

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Engrossed

Committee Substitute

for

Senate Bill 437

BY SENATORS KARNES, BOSO, CLINE, TRUMP AND BLAIR

[Originating in the Committee on Finance; reported on

March 23, 2017]

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

27 including emergency rules, regarding licensure of dog racetracks conducting only
28 simulcast racing; eliminating the requirement that a video lottery licensee at a dog track
29 must hold a racing license to renew a video lottery license or racetrack table games
30 license; requiring the Lottery Commission to transfer a percentage of gross terminal
31 revenue derived from racetrack video lottery at thoroughbred racetracks, and deducted
32 for administrative costs and expenses, to the Racing Commission's General
33 Administrative Account; eliminating the requirement that an applicant for a video lottery
34 license or license renewal at a dog racetrack must provide evidence of the existence of
35 an agreement regarding proceeds from video lottery terminals with certain parties;
36 providing that a percentage of net terminal income originating at dog racetracks will be
37 deposited in the State Excess Lottery Revenue Fund; providing that a percentage of net
38 terminal income originating at thoroughbred racetracks will be deposited in the West
39 Virginia Thoroughbred Development Fund; permitting a dog racetrack to continue to
40 operate operational video lottery and racetrack table games in a location where live racing
41 was previously conducted or in an alternate location within the county as approved by the
42 Lottery Commission; and eliminating the requirement that a racetrack table games
43 licensee at a dog racetrack must race a minimum number of dates.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 19. AGRICULTURE.

PART V. LICENSE AND PERMIT PROCEDURES.

ARTICLE 23. HORSE AND DOG RACING.

§19-23-3. Definitions.

1 Unless the context clearly requires a different meaning, as used in this article:

2 (1) "Horse racing" means any type of horse racing, including, but not limited to,
3 thoroughbred racing and harness racing;

4 (2) "Thoroughbred racing" means flat or running type horse racing in which each horse
5 participating is a thoroughbred and mounted by a jockey;

6 (3) "Harness racing" means horse racing in which the horses participating are harnessed
7 to a sulky, carriage or other vehicle and does not include any form of horse racing in which the
8 horses are mounted by jockeys;

9 (4) "Horse race meeting" means the whole period of time for which a license is required
10 by the provisions of section one of this article;

11 (5) "Dog racing" means any type of dog racing, including, but not limited to, greyhound
12 racing;

13 (6) "Purse" means any purse, stake or award for which a horse or dog race is run;

14 (7) "Racing association" or "person" means any individual, partnership, firm, association,
15 corporation or other entity or organization of whatever character or description;

16 (8) "Applicant" means any racing association making application for a license under the
17 provisions of this article or any person making application for a permit under the provisions of this
18 article or any person making application for a construction permit under the provisions of this
19 article;

20 (9) "License" means the license required by the provisions of section one of this article or
21 the license required to conduct televised racing pursuant to section twelve-b of this article;

22 (10) "Permit" means the permit required by the provisions of section two of this article;

23 (11) "Construction permit" means the construction permit required by the provisions of
24 section eighteen of this article;

25 (12) "Licensee" means any racing association holding a license required by the provisions
26 of section one of this article and issued under the provisions of this article;

27 (13) "Permit holder" means any person holding a permit required by the provisions of
28 section two of this article and issued under the provisions of this article;

29 (14) "Construction permit holder" means any person holding a construction permit required
30 by the provisions of section eighteen of this article and issued under the provisions of this article;

31 (15) "Hold or conduct" includes "assist, aid or abet in holding or conducting";

32 (16) "Racing commission" means the West Virginia Racing Commission;

33 (17) "Stewards" means the steward or stewards representing the Racing Commission, the
34 steward or stewards representing a licensee and any other steward or stewards whose duty it is
35 to supervise any horse or dog race meeting, all as may be provided by reasonable rules of the
36 Racing Commission which rules shall specify the number of stewards to be appointed, the method
37 and manner of their appointment and their powers, authority and duties;

38 (18) "Pari-mutuel" means a mutuel or collective pool that can be divided among those who
39 have contributed their wagers to one central agency, the odds to be reckoned in accordance to
40 the collective amounts wagered upon each contestant running in a horse or dog race upon which
41 the pool is made, but the total to be divided among the first three contestants on the basis of the
42 number of wagers on these;

43 (19) "Pari-mutuel clerk" means any employee of a licensed racing association who is
44 responsible for the collection of wagers, the distribution of moneys for winning pari-mutuel tickets,
45 verification of the validity of pari-mutuel tickets and accounting for pari-mutuel funds;

46 (20) "Pool" means a combination of interests in a joint wagering enterprise or a stake in
47 such enterprise;

48 (21) "Legitimate breakage" is the percentage left over in the division of a pool;

49 (22) "To the dime" means that wagers shall be figured and paid to the dime;

50 (23) "Code" means the Code of West Virginia, 1931, as heretofore and hereinafter
51 amended;

52 (24) "Accredited thoroughbred horse" means a thoroughbred horse that is registered with
53 the West Virginia Thoroughbred Breeders Association and that is:

54 (A) Foaled in West Virginia; or

55 (B) Sired by an accredited West Virginia sire; or

56 (C) As a yearling, finished twelve consecutive months of verifiable residence in the state,
57 except for thirty days' grace:

58 (i) For the horse to be shipped to and from horse sales where the horse is officially entered
59 in the sales catalogue of a recognized thoroughbred sales company, or

60 (ii) For obtaining veterinary services, documented by veterinary reports;

61 (25) "Accredited West Virginia sire" is a sire that is permanently domiciled in West Virginia,
62 stands a full season in West Virginia and is registered with West Virginia Thoroughbred Breeders
63 Association;

64 (26) "Breeder of an accredited West Virginia horse" is the owner of the foal at the time it
65 was born in West Virginia;

66 (27) "Raiser of an accredited West Virginia horse" is the owner of the yearling at the time
67 it finished twelve consecutive months of verifiable residence in the state. During the period, the
68 raiser will be granted one month of grace for his or her horse to be shipped to and from
69 thoroughbred sales where the horse is officially entered in the sales catalogue of a recognized
70 thoroughbred sales company. In the event the yearling was born in another state and transported
71 to this state, this definition does not apply after the December 31, 2007, to any pari-mutuel racing
72 facility located in Jefferson County nor shall it apply after the December 31, 2012, and thereafter
73 to any pari-mutuel racing facility located in Hancock County. Prior to the horse being shipped out
74 of the state for sales, the raiser must notify the Racing Commission of his or her intentions;

75 (28) The “owner of an accredited West Virginia sire” is the owner of record at the time the
76 offspring is conceived;

77 (29) The “owner of an accredited West Virginia horse” means the owner at the time the
78 horse earned designated purses to qualify for restricted purse supplements provided in section
79 thirteen-b of this article;

80 (30) “Registered greyhound owner” means an owner of a greyhound that is registered with
81 the National Greyhound Association;

82 (31) “Fund” means the West Virginia Thoroughbred Development Fund established in
83 section thirteen-b of this article; and

84 (32) “Regular purse” means both regular purses and stakes purses.

**§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 effective July 1, 2017, and thereafter, an applicant is not required to race any minimum number
19 of dates in 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.

PART VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL WAGERING; DISPOSITION
OF REVENUES.

§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, and thereafter, the amounts deducted and any other moneys required by this section
71 to be deposited in the West Virginia Greyhound Breeding Development Fund shall instead be
72 deposited into the State Excess Lottery Revenue Fund pursuant to section ten-a of this article:
73 Provided, however, That effective July 1, 2017, and thereafter, any expenditures from the West
74 Virginia Greyhound Breeding Development Fund required by this section shall be discontinued:
75 Provided further, That effective July 1, 2017 and thereafter, all amounts required by this section
76 to be deposited into any fund or paid for the purpose of funding purses, awards or provide any
77 other funding for dog races shall be discontinued pursuant to section ten-a of this article. The
78 purpose of the West Virginia Greyhound Breeding Development Fund is to promote better
79 breeding, training track facilities and racing of greyhounds in the state through awards and purses
80 to bona fide resident registered greyhound owners of accredited West Virginia whelped
81 greyhounds. In order to participate and be eligible to receive an award or purse through the fund,
82 the registered greyhound owner must have an appropriate license from the Racing Commission
83 to race in West Virginia. The registered greyhound dam at the time of breeding must be wholly or
84 solely owned or leased by a bona fide resident or residents of West Virginia. The accredited West
85 Virginia whelped greyhound must be wholly or solely owned by a bona fide resident or residents
86 of this state. To qualify as a bona fide resident of West Virginia, a registered greyhound owner
87 may not claim residency in any other state. A registered greyhound owner must prove bona fide
88 residency by providing to the commission personal income tax returns filed in the State of West
89 Virginia for the most recent tax year and the three previous tax years, has real or personal property
90 in this state on which the owner has paid real or personal property taxes during the most recent
91 tax year and the previous three tax years and an affidavit stating that the owner claims no other
92 state of residency. The Racing Commission shall maintain a registry for West Virginia bred
93 greyhounds. The moneys shall be expended by the Racing Commission for purses for stake
94 races, training track facilities, supplemental purse awards, administration, promotion, education
95 and greyhound adoption programs involving West Virginia whelped dogs, owned by residents of

96 this state under rules promulgated by the Racing Commission. The Racing Commission shall pay
97 out of the greyhound breeding development fund to each of the licensed dog racing tracks the
98 sum of \$75,000 for the fiscal year ending June 30, 1994. The licensee shall deposit the sum into
99 the special fund for regular purses established under the provisions of section nine of this article.
100 The funds shall be expended solely for the purpose of supplementing regular purses under rules
101 promulgated by the Racing Commission.

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

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

109 The total amount of the fund available for the owners' awards shall be distributed
110 according to the ratio of points earned by an accredited greyhound to the total amount earned in
111 races by all accredited West Virginia whelped greyhounds for that month as a percentage of the
112 funds dedicated to the owners' purse supplements. The point value at all greyhound tracks shall
113 be the same as approved by the Racing Commission to be effective April 1, 2007. The West
114 Virginia Greyhound Owners and Breeders Association shall submit a list of any additions or
115 deletions to the registry of accredited West Virginia whelped greyhounds on the first of each
116 month. The Racing Commission shall not require anyone to be a member of a particular
117 association in order to participate in the West Virginia Greyhound Breeding Development Fund.

118 The registered greyhound owner of an accredited West Virginia whelped greyhound shall
119 file a purse distribution form with the Racing Commission for a percentage of his or her dog's
120 earnings to be paid directly to the registered greyhound owner or owners of the greyhound.

121 Distribution shall be made on the fifteenth day of each month for the preceding month's
122 achievements.

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

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

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

143 Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia
144 whelped greyhounds: *Provided*, That each pari-mutuel track shall have one juvenile and one open
145 stake race annually. Each pari-mutuel dog track shall provide at least three restricted races for
146 accredited West Virginia whelped greyhounds per race card: *Provided, however*, That sufficient

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

167 Ten percent of the deposits into the Greyhound Breeding Development Fund beginning
168 July 1, 1993 and continuing each year thereafter, shall be withheld by the Racing Commission
169 and placed in a special revenue account hereby created in the State Treasury called the
170 Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs
171 to include Spaying and Neutering Account. The Racing Commission is authorized to expend the
172 moneys deposited in the Administration, Promotion, Education, Capital Improvement and

173 Greyhound Adoption Programs to include Spaying and Neutering Account at such times and in
174 such amounts as the commission determines to be necessary for purposes of administering and
175 promoting the greyhound development program: *Provided*, That beginning with fiscal year 1995
176 and in each fiscal year thereafter in which the commission anticipates spending any money from
177 the account, the commission shall submit to the executive department during the budget
178 preparation period prior to the Legislature convening before that fiscal year for inclusion in the
179 Executive Budget Document and Budget Bill, the recommended expenditures, as well as requests
180 of appropriations for the purpose of administration, promotion, education, capital improvement
181 and greyhound adoption programs to include spaying and neutering. The commission shall make
182 an annual report to the Legislature on the status of the Administration, Promotion, Education,
183 Capital Improvement and Greyhound Adoption Programs to include Spaying and Neutering
184 Account, including the previous year's expenditures and projected expenditures for the next year.

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

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

192 (f) Every association or licensee subject to the provisions of this article, including the
193 changed provisions of sections nine and ten of this article, shall annually submit to the Racing
194 Commission and the Legislature financial statements, including a balance sheet, income
195 statement, statement of change in financial position and an audit of any electronic data system
196 used for pari-mutuel tickets and betting, prepared in accordance with generally accepted auditing
197 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, and thereafter,
13 all amounts required to be deposited into the West Virginia Greyhound Breeding Development
14 Fund prior to the enactment of this section shall, in lieu thereof, be deposited into the State Excess
15 Lottery Revenue Fund for appropriation by the Legislature: *Provided*, That net terminal lottery
16 income shall be distributed as provided in subdivision (5), subsection (c), section ten, article
17 twenty-two-a, chapter twenty-nine of this code and subdivision (5), subsection (a), section ten-b
18 of said article.

19 (c) Notwithstanding any other provision of this code, effective July 1, 2017, and thereafter,
20 all amounts required to be deposited into any fund or paid for the purpose of funding purses,
21 awards or providing any other funding for greyhound races shall, in lieu thereof, be deposited into
22 State Excess Lottery 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) (1) 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 effective July 1, 2017, and thereafter, a licensee that was licensed prior to January 1, 1994 to
16 conduct dog racing is not required to conduct a minimum number of live racing dates to contract
17 with a legal wagering entity in this state or in any other governmental jurisdiction to receive
18 telecasts and accept wagers on dog and horse races: *Provided, however,* That at those
19 thoroughbred racetracks the licensee, in applying for racing dates, shall apply for not less than
20 two hundred ten live racing dates for each horse race meeting: *Provided however further,* That at
21 those thoroughbred racetracks that have participated in the West Virginia Thoroughbred
22 Development Fund for a period of more than four consecutive calendar years prior to December
23 31, 1992, the licensee may apply for not less than one hundred fifty-nine live racing dates during
24 the calendar year 1997. If, thereafter, for reasons beyond the licensee's control, related to adverse
25 weather conditions, unforeseen casualty occurrences or a shortage of thoroughbred horses
26 eligible to compete for purses, the licensee concludes that this number of racing days cannot be
27 attained, the licensee may file a request with the Racing Commission to reduce the authorized

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

50 (2) A facility that was licensed prior to January 1, 1994, to conduct dog racing is required
51 to hold a racing license to receive telecasts and accept wagers on dog and horse races,
52 regardless of whether the facility continues to conduct live dog racing.

53 (3) The commission shall have authority to promulgate rules, including emergency rules,
54 in accordance with article three, chapter twenty-nine-a of this code, as it deems necessary to
55 implement and efficiently administer the requirement of subdivision (2) of this subsection:
56 Provided, That the rules are to be consistent with the rules promulgated for pari-mutuel wagering
57 on televised races at live racetracks.

58 (c) The commission may allow the licensee to commingle its wagering pools with the
59 wagering pools of the host racing association. If the pools are commingled, the wagering at the
60 licensee's racetrack must be on tabulating equipment capable of issuing pari-mutuel tickets and
61 be electronically linked with the equipment at the sending racetrack. Subject to the approval of
62 the commission, the types of betting, licensee commissions and distribution of winnings on pari-
63 mutuel pools of the sending licensee racetrack are those in effect at the licensee racetrack.
64 Breakage for pari-mutuel pools on a televised racing day must be calculated in accordance with
65 the law or rules governing the sending racetrack and must be distributed in a manner agreed to
66 between the licensee and the sending racetrack. For the televised racing services it provides, the
67 host racing association shall receive a fee to be paid by the receiving licensee racetrack which
68 shall be in an amount to be agreed upon by the receiving licensee racetrack and the host racing
69 association.

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

73 (e) (1) From the licensee commissions authorized by subsection (c) of this section, the
74 licensee shall pay one tenth of one percent of each commission into the general fund of the
75 county, in which the racetrack is located and at which the wagering occurred and there is imposed
76 and the licensee shall pay, for each televised racing day on which the total pari-mutuel pool
77 exceeds \$100,000, the greater of either: (i) The total of the daily license tax and the pari-mutuel
78 pools tax required by section ten of this article; or (ii) a daily license tax of \$1,250. For each

79 televised racing day on which the total pari-mutuel pool is \$100,000 or less, the licensee shall pay
80 a daily license tax of \$500 plus an additional license tax of \$100 for each \$10,000, or part thereof,
81 that the pari-mutuel pool exceeds \$50,000, but does not exceed \$100,000. The calculation of the
82 total pari-mutuel pool for purposes of this subsection shall include only one half of all wagers
83 placed at a licensed racetrack in this state on televised races conducted at another licensed
84 racetrack within this state. Payments of the tax imposed by this section are subject to the
85 requirements of subsection (e), section ten of this article.

86 (2) From the licensee commissions authorized by subsection (c) of this section, after
87 payments are made in accordance with the provisions of subdivision (1) of this subsection, the
88 licensee shall pay, for each televised racing day, one-fourth of one percent of the total pari-mutuel
89 pools for and on behalf of all employees of the licensed racing association by making a deposit
90 into a special fund to be established by the Racing Commission and to be used for payments into
91 the pension plan for all employees of the licensed racing association.

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

105 (f) After deducting the tax and other payments required by subsection (e) of this section,
106 the amount required to be paid under the terms of the contract with the host racing association
107 and the cost of transmission, the horse racing association shall make a deposit equal to fifty
108 percent of the remainder into the purse fund established under the provisions of subdivision (1),
109 subsection (b), section nine of this article. After deducting the tax and other payments required
110 by subsection (e) of this section, dog racetracks shall pay an amount equal to two-tenths of one
111 percent of the daily simulcast pari-mutuel pool to the West Virginia Racing Commission Special
112 Account-West Virginia Greyhound Breeding Development Fund: Provided, That effective July 1,
113 2017, and thereafter, the amount required to be paid to the West Virginia Greyhound Breeding
114 Development Fund by this subsection shall instead be paid to the State Excess Lottery Revenue
115 Fund pursuant to section ten-a of this article.

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

PART VIII. DISPOSITION OF FUNDS FOR PAYMENT OF OUTSTANDING AND UNREDEEMED PARI-
MUTUEL TICKETS; IRREDEEMABLE TICKETS; AWARDS.

**§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), 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 effective
78 July 1, 2017, and thereafter, 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 Account - 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
100 in date order, with the oldest claims being paid first, until all claims have been satisfied. All
101 payments made pursuant to this subsection for claims received on purses won on or before June
102 30, 2010, 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.

PART IX. DISPOSITION OF PERMIT FEES, REGISTRATION FEES AND FINES.

§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 of said article, after the effective date of this section together with the balance
4 in the bank account previously established by the commission to receive those funds shall be
5 deposited in a banking institution of its choice in a special account to be known as West Virginia
6 Racing Commission Racetrack Video Lottery Account. Notice of the amount, date and place of
7 each deposit shall be given by the Racing Commission, in writing, to the State Treasurer.

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

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

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

20 (3) For each fiscal year, once the amounts provided in subdivisions (1) and (2) of this
21 subsection have been deposited into separate bank accounts for use in connection with the West

22 Virginia Thoroughbred Breeders Classics and the West Virginia Derby, the commission shall
23 return to each racetrack all additional amounts deposited which originate during that fiscal year
24 from each respective racetrack pursuant to subdivision (6), subsection (c), section ten, article
25 twenty-two-a, chapter twenty-nine of this code, which returned excess funds shall be used as
26 follows:

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

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

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

44 (c) All expenditures that are funded under this section must be approved in writing by the
45 West Virginia Racing Commission before the funds are expended for any of the purposes
46 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 of said article, shall be deposited in the State Treasury and placed into the State
8 Excess Lottery Revenue Fund. The revenue shall be disbursed in the manner provided in this
9 section for the purposes stated in this section and shall not be treated by the State Auditor and
10 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
74 the 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. The project of an individual or
168 private person or entity may be certified to receive a low-interest loan paid from bond proceeds.
169 The terms and conditions of the loan, including, but not limited to, the rate of interest to be paid
170 and the period of the repayment, shall be determined by the Economic Development Authority
171 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 effective July 1, 2017, and
285 thereafter, the amount required by this subdivision to be distributed to the West Virginia
286 Greyhound Breeding Development Fund shall remain in the State Excess Lottery Fund.

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 effective July 1, 2017, and thereafter, "license" or "video lottery license" also
45 means authorization granted pursuant to said article to a racetrack which was licensed to conduct
46 greyhound 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 of said article: Provided,
73 however, That effective July 1, 2017, and thereafter, “pari-mutuel racing facility,” “licensed
74 racetrack”, “racetrack”, “racing association” or “track” also includes any facility that was licensed
75 to hold dog race meetings prior to January 1, 1994, regardless of whether the facility conducts
76 live racing.

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 online or dialup
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.

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 effective July 1, 2017, and thereafter, an applicant that held a valid dog
6 racing license prior to January 1, 1994, is not required to hold a valid racing license in order to
7 renew a video lottery license.

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

9 (3) An applicant must be a person whose background, including criminal record, reputation
10 and associations, does not pose a threat to the security and integrity of the lottery or to the public
11 interest of the state. All new applicants for licenses and permits issued by the commission shall
12 furnish fingerprints for a national criminal records check by the Criminal Identification Bureau of
13 the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be
14 furnished by all persons required to be named in the application and shall be accompanied by a
15 signed authorization for the release of information by the Criminal Investigation Bureau and the
16 Federal Bureau of Investigation. The commission may require any applicant seeking the renewal
17 of a license or permit to furnish fingerprints for a national criminal records check by the Criminal
18 Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. A
19 person who has been convicted of any violation of article twenty-two of this chapter or of this
20 article or of any crime related to theft, bribery, gambling or involving moral turpitude is not eligible
21 for any license or permit. The commission shall revoke the license or permit of any person who is
22 convicted of any such crime after a license or permit is granted.

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

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

35 (6) A horse racetrack applying for a video lottery license or a license renewal must present
36 to the commission evidence of the existence of an agreement, regarding the proceeds from video
37 lottery terminals, between the applicant and the representative of a majority of the horse owners
38 and trainers, the representative of a majority of the pari-mutuel clerks for horse racing
39 associations and the representative of a majority of the horse breeders ~~or the representative of a~~
40 ~~majority of the kennel owners~~ for the applicable racetrack who hold permits required by section
41 two, article twenty-three, chapter nineteen of this code.

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

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

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

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

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

63 (c) Applicants must furnish all information, including financial data and documents,
64 certifications, consents, waivers, individual history forms and other materials requested by the
65 commission for purposes of determining qualifications for a license or permit. No video lottery
66 license or permit may be granted to an applicant who fails to provide information and
67 documentation requested by the commission. The burden of proving qualification for any video
68 lottery license or permit is on the applicant.

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

74 investigation, disclosure or publication relating to an application for a video lottery license or
75 permit.

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

80 (f) An applicant who knowingly fails to reveal any fact material to qualification or who
81 knowingly submits false or misleading material information is ineligible for a video lottery license
82 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 the commission shall transfer fifteen percent of the
17 amount deducted, generated from racetrack video lottery at licensed thoroughbred racetracks, to
18 the West Virginia Racing Commission's General Administrative Account created in section
19 eleven, article twenty-three, chapter nineteen of this code. *Provided, however,* That any amounts
20 deducted by the commission for its actual costs and expenses that exceeds its actual costs and
21 expenses shall be deposited into the State Lottery Fund. For the fiscal years ending June 30,
22 2011, through June 30, 2020, the term "actual costs and expenses" may include transfers of up
23 to \$10 million in surplus allocations for each fiscal year, as calculated by the commission when it
24 has closed its books for the fiscal year, to the Licensed Racetrack Modernization Fund created
25 by subdivision (2), subsection (b) of this section. For all fiscal years beginning on or after July 1,
26 2001, the commission shall not receive an amount of gross terminal income in excess of the
27 amount of gross terminal income received during the fiscal year ending on June 30, 2001, but
28 four percent of any amount of gross terminal income received in excess of the amount of gross
29 terminal income received during the fiscal year ending on June 30, 2001, shall be deposited into
30 the fund established in section eighteen-a, article twenty-two of this chapter; and

31 (2) A Licensed Racetrack Modernization Fund is created within the lottery fund. For all
32 fiscal years beginning on or after July 1, 2011, and ending with the fiscal year beginning July 1,
33 2020, the commission shall deposit such amounts as are available according to subdivision (1),
34 subsection (b) of this section into a separate facility modernization account maintained within the
35 Licensed Racetrack Modernization Fund for each racetrack. Each racetrack's share of each
36 year's deposit shall be calculated in the same ratio as each racetrack's apportioned contribution
37 to the four percent administrative costs and expenses allowance provided for in subdivision (1),

38 subsection (b) of this section for that year. For each two dollars expended by a licensed racetrack
39 for facility modernization improvements at the racetrack, having a useful life of three or more years
40 and placed in service after July 1, 2011, the licensed racetrack shall receive \$1 in recoupment
41 from its facility modernization account. If the licensed racetrack's facility modernization account
42 contains a balance in any fiscal year, the unexpended balance from that fiscal year will be
43 available for matching for one additional fiscal year, after which time, the remaining unused
44 balance carried forward shall revert to the lottery fund. For purposes of this section, the term
45 "facility modernization improvements" includes acquisitions of new and unused video lottery
46 terminals and related equipment. Video lottery terminals financed through the recoupment
47 provided in this subdivision must be retained by the licensee in its West Virginia licensed location
48 for a period of not less than five years from the date of initial installation.

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

57 (1) The commission shall receive thirty percent of net terminal income, which shall be paid
58 into the State Lottery Fund as provided in section ten-a of this article;

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

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

65 (A) Beginning July 1, 1999, and thereafter, any amount in excess of the two percent
66 received during the fiscal year 1999 by a county in which a racetrack is located that has
67 participated in the West Virginia Thoroughbred Development Fund since on or before January 1,
68 1999 shall be divided as follows:

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

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

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

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

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

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

82 (4) One percent of net terminal income shall be paid for and on behalf of all employees of
83 the licensed racing association by making a deposit into a special fund to be established by the
84 Racing Commission to be used for payment into the pension plan for all employees of the licensed
85 racing association;

86 (5)(A) The West Virginia Thoroughbred Development Fund created under section thirteen-
87 b, article twenty-three, chapter nineteen of this code and the West Virginia Greyhound Breeding
88 Development Fund created under section ten of said article shall receive an equal share of a total

89 of not less than one and one-half percent of the net terminal income. Effective July 1, 2017, the
90 requirements of this paragraph are discontinued.

91 (B) Effective July 1, 2017, and thereafter, the West Virginia Thoroughbred Development
92 Fund, created under section thirteen-b, article twenty-three, chapter nineteen of this code, shall
93 receive one and one-half percent of the net terminal income originating at licensed thoroughbred
94 racetracks.

95 (C) Effective July 1, 2017, and thereafter, the State Excess Lottery Revenue Fund, created
96 under section eighteen-a, article twenty-two, chapter twenty-nine of this code, shall receive one
97 and one-half percent of the net terminal income originating at licensed dog racetracks;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

185 (ii) The remainder of the one percent of net terminal income and all of the one percent of
186 net terminal income described in paragraph (B), subdivision (9), subsection (a), section ten-b of
187 this article shall be distributed as follows: The net terminal income shall be deposited in equal
188 amounts into the Capitol Dome and Capitol Improvements Fund created under section two, article
189 four, chapter five-a of this code and the Cultural Facilities and Capitol Resources Matching Grant
190 Program Fund created under section three, article one, chapter twenty-nine of this code until a
191 total of \$1,500,000 is deposited into the Cultural Facilities and Capitol Resources Matching Grant

192 Program Fund; thereafter, the remainder shall be deposited into the Capitol Dome and Capitol
193 Improvements Fund.

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

202 (e) The commission's central control computer shall keep accurate records of all income
203 generated by each video lottery terminal. The commission shall prepare and mail to the licensed
204 racetrack a statement reflecting the gross terminal income generated by the licensee's video
205 lottery terminals. Each licensed racetrack shall report to the commission any discrepancies
206 between the commission's statement and each terminal's mechanical and electronic meter
207 readings. The licensed racetrack is solely responsible for resolving income discrepancies
208 between actual money collected and the amount shown on the accounting meters or on the
209 commission's billing statement.

210 (f) Until an accounting discrepancy is resolved in favor of the licensed racetrack, the
211 commission may make no credit adjustments. For any video lottery terminal reflecting a
212 discrepancy, the licensed racetrack shall submit to the commission the maintenance log which
213 includes current mechanical meter readings and the audit ticket which contains electronic meter
214 readings generated by the terminal's software. If the meter readings and the commission's
215 records cannot be reconciled, final disposition of the matter shall be determined by the
216 commission. Any accounting discrepancies which cannot be otherwise resolved shall be resolved
217 in favor of the commission.

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

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

231 (i) The commission has the right to examine all accounts, bank accounts, financial
232 statements and records in a licensed racetrack's possession, under its control or in which it has
233 an interest and the licensed racetrack shall authorize all third parties in possession or in control
234 of the accounts or records to allow examination of any of those accounts or records by the
235 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)(A) The West Virginia Thoroughbred Development Fund created under section thirteen-
36 b, 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. Effective July 1, 2017, the
39 requirements of this paragraph are discontinued.

40 (B) Effective July 1, 2017, and thereafter, the West Virginia Thoroughbred Development
41 Fund, created under section thirteen-b, article twenty-three, chapter nineteen of this code, shall
42 receive one and one-half percent of the net terminal income originating at licensed thoroughbred
43 racetracks.

44 (C) Effective July 1, 2017, and thereafter, the State Excess Lottery Revenue Fund, created
45 under section eighteen-a, article twenty-two, chapter twenty-nine of this code, shall receive one
46 and one-half percent of the net terminal income originating at licensed dog racetracks;

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

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

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

56 (9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited
57 into the Workers' Compensation Debt Reduction Fund created in section five, article two-d,
58 chapter twenty-three of this code: *Provided*, That in any fiscal year when the amount of money

59 generated by this subdivision together with the total allocation transferred by the operation of
60 subdivision (9), subsection (c), section ten of this article totals \$11 million, all subsequent
61 distributions under this subdivision during that fiscal year shall be deposited in the special fund
62 established by the licensee and used for payment of regular purses in addition to other amounts
63 provided in article twenty-three, chapter nineteen of this code;

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

74 (10) (A) One percent of the net terminal income shall be deposited in equal amounts in
75 the Capitol Dome and Improvements Fund created under section two, article four, chapter five-a
76 of this code and Cultural Facilities and Capitol Resources Matching Grant Program Fund created
77 under section three, article one of this chapter; and

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

82 (b) The commission may establish orderly and effective procedures for the collection and
83 distribution of funds under this section in accordance with the provisions of this section and section
84 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 after June 30, 2017, and each fiscal year thereafter, the distribution to
10 the 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 of said article.

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

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

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

50 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of
51 paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of
52 this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits
53 of revenues derived from net terminal income imposed under this article, for any period
54 commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,
55 instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of
56 this code or in any other provision of this code, until certification of the Governor to the Legislature
57 that an independent actuary has determined that the unfunded liability of the Old Fund, as defined
58 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 after June 30, 2017, and each fiscal year thereafter, the distribution to the
6 special fund established by the licensee and used for payment of regular purses, pursuant to
7 subdivision (2) of said subsection, only includes amounts to be distributed to each thoroughbred
8 racetrack video lottery licensee for the payment of regular racetrack purses. Payments shall not
9 be made pursuant to section ten-b of this article, other than those excepted by this subsection,
10 and are made in lieu thereof in an amount to be determined by appropriation from the State
11 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-
14 two 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 of said article.

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

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

38 (2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision
39 of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision
40 of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of
41 December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order,

42 redirect deposits of revenues derived from net terminal income imposed under this article, for any
43 period commencing after February 29, 2016 and ending before July 1, 2016, to the General
44 Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter
45 twenty-three of this code or in any other provision of this code.

46 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of
47 paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision
48 of this code to the contrary, the Governor may, by Executive Order, redirect one-half of the
49 deposits of revenues derived from net terminal income imposed under this article, for any period
50 commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,
51 instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of
52 this code or in any other provision of this code, until certification of the Governor to the Legislature
53 that an independent actuary has determined that the unfunded liability of the Old Fund, as defined
54 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, and that no longer conducts live racing, may continue to operate operational*
28 *video lottery terminals in the building or structure in which the grandstand area of the racetrack*
29 *was located and in the area of the building or structure where pari-mutuel wagering was permitted*
30 *between January 1, 1994 and June 30, 2017, or in an alternate building or structure approved by*
31 *the commission within the county of such racetrack: *Provided further*, That nothing in this*
32 *subdivision permits a racetrack to operate operational video lottery terminals or offer video lottery*
33 *games in more than one location.*

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

38 (d) Security personnel shall be present during all hours of operation at each video lottery
39 terminal location. Each license holder shall employ the number of security personnel the
40 commission determines is necessary to provide for safe and approved operation of the video
41 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
2 defined in this section, and any variation of those words or terms required by the context, have
3 the 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 rulemaking.

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 effective July 1, 2017, and thereafter, "licensed racetrack" or "racing
67 association" includes a facility which was licensed prior to January 1, 1994, to hold dog race
68 meetings and which is licensed under 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 horse racing license or held a valid
105 dog racing license prior to January 1, 1994, granted by the West Virginia Racing Commission
106 pursuant to the provision of article twenty-three, chapter nineteen of this code, which permits the
107 racetrack as an agent of the commission for the limited purpose of operation of West Virginia
108 Lottery table games in one or more designated gaming areas in one or more buildings owned by
109 the licensed racetrack on the grounds where live pari-mutuel racing is conducted by the licensee,
110 or in the case of a licensee that held a valid dog racing license prior to January 1, 1994 and that
111 no longer conducts live racing, on the grounds where live pari-mutuel racing was conducted
112 between January 1, 1994 and June 30, 2017, or in an alternate location approved by the
113 commission within the county of such racetrack: *Provided*, That nothing in this subdivision permits
114 a racetrack to offer West Virginia lottery table games in more than one location.

115 (28) "Racetrack Table Games Fund" means the special fund in the State Treasury created
116 in section twenty-seven of this article.

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

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

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

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

130 (33) "Winnings" means the total cash value of all property or sums including currency,
131 tokens, or instruments of monetary value paid to players as a direct result of wagers placed on
132 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 effective July

15 1, 2017, and thereafter, a racetrack that held a valid dog racing license prior to January 1, 1994,
16 is not required to hold a current racing 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 \$1.5 million 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 \$2.5 million 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
76 of the Legislature that each racetrack for which a racetrack table games license has been issued
77 be or become a destination tourism resort facility. To that end, it is important that each racetrack
78 for which a racetrack table games license has been issued operate a hotel with significant
79 amenities. Therefore, in addition to all other taxes and fees required by the provisions of this
80 article, there is hereby imposed, upon each racetrack for which a racetrack table games license
81 has been issued an annual license surcharge, payable to the commission in the amount of \$2.5
82 million if that racetrack does not operate a hotel on its racing property that contains at least one
83 hundred fifty guest rooms with significant amenities within three years of the passage of the local
84 option election in its county authorizing table games at the racetrack, provided the time for
85 completion of the hotel shall be extended by the same number of days as the completion of the
86 hotel is delayed by a force majeure events or conditions beyond the reasonable control of the
87 racetrack licensee. The surcharge shall be paid upon each renewal of its racetrack table games
88 license made after the expiration of the three-year period, and may be extended by the above
89 force 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 effective July 1, 2017, and thereafter, a racetrack
36 that held a valid dog racing license prior to January 1, 1994, is not required to race any minimum
37 number of dates.

38 (b) *Specific.* — All racetrack table games licensees shall:

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

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

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

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

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

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

57 (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, and thereafter, the amount
26 required by this subdivision to be transferred to the special funds established by each greyhound
27 racetrack table games licensee for the payment of regular racetrack purses shall instead be
28 transferred to the State Excess Lottery Fund pursuant to section ten-a, article twenty three,
29 chapter nineteen of 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 effective July 1, 2017, and thereafter, the amount required by this subdivision to

37 be transferred to the West Virginia Greyhound Breeding Development Fund shall instead be
38 transferred to the State Excess Lottery Revenue Fund. The amounts transferred to these funds
39 may not be used for the benefit of any person or activity other than at or associated with a
40 racetrack table games 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, and thereafter, the amount

115 required by this subdivision to be transferred to the special funds established by each greyhound
116 racetrack table games licensees for the payment of regular racetrack purses shall instead be
117 transferred to the State Excess Lottery Fund pursuant to section ten-a, article twenty three,
118 chapter nineteen of 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 effective July 1, 2017, and thereafter, the amount required by this subdivision to be transferred to
124 the West Virginia Greyhound Breeding Development Fund shall instead be transferred to the
125 State Excess Lottery Revenue Fund pursuant to section ten-a, article twenty-three, chapter
126 nineteen of this code. The total amount transferred under this subdivision shall be divided pro rata
127 among the development funds for each racetrack table games licensee based on relative adjusted
128 receipts from each racetrack. The amounts transferred to these funds may not be used for the
129 benefit of 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 after June 30, 2017, and each fiscal year thereafter, the
5 distribution to the special fund established by the licensee, and used for payment of regular
6 purses, pursuant to subdivision (2), subsection (c), section twenty-seven of this article only

7 includes amounts to be distributed to each thoroughbred racetrack table games licensee for the
8 payment of regular 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-
11 two 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.