commission the maintenance log which  
205 includes current mechanical meter readings and the audit ticket which contains electronic meter  
206 readings generated by the terminal's software. If the meter readings and the commission's records  
207 cannot be reconciled, final disposition of the matter shall be determined by the commission. Any  
208 accounting discrepancies which cannot be otherwise resolved shall be resolved in favor of the  
209 commission.

210 (g) Licensed racetracks shall remit payment by mail if the electronic transfer of funds is

211 not operational or the commission notifies licensed racetracks that remittance by this method is  
212 required. The licensed racetracks shall report an amount equal to the total amount of cash  
213 inserted into each video lottery terminal operated by a licensee, minus the total value of game  
214 credits which are cleared from the video lottery terminal in exchange for winning redemption  
215 tickets, and remit the amount as generated from its terminals during the reporting period. The  
216 remittance shall be sealed in a properly addressed and stamped envelope and deposited in the  
217 United States mail no later than noon on the day when the payment would otherwise be completed  
218 through electronic funds transfer.

219 (h) Licensed racetracks may, upon request, receive additional reports of play transactions  
220 for their respective video lottery terminals and other marketing information not considered  
221 confidential by the commission. The commission may charge a reasonable fee for the cost of  
222 producing and mailing any report other than the billing statements.

223 (i) The commission has the right to examine all accounts, bank accounts, financial  
224 statements and records in a licensed racetrack's possession, under its control or in which it has  
225 an interest and the licensed racetrack shall authorize all third parties in possession or in control  
226 of the accounts or records to allow examination of any of those accounts or records by the  
227 commission.

**§29-22A-10b. Distribution of excess net terminal income.**

1 (a) For all years beginning on or after July 1, 2001, any amount of net terminal income  
2 generated annually by a licensed racetrack in excess of the amount of net terminal income  
3 generated by that licensed racetrack during the fiscal year ending on June 30, 2001, shall be  
4 divided as follows:

5 (1) The Commission shall receive forty-one percent of net terminal income, which the  
6 Commission shall deposit in the state Excess Lottery Revenue Fund created in section eighteen-  
7 a, article twenty-two of this chapter;

8 (2) Until July 1, 2005, eight percent of net terminal income at a licensed racetrack shall be

9 deposited in the special fund established by the licensee and used for payment of regular purses  
10 in addition to other amounts provided in article twenty-three, chapter nineteen of this code; on  
11 and after July 1, 2005, the rate shall be four percent of net terminal income;

12 (3) The county where the video lottery terminals are located shall receive two percent of  
13 the net terminal income *Provided, That:*

14 (A) Any amount by which the total amount under this section and subdivision (3),  
15 subsection (c), section ten of this article is in excess of the two percent received during fiscal year  
16 1999 by a county in which a racetrack is located that has participated in the West Virginia  
17 Thoroughbred Development Fund since on or before January 1, 1999, shall be divided as follows:

18 (i) The county shall receive fifty percent of the excess amount; and

19 (ii) The municipalities of the county shall receive fifty percent of the excess amount, the  
20 fifty percent to be divided among the municipalities on a per capita basis as determined by the  
21 most recent decennial United States census of population; and

22 (B) Any amount by which the total amount under this section and subdivision (3),  
23 subsection (c), section ten of this article is in excess of the two percent received during fiscal year  
24 1999 by a county in which a racetrack other than a racetrack described in paragraph (A) of this  
25 proviso is located and where the racetrack has been located in a municipality within the county  
26 since on or before January 1, 1999, shall be divided, if applicable, as follows:

27 (i) The county shall receive fifty percent of the excess amount; and

28 (ii) The municipality shall receive fifty percent of the excess amount; and

29 (C) This proviso shall not affect the amount to be received under this subdivision by any  
30 county other than a county described in paragraph (A) or (B) of this proviso;

31 (4) One half of one percent of net terminal income shall be paid for and on behalf of all  
32 employees of the licensed racing association by making a deposit into a special fund to be  
33 established by the Racing Commission to be used for payment into the pension plan for all  
34 employees of the licensed racing association;

35 (5) The West Virginia Thoroughbred Development Fund created under section thirteen-b,  
36 article twenty-three, chapter nineteen of this code and the West Virginia Greyhound Breeding  
37 Development Fund created under section ten of said article shall receive an equal share of a total  
38 of not less than one and one-half percent of the net terminal income: Provided, That beginning on  
39 July 1, 2017, the share of net terminal income required by this subdivision to be deposited in the  
40 West Virginia Greyhound Breeding Development Fund shall instead be deposited in the state  
41 Excess Lottery Revenue Fund pursuant to section ten-a, article twenty-three, chapter nineteen of  
42 this code.

43 (6) The West Virginia Racing Commission shall receive one percent of the net terminal  
44 income which shall be deposited and used as provided in section thirteen-c, article twenty-three,  
45 chapter nineteen of this code;

46 (7) A licensee shall receive forty-two percent of net terminal income;

47 (8) The Tourism Promotion Fund established in section twelve, article two, chapter five-b  
48 of this code shall receive three percent of the net terminal income: *Provided*, That for each fiscal  
49 year beginning after June 30, 2004, this three percent of net terminal income shall be distributed  
50 pursuant to the provisions of paragraph (B), subdivision (8), subsection (c), section ten of this  
51 article;

52 (9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited  
53 into the Workers' Compensation Debt Reduction Fund created in section five, article two-d,  
54 chapter twenty-three of this code: *Provided*, That in any fiscal year when the amount of money  
55 generated by this subdivision together with the total allocation transferred by the operation of  
56 subdivision (9), subsection (c), section ten of this article totals \$11,000,000, all subsequent  
57 distributions under this subdivision (9) during that fiscal year shall be deposited in the special fund  
58 established by the licensee and used for payment of regular purses in addition to other amounts  
59 provided in article twenty-three, chapter nineteen of this code;

60 (B) The deposit of the four percent of net terminal income into the Worker's Compensation

61 Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to  
62 these funds, which shall be deposited in the special fund established by the licensee and used  
63 for payment of regular purses in addition to the other amounts provided in article twenty-three,  
64 chapter nineteen of this code on and after the first day of the month following the month in which  
65 the Governor certifies to the Legislature that: (i) The revenue bonds issued pursuant to article  
66 two-d, chapter twenty-three of this code have been retired or payment of the debt service is  
67 provided for; and (ii) that an independent certified actuary has determined that the unfunded  
68 liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided  
69 in its entirety; and

70 (10) (A) One percent of the net terminal income shall be deposited in equal amounts in  
71 the Capitol Dome and Improvements Fund created under section two, article four, chapter five-a  
72 of this code and cultural facilities and capitol resources matching grant program fund created  
73 under section three, article one of this chapter; and

74 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for  
75 each fiscal year beginning after June 30, 2004, this one percent of net terminal income shall be  
76 distributed pursuant to the provisions of subparagraph (ii), paragraph (B), subdivision (9),  
77 subsection (c), section ten of this article.

78 (b) The Commission may establish orderly and effective procedures for the collection and  
79 distribution of funds under this section in accordance with the provisions of this section and section  
80 ten of this article

**§29-22A-10d. Changes in distribution of net terminal income; distributions from excess  
lottery fund.**

1 (a) Notwithstanding any provision of subsection (b), section ten of this article to the  
2 contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission  
3 may transfer up to \$9 million as actual costs and expenses to the Licensed Racetrack  
4 Modernization Fund.

5 (b) Notwithstanding any provision of subsection (c), section ten of this article to the  
6 contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each  
7 distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5)  
8 and (7), subsection (c), section ten of this article, shall be reduced by one hundred percent. For  
9 the fiscal year beginning on July 1, 2017, and each fiscal year thereafter, the distribution to the  
10 special fund established by the licensee, and used for payment of regular purses, pursuant to  
11 subdivision (2), subsection (c), section ten of this article only includes amounts to be distributed  
12 to each thoroughbred racetrack video lottery licensee for the payment of regular racetrack purses.  
13 Payments shall not be made pursuant to section ten of this article, other than those excepted by  
14 this subsection, and are made in lieu thereof in an amount to be determined by appropriation from  
15 the state Excess Lottery Revenue Fund.

16 (c) The total amount of reductions resulting from subsection (b) of this section shall be  
17 paid into the state Excess Lottery Revenue Fund, created by section eighteen-a, article twenty-  
18 two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter,  
19 distributions to be made pursuant to subdivisions (2) and (5), subsection (c), section ten of this  
20 article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid  
21 into the state Excess Lottery Revenue Fund.

22 (d) Notwithstanding any other provision of this code to the contrary, for the fiscal year  
23 beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the state Excess  
24 Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance  
25 with appropriations.

26 (e) Prior to payment of any appropriation made pursuant to this section, debt service  
27 payments payable from the state Excess Lottery Fund shall first be paid in accordance with the  
28 provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter  
29 and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this  
30 chapter.



31 (f) Notwithstanding any other provision of this code to the contrary, after payment of debt  
32 service from the state Excess Lottery Revenue Fund, all other distributions required by section  
33 eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this  
34 section shall be paid on a pro rata basis.

35 (g)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the  
36 provisions of paragraph (B), subdivision (9), subsection (c), section ten of this article, upon  
37 certification of the Governor to the Legislature that an independent actuary has determined that  
38 the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been  
39 paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt  
40 Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (c), section ten of this  
41 article shall expire and those funds shall remain in the state Excess Lottery Revenue Fund subject  
42 to appropriation.

43 (2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision  
44 of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision  
45 of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of  
46 December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order,  
47 redirect deposits of revenues derived from net terminal income imposed under this article, for any  
48 period commencing after February 29, 2016 and ending before July 1, 2016, to the General  
49 Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter  
50 twenty-three of this code or in any other provision of this code.

51 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of  
52 paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of  
53 this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits  
54 of revenues derived from net terminal income imposed under this article, for any period  
55 commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,  
56 instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of

57 this code or in any other provision of this code, until certification of the Governor to the Legislature  
58 that an independent actuary has determined that the unfunded liability of the Old Fund, as defined  
59 in chapter twenty three of this code, has been paid or provided for in its entirety.

**§29-22A-10e. Changes in distribution of excess net terminal income; distributions from  
excess lottery fund.**

1 (a) Notwithstanding any provision of subsection (a), section ten-b of this article to the  
2 contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each  
3 distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5)  
4 and (7), subsection (a), section ten-b of this article, shall be reduced by one hundred percent. For  
5 fiscal year beginning July 1, 2017, and each fiscal year thereafter, the distribution to the special  
6 fund established by the licensee, and used for payment of regular purses, pursuant to subdivision  
7 (2), subsection (a), section ten-b of this article only includes amounts to be distributed to each  
8 thoroughbred racetrack video lottery licensee for the payment of regular racetrack purses.  
9 Payments shall not be made pursuant to section ten-b of this article, other than those excepted  
10 by this subsection, and are made in lieu thereof in an amount to be determined by appropriation  
11 from the state Excess Lottery Revenue Fund.

12 (b) The total amount of reductions resulting from subsection (a) of this section shall be  
13 paid into the state Excess Lottery Revenue Fund created in section eighteen-a, article twenty-two  
14 of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter,  
15 distributions to be made pursuant to subdivisions (2) and (5), subsection (a), section ten-b of this  
16 article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid  
17 into the state Excess Lottery Revenue Fund.

18 (c) Notwithstanding any other provision of this code to the contrary, for the fiscal year  
19 beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the state Excess  
20 Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance  
21 with appropriations.

22 (d) Prior to payment of any appropriation made pursuant to this section, debt service  
23 payments payable from the state Excess Lottery Fund shall first be paid in accordance with the  
24 provisions of sections eighteen-a, eighteen-d, and eighteen-e, article twenty-two of this chapter  
25 and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this  
26 chapter.

27 (e) Notwithstanding any other provision of this code to the contrary, after payment of debt  
28 service from the state Excess Lottery Revenue Fund, all other distributions required by section  
29 eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this  
30 section shall be paid on a pro rata basis.

31 (f)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the  
32 provisions of paragraph (B), subdivision (9), subsection (a), section ten-b of this article, upon  
33 certification of the Governor to the Legislature that an independent actuary has determined that  
34 the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been  
35 paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt  
36 Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (a), section ten-b of this  
37 article shall expire and those funds shall remain in the state Excess Lottery Revenue Fund subject  
38 to appropriation.

39 (2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision  
40 of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision  
41 of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of  
42 December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order,  
43 redirect deposits of revenues derived from net terminal income imposed under this article, for any  
44 period commencing after February 29, 2016 and ending before July 1, 2016, to the General  
45 Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter  
46 twenty-three of this code or in any other provision of this code.

47 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of

48 paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision  
49 of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the  
50 deposits of revenues derived from net terminal income imposed under this article, for any period  
51 commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,  
52 instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of  
53 this code or in any other provision of this code, until certification of the Governor to the Legislature  
54 that an independent actuary has determined that the unfunded liability of the Old Fund, as defined  
55 in chapter twenty three of this code, has been paid or provided for in its entirety.

**§29-22A-12. Number and location of video lottery terminals security.**

1 (a) A racetrack which has been licensed to conduct video lottery games has the right to  
2 install and operate up to four hundred video lottery terminals at a licensed racetrack. A licensed  
3 racetrack may apply to the commission for authorization to install and operate more than four  
4 hundred video lottery terminals. If the commission determines that the installation of additional  
5 machines is in the best interest of the licensed racetrack, the Lottery Commission and the citizens  
6 of this state, the commission may grant permission to install and operate additional machines.

7 (b) All video lottery terminals in licensed racetracks shall be physically located as follows:

8 (1) The video lottery location shall be continuously monitored through the use of a closed  
9 circuit television system capable of recording activity for a continuous 24-hour period. All video  
10 tapes shall be retained for a period of at least thirty days;

11 (2) Access to video lottery terminal locations shall be restricted to persons legally entitled  
12 by age to play video lottery games;

13 (3) The licensed racetrack shall submit for commission approval a floor plan of the area  
14 or areas where video lottery terminals are to be operated showing terminal locations and security  
15 camera mount locations;

16 (4) No video lottery terminal may be relocated without prior approval from the commission;

17 and

18 (5) Operational video lottery terminals may only be located in the building or structure in  
 19 which the grandstand area of the racetrack is located and in the area of the building or structure  
 20 where pari-mutuel wagering is permitted under the provisions of article twenty-three, chapter  
 21 nineteen of this code: *Provided*, That if the commission, before November 1, 1993, has authorized  
 22 any racetrack to operate video lottery terminals and offer video lottery games in a location which  
 23 would not conform to the requirements of this subdivision, the racetrack may continue to use video  
 24 lottery terminals registered with and approved by the commission at that nonconforming location  
 25 and to offer the games and any variations or composites of the games as may be approved by  
 26 the commission: *Provided, however, That a racetrack that held a valid dog racing license prior to*  
 27 *January 1, 1994 is not required to comply with this subdivision.*

28 (c) A licensee shall allow video lottery games to be played only on days when live racing  
 29 is being conducted at the racetrack and/or on televised racing days: *Provided*, That this restriction  
 30 shall not apply to any racetrack authorized by the commissioner prior to November 1, 1993, to  
 31 operate video lottery terminals and conduct video lottery games.

32 (d) Security personnel shall be present during all hours of operation at each video lottery  
 33 terminal location. Each license holder shall employ the number of security personnel the  
 34 commission determines is necessary to provide for safe and approved operation of the video  
 35 lottery facilities and the safety and well-being of the players.

## **ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES ACT.**

### **§29-22C-3. Definitions.**

1 (a) *Applicability of definitions.* -- For the purposes of this article, the words or terms defined  
 2 in this section, and any variation of those words or terms required by the context, have the  
 3 meanings ascribed to them in this section. These definitions are applicable unless a different  
 4 meaning clearly appears from the context in which the word or term is used.

5 (b) *Terms defined.* --

6 (1) "Adjusted gross receipts" means gross receipts from West Virginia Lottery table games

7 less winnings paid to patrons wagering on the racetrack's table games.

8 (2) "Applicant" means any person who on his or her own behalf, or on behalf of another,  
9 has applied for permission to engage in any act or activity that is regulated under the provision of  
10 this article for which a license is required by this article or rule of the commission.

11 (3) "Application" means any written request for permission to engage in any act or activity  
12 that is regulated under the provisions of this article submitted in the form prescribed by the  
13 commission.

14 (4) "Background investigation" means a security, criminal and credit investigation of an  
15 applicant who has applied for the issuance or renewal of a license pursuant to this article, or a  
16 licensee who holds a current license.

17 (5) "Commission" or "State Lottery Commission" means the West Virginia Lottery  
18 Commission created by article twenty-two of this chapter.

19 (6) "Complimentary" means a service or item provided at no cost or at a reduced price.

20 (7) "Compensation" means any money, thing of value, or financial benefit conferred or  
21 received by a person in return for services rendered, or to be rendered, whether by that person  
22 or another.

23 (8) "Contested case" means a proceeding before the commission, or a hearing examiner  
24 designated by the commission to hear the contested case, in which the legal rights, duties,  
25 interests or privileges of specific persons are required by law or Constitutional right to be  
26 determined after a commission hearing, but does not include cases in which the commission  
27 issues a license, permit or certificate after an examination to test the knowledge or ability of the  
28 applicant where the controversy concerns whether the examination was fair or whether the  
29 applicant passed the examination and does not include rule making.

30 (9) "Control" means the authority directly or indirectly to direct the management and  
31 policies of an applicant for a license issued under this article or the holder of a license issued  
32 under this article.

33 (10) "Designated gaming area" means one or more specific floor areas of a licensed  
34 racetrack within which the commission has authorized operation of racetrack video lottery  
35 terminals or table games, or the operation of both racetrack video lottery terminals and West  
36 Virginia Lottery table games.

37 (11) "Director" means the Director of the West Virginia State Lottery Commission  
38 appointed pursuant to section six, article twenty-two of this chapter.

39 (12) "Disciplinary action" is an action by the commission suspending or revoking a license,  
40 fining, excluding, reprimanding or otherwise penalizing a person for violating this article or rules  
41 promulgated by the commission.

42 (13) "Financial interest" or "financially interested" means any interest in investments,  
43 awarding of contracts, grants, loans, purchases, leases, sales or similar matters under  
44 consideration for consummation by the commission. A member, employee or agent of the  
45 commission will be considered to have a financial interest in a matter under consideration if any  
46 of the following circumstances exist:

47 (A) He or she owns one percent or more of any class of outstanding securities that are  
48 issued by a party to the matter under consideration by the commission; or

49 (B) He or she is employed by an independent contractor for a party to the matter under  
50 consideration or consummated by the commission.

51 (14) "Gaming equipment" means gaming tables, cards, dice, chips, shufflers, drop boxes  
52 or any other mechanical, electronic or other device, mechanism or equipment or related supplies  
53 used or consumed in the operation of any West Virginia Lottery table game at a licensed  
54 racetrack.

55 (15) "Gross receipts" means the total of all sums including valid or invalid checks, currency,  
56 tokens, coupons (excluding match play coupons), vouchers or instruments of monetary value  
57 whether collected or uncollected, received by a racetrack with table games from table gaming  
58 operations at a race track, including all entry fees assessed for tournaments or other contests.

59           (16) “Indirect ownership” means an interest a person owns in an entity or in property solely  
60 as a result of application of constructive ownership rules without regard to any direct ownership  
61 interest (or other beneficial interest) in the entity or property. “Indirect ownership” shall be  
62 determined under the same rules applicable to determining whether a gain or loss between  
63 related parties is recognized for federal income tax purposes.

64           (17) “Licensed racetrack” means a thoroughbred horse or greyhound dog racing facility  
65 licensed under both article twenty-two-a of this chapter and article twenty-three, chapter nineteen  
66 of this code: Provided, That beginning July 1, 2017, “licensed racetrack” includes a facility which  
67 was licensed prior to January 1, 1994, to hold dog race meetings and which is licensed under  
68 article twenty-two-a of this chapter.

69           (18) “License” means any license applied for or issued by the commission under this  
70 article, including, but not limited to:

71           (A) A license to act as agent of the commission in operating West Virginia Lottery table  
72 games at a licensed racetrack;

73           (B) A license to supply a racetrack licensed under this article to operate table games with  
74 table gaming equipment or services necessary for the operation of table games;

75           (C) A license to be employed at a racetrack licensed under this article to operate West  
76 Virginia Lottery table games when the employee works in a designated gaming area that has  
77 table games or performs duties in furtherance of or associated with the operation of table games  
78 at the licensed racetrack; or

79           (D) A license to provide management services under a contract to a racetrack licensed  
80 under this article to operate table games.

81           (19) “Licensee” means any person who is licensed under any provision of this article.

82           (20) “Lottery” means the public gaming systems or games regulated, controlled, owned  
83 and operated by the state Lottery Commission in the manner provided by general law, as provided  
84 in this article and in articles twenty-two, twenty-two-a, twenty-two-b and twenty-five of this chapter.



85 (21) "Member" means a commission member appointed to the West Virginia Lottery  
86 Commission under article twenty-two of this chapter.

87 (22) "National criminal history background check system" means the criminal history  
88 record system maintained by the Federal Bureau of Investigation based on fingerprint  
89 identification or any other method of positive identification.

90 (23) "Own" means any beneficial or proprietary interest in any real or personal property,  
91 including intellectual property, and also includes, but is not limited to, any direct or indirect  
92 beneficial or proprietary interest in any business of an applicant or licensee.

93 (24) "Person" means any natural person, and any corporation, association, partnership,  
94 limited liability company, limited liability partnership, trust or other entity, regardless of its form,  
95 structure or nature other than a government agency or instrumentality.

96 (25) "Player" or "Patron" means a person who plays a racetrack video lottery game or a  
97 West Virginia Lottery table game at a racetrack licensed under this article to have table games.

98 (26) "Player's account" means a financial record established by a licensed racetrack for  
99 an individual racetrack patron to which the racetrack may credit winnings and other amounts due  
100 to the racetrack patron and from which the patron may withdraw moneys due to the patron for  
101 purchase of tokens, chips or electronic media or other purposes.

102 (27) "Racetrack table games license" means authorization granted under this article by  
103 the commission to a racetrack that is already licensed under article twenty-two-a of this chapter  
104 to operate racetrack video lottery terminals and holds a valid racing license granted by the West  
105 Virginia Racing Commission pursuant to the provision of article twenty-three, chapter nineteen of  
106 this code, which permits the racetrack as an agent of the commission for the limited purpose of  
107 operation of West Virginia Lottery table games in one or more designated gaming areas in one or  
108 more buildings owned by the licensed racetrack on the grounds where live pari-mutuel racing is  
109 conducted by the licensee.

110 (28) "Racetrack Table Games Fund" means the special fund in the State Treasury created

111 in section twenty-seven of this article.

112 (29) "Significant influence" means the capacity of a person to affect substantially (but not  
113 control) either, or both, of the financial and operating policies of another person.

114 (30) "Supplier" means a person who the commission has identified under legislative rules  
115 of the commission as requiring a license to provide a racetrack table games licensee with goods  
116 or services to be used in connection with operation of table games.

117 (31) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

118 (32) "West Virginia Lottery table game" means any game played with cards, dice or any  
119 mechanical, electromechanical or electronic device or machine for money, credit or any  
120 representative of value, including, but not limited to, baccarat, blackjack, poker, craps, roulette,  
121 wheel of fortune or any variation of these games similar in design or operation and expressly  
122 authorized by rule of the commission, including multiplayer electronic table games, machines and  
123 devices, but excluding video lottery, punchboards, faro, numbers tickets, push cards, jar tickets,  
124 pull tabs or similar games.

125 (33) "Winnings" means the total cash value of all property or sums including currency,  
126 tokens, or instruments of monetary value paid to players as a direct result of wagers placed on  
127 West Virginia Lottery table games.

**§29-22C-8. License to operate a racetrack with West Virginia Lottery table games.**

1 (a) *Racetrack table games licenses.* -- The commission may issue up to four racetrack  
2 table games licenses to operate West Virginia Lottery table games in accordance with the  
3 provisions of this article. The Legislature intends that no more than four licenses to operate a  
4 racetrack with West Virginia Lottery table games in this state shall be permitted in any event.

5 (b) *Grant of license.* -- Upon the passage of a local option election in a county in  
6 accordance with the provisions of section seven of this article, the commission shall immediately  
7 grant a West Virginia Lottery table games license, and a license for the right to conduct West  
8 Virginia Lottery table games as assignee to the intellectual property rights of the state, to allow

9 the licensee to conduct West Virginia table games at the licensed pari-mutuel racetrack identified  
10 on the local option election ballot, provided that racetrack holds a valid racetrack video lottery  
11 license issued by the commission pursuant to article twenty-two-a of this chapter and a valid  
12 racing license granted by the West Virginia Racing Commission pursuant to the provision of article  
13 twenty-three, chapter nineteen of this code and has otherwise met the requirements for licensure  
14 under the provisions of this article and the rules of the commission: Provided, That a racetrack  
15 that held a valid dog racing license prior to January 1, 1994, is not required to hold a current racing  
16 license.

17 (c) *Location.* -- A racetrack table games license authorizes the operation of West Virginia  
18 Lottery table games on the grounds of the particular licensed facility identified in the racetrack  
19 video lottery license issued pursuant to article twenty-two-a and the license to conduct horse or  
20 dog racing issued pursuant to article twenty-three, chapter nineteen of this code.

21 (d) *Floor plan submission requirement.* -- Prior to commencing the operation of any table  
22 games in a designated gaming area, a racetrack table games licensee shall submit to the  
23 commission for its approval a detailed floor plan depicting the location of the designated gaming  
24 area in which table games gaming equipment will be located and its proposed arrangement of the  
25 table games gaming equipment. Any floor plan submission that satisfies the requirements of the  
26 rules promulgated by the commission shall be considered approved by the commission unless  
27 the racetrack table games licensee is notified in writing to the contrary within one month of filing  
28 a detailed floor plan.

29 (e) *Management service contracts.* --

30 (1) *Approval.* -- A racetrack table games licensee may not enter into any management  
31 service contract that would permit any person other than the licensee to act as the commission's  
32 agent in operating West Virginia Lottery table games unless the management service contract is:  
33 (A) With a person licensed under this article to provide management services; (B) is in writing;  
34 and (C) the contract has been approved by the commission.

35           (2) *Material change.* -- The licensed racetrack table games licensee shall submit any  
36 material change in a management service contract previously approved by the commission to the  
37 commission for its approval or rejection before the material change may take effect.

38           (3) *Prohibition on assignment or transfer.* -- A management services contract may not be  
39 assigned or transferred to a third party.

40           (4) *Other commission approvals and licenses.* -- The duties and responsibilities of a  
41 management services provider under a management services contract may not be assigned,  
42 delegated, subcontracted or transferred to a third party to perform without the prior approval of  
43 the commission. Third parties must be licensed under this article before providing service. The  
44 commission may by rule clarify application of this subdivision and provide exceptions to its  
45 application. The commission shall license and require the display of West Virginia Lottery game  
46 logos on appropriate game surfaces and other gaming items and locations as the commission  
47 considers appropriate.

48           (f) *Coordination of licensed activities.* -- In order to coordinate various licensed activities  
49 within racetrack facilities, the following provisions apply to licensed racetrack facilities:

50           (1) The provisions of this article and of article twenty-two-a of this chapter shall be  
51 interpreted to allow West Virginia Lottery table games and racetrack video lottery operations  
52 under those articles to be harmoniously conducted in the same designated gaming area.

53           (2) On the effective date of this article, the provisions of section twenty-three of this article  
54 apply to all video lottery games conducted within a racetrack facility, notwithstanding any  
55 inconsistent provisions contained in article twenty-two-a of this chapter to the contrary.

56           (3) On and after the effective date of this article, vacation of the premises after service of  
57 beverages ceases is not required, notwithstanding to the contrary any inconsistent provisions of  
58 this code or inconsistent rules promulgated by the Alcohol Beverage Control Commissioner with  
59 respect to hours of sale of those beverages, or required vacation of the premises.

60           (g) *Fees, expiration date and renewal.* --

61 (1) An initial racetrack table games license fee of \$1,500,000 shall be paid to the  
62 commission at the time of issuance of the racetrack table games license, regardless of the number  
63 of months remaining in the license year for which it is issued. All licenses expire at the end of the  
64 day on June 30 each year.

65 (2) The commission shall annually renew a racetrack table games license as of July 1, of  
66 each year provided the licensee:

67 (A) Successfully renews its racetrack video lottery license under article twenty-two-a of  
68 this chapter before July 1;

69 (B) Pays to the commission the annual license renewal fee of \$2,500,000 required by this  
70 section at the time it files its application for renewal of its license under article twenty-two-a of this  
71 chapter; and

72 (C) During the current license year, the licensee complied with all provisions of this article,  
73 all rules adopted by the commission and all final orders of the commission applicable to the  
74 licensee.

75 (3) *Annual license surcharge for failure to construct hotel on premises.* -- It is the intent of  
76 the Legislature that each racetrack for which a racetrack table games license has been issued be  
77 or become a destination tourism resort facility. To that end, it is important that each racetrack for  
78 which a racetrack table games license has been issued operate a hotel with significant amenities.  
79 Therefore, in addition to all other taxes and fees required by the provisions of this article, there is  
80 hereby imposed, upon each racetrack for which a racetrack table games license has been issued  
81 an annual license surcharge, payable to the commission in the amount of \$2,500,000 if that  
82 racetrack does not operate a hotel on its racing property that contains at least one hundred fifty  
83 guest rooms with significant amenities within three years of the passage of the local option  
84 election in its county authorizing table games at the racetrack, provided the time for completion  
85 of the hotel shall be extended by the same number of days as the completion of the hotel is  
86 delayed by a force majeure events or conditions beyond the reasonable control of the racetrack

87 licensee. The surcharge shall be paid upon each renewal of its racetrack table games license  
88 made after the expiration of the three-year period, and may be extended by the above force  
89 majeure events or conditions, until the racetrack opens a qualifying hotel.

90 (4) If the licensee fails to apply to renew its license under article twenty-three, chapter  
91 nineteen and article twenty-two-a, chapter twenty-nine of this code until after the license expires,  
92 the commission shall renew its license under this article at the time it renews its license under  
93 article twenty-two-a of this chapter provided the licensee has paid the annual license fee required  
94 by this section and during the preceding license year the licensee complied with all provisions of  
95 this article, all rules adopted by the commission and all final orders of the commission applicable  
96 to the licensee.

97 (h) *Facility qualifications.* -- A racetrack table games licensee shall demonstrate that the  
98 racetrack with West Virginia Lottery table games will: (1) Be accessible to disabled individuals in  
99 accordance with applicable federal and state laws; (2) be licensed in accordance with this article,  
100 and all other applicable federal, state and local laws; and (3) meet any other qualifications  
101 specified in rules adopted by the commission.

102 (i) *Surety bond.* -- A racetrack table games licensee shall execute a surety bond to be  
103 given to the state to guarantee the licensee faithfully makes all payments in accordance with the  
104 provisions of this article and rules promulgated by the commission. The surety bond shall be:

105 (1) In the amount determined by the commission to be adequate to protect the state  
106 against nonpayment by the licensee of amounts due the state under this article;

107 (2) In a form approved by the commission; and

108 (3) With a surety approved by the commission who is licensed to write surety insurance in  
109 this state. The bond shall remain in effect during the term of the license and may not be canceled  
110 by a surety on less than thirty days' notice in writing to the commission. The total and aggregate  
111 liability of the surety on the bond is limited to the amount specified in the bond.

112 (j) *Authorization.* -- A racetrack table games license authorizes the licensee act as an

113 agent of the commission in operating an unlimited amount of West Virginia Lottery table games  
114 while the license is active, subject to subsection (d) of this section. A racetrack table games  
115 license is not transferable or assignable and cannot be sold or pledged as collateral.

116 (k) *Audits.* -- When applying for a license and annually thereafter prior to license renewal,  
117 a racetrack table games licensee shall submit to the commission an annual audit, by a certified  
118 public accountant, of the financial transactions and condition of the licensee's total operations.  
119 The audit shall be made in accordance with generally accepted accounting principles and  
120 applicable federal and state laws.

121 (l) *Commission office space.* -- A racetrack table games licensee shall provide to the  
122 commission, at no cost to the commission, suitable office space at the racetrack facility for the  
123 commission to perform the duties required of it by this article and the rules of the commission.

**§29-22C-10. Duties of racetrack table games licensee.**

1 (a) *General.* -- All racetrack table games licensees shall:

2 (1) Promptly report to the commission any facts or circumstances related to the operation  
3 of a racetrack with West Virginia Lottery table games which constitute a violation of state or federal  
4 law;

5 (2) Conduct all table games activities and functions in a manner which does not pose a  
6 threat to the public health, safety or welfare of the citizens of this state and which does not  
7 adversely affect the security or integrity of the operation of West Virginia Lottery table games;

8 (3) Hold the commission and this state harmless from and defend and pay for the defense  
9 of any and all claims which may be asserted against a racetrack licensee, the commission, the  
10 state or employees thereof, arising from the licensee's actions or omission while acting as an  
11 agent of the commission by operation of West Virginia Lottery table games pursuant to this article;

12 (4) Assist the commission in maximizing table games revenues;

13 (5) Give preference in hiring to existing employees who have expressed an interest in  
14 transferring to an entry level West Virginia Lottery Table games job and who have demonstrated

15 the potential to succeed in that job. To enable these employees to develop the skills necessary  
16 to fill an entry level West Virginia Lottery table games position, a licensee shall provide customary  
17 industry training for entry level West Virginia Lottery table games jobs. The dates, times, place  
18 and manner of providing such training, the appropriate qualifications and certifications, the  
19 number of existing employees to be trained, the determination of standards for evaluating  
20 successful performance in live auditions for such positions and the determination of who shall be  
21 given West Virginia Lottery table game jobs shall be within the sole business discretion of the  
22 licensee's management, provided that among equally qualified applicants, as determined by the  
23 licensee, length of service shall be the determining factor;

24 (6) Maintain all records required by the commission;

25 (7) Upon request by the commission, provide the commission access to all records and  
26 the physical premises where the licensee's table games activities and related activities occur, for  
27 the purpose of monitoring or inspecting the licensee's activities and the table games, gaming  
28 equipment and security equipment;

29 (8) Keep current in all payments and obligations to the commission; and

30 (9) Conduct no less than two hundred twenty live racing dates for each horse or dog race  
31 meeting or such other number of live racing dates as may be approved by the Racing Commission  
32 in accordance with the provisions of section twelve-b, article twenty-three, chapter nineteen of  
33 this code, and otherwise keep in good standing, all licenses and permits granted by the Racing  
34 Commission pursuant to section six, article twenty-three, chapter nineteen of this code, and any  
35 rules promulgated thereunder: Provided, That a racetrack that held a valid dog racing license prior  
36 to January 1, 1994, is not required to comply with this subdivision.

37 (b) *Specific.* -- All racetrack table games licensees shall:

38 (1) Acquire West Virginia Lottery table games and gaming equipment by purchase, lease  
39 or other assignment and provide a secure location for the placement, operation and play of the  
40 table games and gaming equipment;



41 (2) Permit no person to tamper with or interfere with the operation of any West Virginia  
42 Lottery table game;

43 (3) Ensure that West Virginia Lottery table games are within the sight and control of  
44 designated employees of the licensed racetrack with West Virginia Lottery table games and under  
45 continuous observation by security equipment in conformity with specifications and requirements  
46 of the commission;

47 (4) Ensure that West Virginia Lottery table games are placed and remain placed in the  
48 specific locations within designated gaming areas at the licensed racetrack which have been  
49 approved by the commission. West Virginia Lottery table games at a licensed racetrack shall only  
50 be relocated in accordance with the rules of the commission;

51 (5) Maintain at all times sufficient cash and gaming tokens, chips and electronic cards or  
52 other electronic media;

53 (6) Install, post and display conspicuously at locations within or about the licensed  
54 racetrack with West Virginia Lottery table games, signs, redemption information and other  
55 promotional material as required by the commission; and

56 (7) Assume liability for stolen money from any table game.

**§29-22C-27. West Virginia Lottery Racetrack Table Games Fund; Community-Based  
Service Fund; State Debt Reduction Fund; distribution of funds.**

1 (a) (1) The special fund in the State Treasury known as the West Virginia Lottery  
2 Racetrack Table Games Fund is continued and all tax collected under this article shall be  
3 deposited with the State Treasurer and placed in the West Virginia Lottery Racetrack Table  
4 Games Fund. The fund shall be an interest-bearing account with all interest or other return earned  
5 on the money of the fund credited to and deposited in the fund.

6 (2) Notwithstanding any provision of this article to the contrary, all racetrack table games  
7 license fees received by the commission pursuant to section eight of this article shall be deposited  
8 into the Community-Based Service Fund which is continued in the State Treasury. Moneys of the

9 fund shall be expended by the Bureau of Senior Services upon appropriation of the Legislature  
10 solely for the purpose of enabling the aged and disabled citizens of this state to maintain their  
11 residency in the community-based setting through the provision of home and community-based  
12 services.

13 (b) From the gross amounts deposited into the Racetrack Table Games Fund pursuant to  
14 subsection (a) of this section, the commission shall:

15 (1) Retain an amount for the administrative expenses of the commission as determined  
16 by the commission in accordance with subsection (e) of this section;

17 (2) Transfer two and one-half percent of adjusted gross receipts from all thoroughbred  
18 racetracks with West Virginia Lottery table games to the special funds established by each  
19 thoroughbred racetrack table games licensees for the payment of regular racetrack purses, the  
20 amount being divided on a pro rata basis between the special funds of each thoroughbred  
21 racetrack table games licensee and transfer two and one-half percent of adjusted gross receipts  
22 from all greyhound racetracks with West Virginia Lottery table games to the special funds  
23 established by each greyhound racetrack table games licensees for the payment of regular  
24 racetrack purses, the amount being divided equally between the special funds of each greyhound  
25 racetrack table games licensee: Provided; That effective July 1, 2017, the amount required by  
26 this subdivision to be transferred to the special funds established by each greyhound racetrack  
27 table games licensees for the payment of regular racetrack purses shall instead be transferred to  
28 the state Excess Lottery Fund pursuant to section ten-a, article twenty three, chapter nineteen of  
29 this article.

30 (3) Transfer two percent of the adjusted gross receipts from all licensed racetracks to the  
31 West Virginia Thoroughbred Development Fund created under section thirteen-b, article twenty-  
32 three, chapter nineteen of this code and the West Virginia Greyhound Breeding Development  
33 Fund created under section ten, article twenty-three, chapter nineteen of this code. The total  
34 amount transferred under this subdivision shall be divided pro rata among the development funds

35 for each racetrack table games licensee based on relative adjusted receipts from each racetrack:  
36 Provided, That beginning July 1, 2017, the amount required by this subdivision to be transferred  
37 to the West Virginia Greyhound Breeding Development Fund shall instead be transferred to the  
38 state Excess Lottery Revenue Fund. The amounts transferred to these funds may not be used for  
39 the benefit of any person or activity other than at or associated with a racetrack table games  
40 licensee;

41 (4) Transfer one percent of the adjusted gross receipts from each licensed racetrack to  
42 the county commissions of the counties where racetracks with West Virginia Lottery table games  
43 are located. County commissions may pledge this money to make payments on lottery revenue  
44 bonds issued pursuant to article two-h, chapter thirteen of this code. The one percent transferred  
45 under this subdivision shall be divided pro rata among the counties with a racetrack with West  
46 Virginia Lottery table games based on relative adjusted gross receipts from each county's  
47 racetrack: *Provided, That the county board of education of a growth county, as that term is defined*  
48 *in section three, article twenty, chapter seven of this code, which has enacted the Local Powers*  
49 *Act, and in which county a racetrack is located that has participated in the West Virginia*  
50 *Thoroughbred Development Fund since on or before January 1, 1991, shall receive the one*  
51 *percent of adjusted gross receipts as provided in this subdivision for the purpose of public*  
52 *projects, as defined in section two, article two-h, chapter thirteen of this code or to make payments*  
53 *on lottery revenue bonds issued to finance public projects;*

54 (5) Transfer two percent of the adjusted gross receipts from each licensed racetrack to the  
55 governing bodies of municipalities within counties where racetracks with West Virginia Lottery  
56 table games are located. Municipalities may pledge the money to make payments on lottery  
57 revenue bonds issued pursuant to article two-h, chapter thirteen of this code. This money shall  
58 be allocated as follows:

59 (A) One half of the amounts transferred under this subdivision shall be allocated to the  
60 municipalities within each county having a racetrack table games licensee, based on relative

61 adjusted gross receipts from West Virginia Lottery table games from those racetracks and the  
62 total amount allocated to the municipalities within a county shall be divided pro rata among the  
63 municipalities based on each municipality's population determined at the most recent United  
64 States decennial census of population: *Provided, That:* (i) For each allocation, when a municipality  
65 is physically located in two or more counties, only that portion of its population residing in the  
66 county where the authorized table games are located shall be considered; (ii) a single municipality  
67 in a county where West Virginia Lottery racetrack table games are played may not receive a total  
68 share under this paragraph that is in excess of seventy-five percent of the total distribution under  
69 this paragraph for the county in which the municipality is located; and (iii) a municipality receiving  
70 moneys under this paragraph may not receive an amount which is less than that received by a  
71 municipality under provisions of subdivision (4), subsection (d) of this section; and

72 (B) One half of the amounts transferred under this subdivision shall be allocated pro rata  
73 to the municipalities within all the counties, having a racetrack table games licensee based on  
74 each municipality's population determined at the most recent United States decennial census of  
75 population: *Provided, That:* (i) A municipality which received funds above its pro rata share  
76 pursuant to subpart (iii), paragraph (A) of this subdivision may not receive an allocation under this  
77 paragraph; (ii) for each allocation, when a municipality is physically located in two or more  
78 counties, only that portion of its population residing in the county where the authorized table  
79 games are located shall be considered; and (iii) a single municipality in a county where West  
80 Virginia Lottery racetrack games are played may not receive a total share under this paragraph  
81 that is in excess of twenty-five percent of the total transfers under this paragraph: *Provided,*  
82 *however,* That the county board of education of a growth county, as that term is defined in section  
83 three, article twenty, chapter seven of this code, which has enacted the Local Powers Act, and in  
84 which county a racetrack is located that has participated in the West Virginia Thoroughbred  
85 Development Fund since on or before January 1, 1991, shall receive the two percent of adjusted  
86 gross receipts as provided in this subdivision for the purpose of public projects, as defined in

87 section two, article two-h, chapter thirteen of this code, or to make payments on lottery revenue  
88 bonds issued to finance the public projects;

89 (6) Transfer one-half of one percent of the adjusted gross receipts to the governing bodies  
90 of municipalities in which a racetrack table games licensee is located. The municipalities shall  
91 each receive an equal share of the total amount allocated under this subdivision: *Provided*, That  
92 distribution under this subdivision may not be made to any municipality which did not have a  
93 licensed racetrack within its municipal boundaries as they existed on January 1, 2007: *Provided*,  
94 *however*, That if no racetrack table games licensee is located within a municipality, a transfer may  
95 not be made under this subdivision. The municipality may pledge this money to make payments  
96 on lottery revenue bonds issued pursuant to article two-h, chapter thirteen of this code; and

97 (7) Distribute the remaining amounts, hereinafter referred to as the net amounts in the  
98 Racetrack Table Games Funds, in accordance with the provisions of subsection (d) of this section.

99 (c) Beginning with the fiscal year following the licensing of every licensed racetrack to offer  
100 West Virginia Lottery racetrack table games under this article, subsection (b) of this section shall  
101 be superseded and replaced by this subsection for distribution of the balances in the fund  
102 established by subsection (a) of this section. From the gross amounts deposited into the fund, the  
103 commission shall:

104 (1) Retain an amount for the administrative expenses of the commission as determined  
105 by the commission in accordance with subsection(e) of this section;

106 (2) Transfer two and one-half percent of adjusted gross receipts from all thoroughbred  
107 racetracks with West Virginia Lottery table games to the special funds established by each  
108 thoroughbred racetrack table games licensee for the payment of regular racetrack purses, the  
109 amount being divided on a pro rata basis between the special funds of each thoroughbred  
110 racetrack table games licensee and transfer two and one-half percent of adjusted gross receipts  
111 from all greyhound racetracks with West Virginia Lottery table games to the special funds  
112 established by each greyhound racetrack table games licensee for the payment of regular

113 racetrack purses, the amount being divided equally between the special funds of each greyhound  
114 racetrack table games licensee: Provided, That effective July 1, 2017, the amount required by  
115 this subdivision to be transferred to the special funds established by each greyhound racetrack  
116 table games licensees for the payment of regular racetrack purses shall instead be transferred to  
117 the state Excess Lottery Fund pursuant to section ten-a, article twenty three, chapter nineteen of  
118 this article.

119 (3) Transfer two percent of the adjusted gross receipts from all licensed racetracks to the  
120 West Virginia Thoroughbred Development Fund created under section thirteen-b, article twenty-  
121 three, chapter nineteen of this code and the West Virginia Greyhound Breeding Development  
122 Fund created under section ten, article twenty-three, chapter nineteen of this code: Provided, That  
123 beginning July 1, 2017, the amount required by this subdivision to be transferred to the West  
124 Virginia Greyhound Breeding Development Fund shall instead be transferred to the state Excess  
125 Lottery Revenue Fund pursuant to section ten-a, article twenty-three, chapter nineteen of this  
126 code. The total amount transferred under this subdivision shall be divided pro rata among the  
127 development funds for each racetrack table games licensee based on relative adjusted receipts  
128 from each racetrack. The amounts transferred to these funds may not be used for the benefit of  
129 any person or activity other than at or associated with a racetrack table games licensee;

130 (4) Transfer two percent of the adjusted gross receipts from each licensed racetrack to the  
131 county commissions of the counties where racetracks with West Virginia Lottery table games are  
132 located. The money transferred under this subdivision shall be divided pro rata among the  
133 counties with a racetrack with West Virginia Lottery table games based on relative adjusted gross  
134 receipts from each county's racetrack: Provided, That the county board of education of a growth  
135 county, as that term is defined in section three, article twenty, chapter seven of this code, which  
136 has enacted the Local Powers Act, and in which a racetrack is located that has participated in the  
137 West Virginia Thoroughbred Development Fund since on or before January 1, 1991, shall receive  
138 one half of that county's share of adjusted gross receipts as provided in this subdivision for the

139 purpose of capital improvements;

140 (5) Transfer three percent of the adjusted gross receipts from each licensed racetrack to  
141 the governing bodies of municipalities within counties where racetracks with West Virginia Lottery  
142 table games are located, which shall be allocated as follows:

143 (A) One half of the money transferred by this subdivision shall be allocated to the  
144 municipalities within each county, other than a county described in paragraph (C) of this  
145 subdivision, having a racetrack table games licensee based on relative adjusted gross receipts  
146 from West Virginia Lottery table games from those racetracks and the total amount allocated to  
147 the municipalities within a county shall be divided pro rata among the municipalities based on  
148 each municipality's population determined at the most recent United States decennial census of  
149 population: *Provided, That:* (i) For each allocation, when a municipality is physically located in two  
150 or more counties, only that portion of its population residing in the county where the authorized  
151 table games are located shall be considered; (ii) a single municipality in a county where West  
152 Virginia Lottery racetrack table games are played may not receive a total share under this  
153 paragraph that is in excess of seventy-five percent of the total distribution under this paragraph  
154 for the county in which the municipality is located; and (iii) a municipality receiving moneys under  
155 this paragraph may not receive an amount which is less than that received by a municipality under  
156 provisions of subdivision (4), subsection (d) of this section.

157 (B) One half of the money transferred under this subdivision shall be allocated pro rata to  
158 the municipalities within all the counties, other than a county described in paragraph (C) of this  
159 subdivision, having a racetrack table games licensee based on each municipality's population  
160 determined at the most recent United States decennial census of population: *Provided, That:* (i)  
161 A municipality which received funds above its pro rata share pursuant to subparagraph (iii),  
162 paragraph (A) of this subdivision shall not receive an allocation under this paragraph; (ii) for each  
163 allocation, when a municipality is physically located in two or more counties, only that portion of  
164 its population residing in the county where the authorized table games are located shall be

165 considered; and (iii) a single municipality in a county where West Virginia Lottery racetrack games  
166 are played may not receive a total share under this paragraph that is in excess of twenty-five  
167 percent of the total transfers under this paragraph.

168 (C) Notwithstanding the provisions of paragraphs (A) and (B) of this subdivision, when a  
169 racetrack is located in a growth county, as that term is defined in section three, article twenty,  
170 chapter seven of this code, which has enacted the Local Powers Act, and in which county a  
171 racetrack is located that has participated in the West Virginia Thoroughbred Development Fund  
172 since on or before January 1, 1991, the county board of education shall receive two thirds of the  
173 share of adjusted gross receipts from West Virginia Lottery table games from the racetrack in the  
174 county as provided in this subdivision and the municipalities within the county shall share the  
175 remaining one third of the total amount allocated as provided in this paragraph. The municipal  
176 one-third share shall be divided pro rata among the municipalities based on each municipality's  
177 population determined at the most recent United States decennial census of population. All money  
178 transferred under this paragraph shall be used by the county board of education and by the  
179 municipalities for the purpose of capital improvements;

180 (6) Transfer one-half of one percent of the adjusted gross receipts to the governing bodies  
181 of municipalities in which a racetrack table games licensee is located. The municipalities shall  
182 each receive an equal share of the total amount allocated under this subdivision: *Provided*, That  
183 distribution under this subdivision may not be made to any municipality that did not have a  
184 licensed racetrack within its municipal boundaries as they existed on January 1, 2007: *Provided*,  
185 *however*, That if no racetrack table games licensee is located within a municipality, a transfer may  
186 not be made under this subdivision; and

187 (7) Distribute the remaining amounts, hereinafter referred to as the net amounts in the  
188 Racetrack Table Games Funds, in accordance with the provisions of subsection (d) of this section.

189 (d) From the net amounts in the Racetrack Table Games Fund, the commission shall:

190 (1) Transfer seventy-six percent to the State Debt Reduction Fund which is hereby



191 continued in the State Treasury. Moneys of the fund shall be expended solely for the purpose of  
192 accelerating the reduction of existing unfunded liabilities and existing bond indebtedness of the  
193 state and shall be expended or transferred only upon appropriation of the Legislature;

194 (2) Transfer four percent, divided pro rata based on relative adjusted gross receipts from  
195 the individual licensed racetracks for and on behalf of all employees of each licensed racing  
196 association, into a special fund to be established by the Racing Commission to be used for  
197 payment into the pension plan for all employees of each licensed racing association;

198 (3) Transfer ten percent, to be divided and paid in equal shares, to each county  
199 commission in the state that is not eligible to receive a distribution under subdivision (4),  
200 subsection (b) of this section: *Provided*, That funds transferred to county commissions under this  
201 subdivision shall be used only to pay regional jail expenses and the costs of infrastructure  
202 improvements and other capital improvements: *Provided, however*, That up to fifty percent of  
203 these funds may be pledged to make payments on lottery revenue bonds issued pursuant to  
204 article two-h, chapter thirteen of this code; and

205 (4) Transfer ten percent, to be divided and paid in equal shares, to the governing bodies  
206 of each municipality in the state that is not eligible to receive a distribution under subdivisions (5)  
207 and (6), subsection (b) of this section: *Provided*, That funds transferred to municipalities under  
208 this subdivision shall be used only to pay for debt reduction in municipal police and fire pension  
209 funds and the costs of infrastructure improvements and other capital improvements: *Provided*,  
210 *however*, That up to fifty percent of these funds may be pledged to make payments on lottery  
211 revenue bonds issued pursuant to article two-h, chapter thirteen of this code.

212 (e) All expenses of the commission incurred in the administration and enforcement of this  
213 article shall be paid from the Racetrack Table Games Fund, including reimbursement of state law-  
214 enforcement agencies for services performed at the request of the commission pursuant to this  
215 article. The commission's expenses associated with a particular racetrack with authorized table  
216 games under this article may not exceed three percent of the total annual adjusted gross receipts

217 received from that licensee's operation of table games under this article, including, but not limited  
218 to, all license fees or other amounts attributable to the licensee's operation of table games under  
219 this article, except as provided in subdivision (2), subsection (a) of this section. However, for the  
220 fiscal year following the licensing of every licensed racetrack to offer West Virginia Lottery  
221 racetrack table games under this article and for the fiscal year thereafter, the commission's  
222 expenses associated with a particular racetrack with authorized table games under this article  
223 may not exceed four percent of the total annual adjusted gross receipts received from that  
224 licensee's operation of table games under this article, including, but not limited to, all license fees  
225 or other amounts attributable to the licensee's operation of table games under this article, except  
226 as provided in subdivision (2), subsection (a) of this section. These expenses shall either be  
227 allocated to the racetrack with West Virginia Lottery table games for which the expense is  
228 incurred, if practicable, or be treated as general expenses related to all racetrack table games  
229 facilities and be allocated pro rata among the racetrack table games facilities based on the ratio  
230 that annual adjusted gross receipts from operation of table games at each racetrack with West  
231 Virginia Lottery table games bears to total annual adjusted gross receipts from operation of table  
232 games at all racetracks with West Virginia Lottery table games during the fiscal year of the state.  
233 From this allowance, the commission shall transfer at least \$100,000 but not more than \$500,000  
234 into the Compulsive Gambling Treatment Fund created in section nineteen, article twenty-two-a  
235 of this chapter.

**§29-22C-27a. Changes in distribution of adjusted gross receipts; distributions from excess  
lottery fund.**

1 (a) Notwithstanding any provision of section twenty-seven of this article to the contrary,  
2 for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the distribution directed  
3 pursuant to subdivision (1), subsection (d) of that section shall be reduced by one hundred  
4 percent. For fiscal year beginning July 1, 2017, and each fiscal year thereafter, the distribution to  
5 the special fund established by the licensee, and used for payment of regular purses, pursuant to

6 subdivision (2), subsection (c), section twenty-seven of this article only includes amounts to be  
7 distributed to each thoroughbred racetrack table games licensee for the payment of regular  
8 racetrack purses.

9 (b) The total amount of reductions resulting from subsection (a) of this section shall be  
10 paid into the state Excess Lottery Revenue Fund created in section eighteen-a, article twenty-two  
11 of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter,  
12 distributions to be made pursuant to subdivisions (2) and (3), subsection (c), section twenty-seven  
13 of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall  
14 be paid into the state Excess Lottery Revenue Fund.

15 (c) Notwithstanding any other provision of this code to the contrary, for the fiscal year  
16 beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the state Excess  
17 Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance  
18 with appropriations.

19 (d) Prior to payment of any appropriation made pursuant to this section, debt service  
20 payments payable from the state Excess Lottery Fund shall first be paid in accordance with the  
21 provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter  
22 and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this  
23 chapter.

24 (e) Notwithstanding any other provision of this code to the contrary, after payment of debt  
25 service from the state Excess Lottery Revenue Fund, all other distributions required by section  
26 eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this  
27 section shall be paid on a pro rata basis.

NOTE: The purpose of this bill is to discontinue the West Virginia Racing Commission special account known as the West Virginia Greyhound Breeding Development Fund; to transfer all moneys in the West Virginia Greyhound Breeding Development Fund to the state Excess Lottery Revenue Fund for appropriation by the Legislature; to require that all moneys previously required to be directed to the West Virginia Greyhound Breeding Development Fund be redirected to the state Excess Lottery Revenue Fund for appropriation by the Legislature; requiring that upon transfer of moneys from the West

Virginia Greyhound Breeding Development Fund to the state Excess Lottery Revenue Fund, a certain amount be withheld and deposited in the special account known as the “administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account;” to require that all moneys previously required to be directed into any fund or paid for the purpose of funding purses, awards or provide any other funding for greyhound races be redirected to the state Excess Lottery Revenue Fund for appropriation by the Legislature; to eliminate the requirement that an applicant for a dog racing license race a minimum number of dates to qualify for such license; to eliminate the requirement that an applicant for a dog racing license race a minimum number of dates to or to contract to receive telecasts and accept wagers; to eliminate the requirement that a video lottery licensee at a dog track must hold a racing license to renew a video lottery license or racetrack table games license; to eliminate the requirement, for a video lottery licensee at a dog track, that operational video lottery must be located in the same building or structure as a racetrack and area where pari-mutuel wagering is permitted; to eliminate the requirement that an applicant for a video lottery license or license renewal at a dog track must provide evidence of the existence of an agreement regarding proceeds from lottery terminals with certain parties; to eliminate the requirement that an applicant for a racetrack table games license at a dog track must race a certain number of days to qualify for such license; and to eliminate the requirement that a video lottery licensee at a dog track must hold a racing license to conduct simulcast racing.

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