

CHAPTER 116

AN ACT concerning horse racing and the New Jersey Sports and Exposition Authority, amending various parts of the statutory law and supplementing P.L.1971, c.137 (C.5:10-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 44 of P.L.1940, c.17 (C.5:5-64) is amended to read as follows:

C.5:5-64 Distribution of parimutuel pools.

44. Each holder of a permit shall distribute all sums deposited in any pool where the patron is required to select one horse to the winners thereof, less an amount which in harness races shall not exceed 17% of the total deposits plus the breaks and which in other races shall not exceed 17% of the total deposits plus the breaks. In every pool where the patron is required to select two horses, the holder of each permit for either harness or running track shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 19% of the total deposits plus the breaks. In every pool where the patron is required to select three or more horses, every holder of a permit shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 25% of the total deposits plus the breaks. Every permitholder shall distribute to the persons holding winning tickets in any of the aforementioned pools, as a minimum, a sum not exceeding \$0.10, calculated on the basis of each dollar deposited in any pool after the deduction of the said 17%, 19% or 25%, as the case may be. Should the amount remaining in the pool be insufficient to pay the winners the minimum, the breakage accruing in that race, or any necessary portion thereof, shall be applied toward making up any such deficiency. The breaks are hereby defined as the odd cents over any multiple of \$0.10, calculated on the basis of \$1.00 otherwise payable to a patron. Every permitholder engaged in the business of conducting running race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) or a lessee of the authority, shall distribute as purse money the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in a pool as herein provided. Every permitholder engaged in the business of conducting harness race meetings under this act, except the New Jersey Sports and Exposition Authority or a lessee of the authority, shall retain for his own uses and purposes 50% of the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in the pool as herein provided, and shall distribute as purse money the remaining 50%. The New Jersey Sports and Exposition Authority or a lessee of the authority shall retain all breaks as revenue, except as the same shall have been applied toward making up a deficiency in a pool as herein provided.

Every permitholder shall submit to the commission every seventh day of any and every race meeting a report under oath showing the daily and total amount of such breaks, together with such other information as the commission may require. All sums held by any permitholder for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within six months from the time such tickets are issued shall be paid upon the expiration of such six-month holding period as follows:

- a. In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the racing commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);
- b. In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46 b.(1)(e) and section 46 b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and
- c. In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

Where it is shown to the satisfaction of the commission that the reason for the parimutuel tickets being outstanding and unclaimed is the loss, misplacement or theft of said tickets within the confines and control of the parimutuel department of any permitholder, and it is further shown to the satisfaction of the commission that said parimutuel tickets have been cashed by such parimutuel department, the commission may adjust and credit the permitholder's account accordingly and the permitholder shall reimburse any employee who has been held personally

accountable and paid for such lost, stolen or misplaced tickets. All outstanding parimutuel ticket money shall be deposited in an account separate and apart from the track's mutuel or general treasury account. The outstanding parimutuel ticket account shall be subject to the rules and regulations prescribed by the Division of New Jersey Racing Commission.

2. Section 46 of P.L.1940, c.17, (C.5:5-66) is amended to read as follows:

C.5:5-66 Disposition of undistributed deposits.

46. Every permitholder engaged in the business of conducting horse race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) or a lessee of the authority, shall make disposition of the deposits remaining undistributed pursuant to section 44 of P.L.1940, c.17 (C.5:5-64) as follows:

a. In the case of harness races:

(1) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, 1.25% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select two horses, the permitholder shall pay 2.25% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall pay 5.25% of the total contributions;

(2) Hold and set aside in an account designated as a special trust account 1.15% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40 (C.5:5-88), for the following purposes and no other:

(a) 37% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(b) 55% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(c) 5% thereof to the Sire Stakes Program for purse supplements designed to improve and promote the standardbred breeding industry in New Jersey by increasing purses for owners of horses that are sired by a New Jersey registered stallion and are eligible to participate in the Sire Stakes Program. The Sire Stakes Program board of trustees shall consult with the Standardbred Breeders' and Owners' Association of New Jersey before disbursing money for purse supplements;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

(3) Retain 7.7875%, or in the case of races on a charity racing day 7.20%, of so much of such total contributions for his own uses and purposes. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall retain 8.7575%, or in the case of races on a charity racing day 7.70%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 11.6675%, or in the case of races on a charity racing day 9.20%, of the total contributions. Each permitholder shall contribute out of its 11.6675% or 9.20% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(4) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 7.69375%, or in the case of races on a charity racing day 7.40%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.2% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be

determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the tracks. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 8.42875%, or in the case of races on a charity racing day 7.90%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.63375%, or in the case of races on a charity racing day 9.40%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.63375% or 9.40% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen.29375% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be.52875%, and for pools where the patron is required to select three or more horses, the amount shall be 1.23375%.

(6) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses.05% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be.09%, and for pools where the patron is required to select three or more horses, the amount shall be.21%.

(7) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8).025% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be.045%, and for pools where the patron is required to select three or more horses, the amount shall be.105%.

Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

b. In the case of running races:

(1) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, does not exceed \$1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission,.30% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select three or more horses, the permitholder shall pay 1.30% of the total contributions.

(b) Hold and set aside in an account designated as a special trust account .05% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.991%, or in the case of races on a charity racing day 9.85%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 11.061%, or in the case of races on a charity racing day 10.92%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.941%, or in the case of races on a charity racing day 13.33%, of the total contributions. Each permitholder shall contribute out of its 13.941% or 13.33% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New

Jersey Thoroughbred Horsemen's Association 6.141%, or in the case of races on a charity racing day 6.00%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.071%, or in the case of races on a charity racing day 6.93%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 9.631%, or in the case of races on a charity racing day 9.02%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 9.631% or 9.02% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) Deduct and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .8% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be 1.3%. The money in the special trust account shall be used to: (I) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .012% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .052%.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .006% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .026%.

(I) (Deleted by amendment, P.L.2002, c.103).

(j) Except as otherwise provided by law, not be subject to an admission or amusement tax, excise tax, license or horse racing fee of any kind by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

(2) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, exceeds \$1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .50% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race.

(b) Hold and set aside in an account designated as a special trust account .05% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in

section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.305%, or in the case of races on a charity racing day 9.07%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 10.375%, or in the case of races on a charity racing day 10.14%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.545%, or in the case of races on a charity racing day 13.31%, of the total contributions. Each permitholder shall contribute out of its 13.545% or 13.31% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 6.815%, or in the case of races on a charity racing day 6.58%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.745%, or in the case of races on a charity racing day 7.51%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.085%, or in the case of races on a charity racing day 9.85%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.085% or 9.85% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) Deduct and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey .8% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be 1.29%. The money in the special trust account shall be used to: (I) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(I) (Deleted by amendment, P.L.2002, c.103).

(j) Except as otherwise provided by law, not be subject to an admission or amusement tax, excise tax, license or horse racing fee of any kind from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

3. Section 2 of P.L.2001, c.199 (C.5:5-128) is amended to read as follows:

C.5:5-128 Findings, declarations relative to horse racing and off-track wagering.

2. The Legislature finds and declares that:

a. The horse racing industry is economically important to this State, and the general welfare of the people of the State will be promoted by the advancement of horse racing and related projects and facilities in the State.

b. It is the intent of the Legislature, by authorizing off-track wagering and account wagering in this State, to promote the economic future of the horse racing industry in this State, to foster the potential for increased commerce, employment and recreational opportunities in this State and to preserve the State's open spaces.

c. It is the further intent of the Legislature that facilities offering off-track wagering opportunities to the public also offer other amenities such as quality dining and handicapping facilities.

d. The Legislature has determined that the New Jersey Racing Commission is best suited to oversee, license and regulate off-track wagering and account wagering in the State, and that the New Jersey Sports and Exposition Authority, by virtue of its experience in the operation of parimutuel wagering facilities and other entertainment-related projects in this State, is particularly well-suited to coordinate with other parties to promote the uniformity and success of off-track wagering throughout the State and to ensure the fiscal soundness and technical reliability of an account wagering system, pursuant to the terms of this act.

e. In establishing off-track wagering facilities, the authority will not be performing an essential government function but rather an essentially private business function. Numerous municipalities, residents and businesses will be impacted by the establishment of off-track wagering facilities throughout the State. A municipality may oppose the placement of an off-track wagering facility within its boundaries at the discretion of the authority and the commission. A municipality may want an off-track wagering facility sited within its boundaries, but only if the municipality receives an appropriate level of property tax for municipal services. Therefore, fundamental fairness dictates that any municipality be empowered to refuse the siting of a facility within its boundaries. Fundamental fairness also dictates that an off-track wagering facility, even if owned and not leased by the authority, be subject to local property tax requirements.

f. By regulation of the Division of Alcoholic Beverage Control, there exist special licenses that permit the sale of alcoholic beverages on public property. These special licenses, typically available to the authority, are inexpensive and circumvent the traditional method for obtaining a license to sell alcoholic beverages. Because the establishment of off-track wagering facilities is, in reality, essentially a private business function and not an essential government function, the authority is not permitted to receive a special license. Under this act, only a private holder of a Class C plenary retail consumption license is permitted to provide alcoholic beverages at an off-track wagering facility.

4. Section 3 of P.L.2001, c.199 (C.5:5-129) is amended to read as follows:

C.5:5-129 Definitions relative to horse racing and off-track wagering.

3. As used in this act:

"Account holder" means a resident of this State over age 18 who establishes an account pursuant to this act through which account wagers are placed.

"Account wagering" means a form of parimutuel wagering in which an account holder may deposit money in an account with the account wagering licensee and then use the account balance to pay for parimutuel wagers by the account holder.

"Account wagering licensee" means the New Jersey Sports and Exposition Authority or its assignee, provided that the commission has granted its approval for the authority to establish an account wagering system as provided for in this act.

"Account wagering system" means the system through which account wagers are processed by the account wagering licensee pursuant to this act.

"Authority" means the New Jersey Sports and Exposition Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

"Backstretch Benevolency" means the Backstretch Benevolency Programs Fund established pursuant to section 1 of P.L.1993, c.15 (C.5:5-44.8).

"Breeders and Stallions" means the distribution from the special trust account created pursuant to section 46 a. (2) of P.L.1940, c.17 (C.5:5-66) for the purposes of subparagraph (c) of that citation.

"Breeding and Development" means the New Jersey Horse Breeding and Development Account established pursuant to section 5 of P.L.1967, c.40 (C.5:5-88).

"Commission" means the New Jersey Racing Commission created by section 1 of P.L.1940, c.17 (C.5:5-22).

"Executive Director" means the Executive Director of the commission.

"Health and Welfare" means moneys distributed to the Standardbred Breeders' and Owners' Association for the administration of a health benefits program pursuant to section 46 a. (5) of P.L.1940, c.17 (C.5:5-66).

"In-State host track" means a racetrack within this State which is operated by a permit holder which conducts a horse race upon which account wagers are placed pursuant to this act.

"In-State sending track" means a racetrack within this State which is operated by a permit holder and is equipped to conduct off-track simulcasting.

"In-State track" means an in-State host track or an in-State sending track.

"Interstate common pool" means the parimutuel pool established within this State or in another state or foreign nation within which is combined parimutuel pools of one or more receiving tracks located in one or more states or foreign nations upon a race at an out-of-State sending track or out-of-State host track for the purpose of establishing payoff prices in the various jurisdictions.

"Jockey's Health and Welfare" means a health and welfare trust established by the organization certified by the New Jersey Racing Commission as representing a majority of the active licensed thoroughbred jockeys in New Jersey for the purpose of providing health and welfare benefits to active, disabled and retired New Jersey jockeys and their dependents based upon reasonable criteria by that organization.

"New Jersey Racing Industry Special Fund" means the fund established pursuant to section 27 of this act.

"New Jersey Thoroughbred Horsemen's Association" means the association representing the majority of New Jersey thoroughbred owners and trainers responsible for receiving and distributing funds for programs designed to aid thoroughbred horsemen.

"Off-track simulcasting" means the simultaneous audio or visual transmission of horse races conducted at in-State and out-of-State racetracks to off-track wagering facilities and parimutuel wagering at those off-track wagering facilities on the results of those races.

"Off-track wagering" means parimutuel wagering at an off-track wagering facility as authorized under this act.

"Off-track wagering facility" means a licensed facility, other than a racetrack, at which parimutuel wagering is conducted pursuant to this act.

"Off-track wagering licensee" means the New Jersey Sports and Exposition Authority or its assignee, provided that the commission has granted its approval for the authority to conduct an off-track wagering facility as provided for in this act.

"Out-of-State host track" means a racetrack in a jurisdiction other than the State of New Jersey, the operator of which is lawfully permitted to conduct a horse race meeting and which conducts horse races upon which account wagers may be placed pursuant to this act.

"Out-of-State sending track" means a racetrack in a jurisdiction other than the State of New Jersey which is equipped to conduct off-track simulcasting and the operator of which is lawfully permitted to conduct a horse race meeting and to provide simulcast horse races to off-track wagering facilities in this State.

"Out-of-State track" means an out-of-State host track or an out-of-State sending track.

"Outstanding parimutuel ticket" means a winning parimutuel ticket which is not claimed within six months of sale.

"Parimutuel" means any system whereby wagers with respect to the outcome of a horse race are placed with, or in, a wagering pool conducted by an authorized person, and in which the participants are wagering with each other and not against the person conducting the wagering pool.

"Participation agreement" means the written contract that provides for the establishment or implementation of either (a) an off-track wagering facility or facilities or (b) an account wagering system. Each such contract shall set forth the manner in which the off-track wagering facility or facilities or the account wagering system shall be managed, operated and capitalized, as well as how expenses and revenues shall be allocated and distributed by and among the authority and the other eligible participants.

"Permit holder" means the holder of an annual permit to conduct a horse race meeting issued by the commission.

"Racetrack" means the physical facility where a permit holder conducts a horse race meeting with parimutuel wagering.

"Racing costs" means the prospective and actual costs for all licensing, investigation, operation, regulation, supervision and enforcement activities and functions performed by the commission.

"Simulcast horse races" means horse races conducted at an in-State sending track or an out-of-State sending track, as the case may be, and transmitted simultaneously by picture to a receiving track or an off-track wagering facility.

"Sire Stakes" means the Sire Stakes Program established pursuant to section 1 of P.L.1971, c.85 (C.5:5-91).

"Standardbred Drivers' Health and Welfare" means a health and welfare trust established by the Standardbred Breeders' and Owners' Association of New Jersey for the purpose of providing health and welfare benefits to active, disabled and retired New Jersey standardbred drivers and their dependents based upon reasonable criteria by that organization.

"Takeout" means that portion of a wager which is deducted from or not included in the parimutuel pool, and which is distributed other than to persons placing wagers.

"Thoroughbred Breeders and Stallions" means the special trust account created pursuant to section 46 b.(1)(e) of P.L.1940, c.17 (C.5:5-66).

5. Section 4 of P.L.2001, c.199 (C.5:5-130) is amended to read as follows:

C.5:5-130 Issuance of license to authority to permit off-track wagering.

4. a. The commission is authorized to issue a license to the authority to permit off-track wagering at a specified facility, upon application of the authority and in accordance with the provisions of this act. A license issued pursuant to this act shall be valid for a period of one year. The commission shall issue a license only if the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack schedule at least the minimum number of race dates required in section 30 of this act, P.L.2001, c.199 (C.5:5-156), and it is satisfied that the authority has entered into a participation agreement with each and every other person, partnership, association, corporation, or authority or the successor in interest to such person, partnership, association, corporation or authority that:

(1) held a valid permit to hold or conduct a race horse meeting within this State in the calendar year 2000;

(2) has complied with the terms of such permit; and

(3) is in good standing with the commission and the State of New Jersey.

An off-track wagering license may not be transferred or assigned to a successor in interest without the approval of the commission and the Attorney General, which approval may not be unreasonably withheld.

b. As part of the license application process, any participation agreement entered into for the purposes of this section, or any modification to the agreement made thereafter, shall be reviewed by the commission and the Attorney General to determine whether the agreement meets the requirements of this act and shall be subject to the approval of the commission and the Attorney General.

6. Section 5 of P.L.2001, c.199 (C.5:5-131) is amended to read as follows:

C.5:5-131 Filing fee, certification by authority; standards.

5. a. At the time of filing an application for an off-track wagering license, the authority shall submit to the commission a non-refundable filing fee in an amount established by regulation by the commission, and a certification in a form prescribed by the commission which specifies, but is not limited to, the following information:

(1) a plan depicting the proposed facility and improvements thereon, including information about the size, seating capacity, parking and services to be provided at the facility;

(2) the location of the proposed facility, and relevant demographic or other information concerning the municipality and surrounding area where the proposed facility is to be located;

(3) the number of permanent and part-time jobs expected to be created at the proposed facility, and gross revenues expected to be generated by the facility;

(4) the fire evacuation plan for the proposed facility;

(5) the type of food and beverages available; and

(6) such other information as the commission may require.

b. The authority shall file a separate application and certification for each proposed off-track wagering facility.

c. The commission shall establish by regulation procedures and conditions for renewal of licenses issued under this act.

d. The commission shall by regulation establish the maximum hours of operation of off-track wagering facilities.

e. Notwithstanding R.S.33:1-42, alcoholic beverages may be offered for on-premise consumption at an off-track wagering facility only if provided by a Class C plenary retail consumption licensee, by an agreement or contract with the authority, pursuant to the provisions of R.S.33:1-1 et seq. in accordance with such procedures as established by statute and by regulation of the Division of Alcoholic Beverage Control. The authority shall not hold a license to provide alcoholic beverages at an off-track wagering facility.

f. Persons under the age of 18 years shall not be permitted in any off-track wagering facility, except in dining areas if accompanied by a parent or guardian.

g. The commission shall by regulation establish minimum standards for off-track wagering facilities, including, but not limited to, standards for size, seating capacity, parking and services to be provided.

h. The authority, in lieu of obtaining municipal zoning and planning approvals that may otherwise be required in connection with the off-track wagering facility, shall submit a written notice of its intention to site an off-track wagering facility to the governing body of the municipality within which the facility would be sited. The notice shall identify the proposed site of the facility by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax assessor's offices. Within 45 days of its receipt of the authority's notice of intention, the municipal governing body may disapprove of the proposed site of an off-track wagering facility by adopting a resolution which shall be valid and binding upon the authority and the commission upon delivery of a duly certified copy of the resolution to the authority and the commission. Whenever a municipality determines to consider a resolution disapproving a proposed off-track wagering facility, the authority shall be given an opportunity to offer a public presentation of the proposed facility prior to consideration of the resolution. A resolution disapproving a proposed off-track wagering facility shall state the reasons for disapproval.

In the event the governing body shall not adopt such a resolution, the authority may seek a license for an off-track wagering facility in that municipality and the commission may grant the authority the license provided that:

(1) the proposed off-track wagering facility site is not in an area zoned residential;

(2) the authority has submitted its plans to the municipal planning board, and complied with the provisions of section 22 of P.L.1975, c.291 (C.40:55D-31); and

(3) the authority has made reasonable efforts to address the reasonable concerns expressed by the municipal planning board.

7. Section 7 of P.L.2001, c.199 (C.5:5-133) is amended to read as follows:

C.5:5-133 Final determination on license application.

7. a. No sooner than 30 days nor later than 60 days following the public hearing, the commission shall make a final determination on the license application. The commission shall approve the application if it determines that the plan for the proposed facility includes appropriate standards of quality for the premises and services it will provide and that the authority has demonstrated by clear and convincing evidence that establishment of the proposed off-track wagering facility will not be inimical to the interests of the public and the horse racing industry in this State. The commission shall submit its determination to the Attorney General for review and approval. The determination of the commission shall be deemed approved by the Attorney General if not affirmatively approved or disapproved by the Attorney General within 14 days of the date of submission. The decision of the Attorney General shall be deemed a final decision. Upon approval by the Attorney General, the commission shall issue to the authority an off-track wagering license specifying the location, the periods of time during a calendar year and the hours of operation during which off-track wagering is permitted at the facility, and prescribing any other conditions or terms the commission deems appropriate.

b. With the approval of the commission, the authority may assign an off-track wagering license to a permit holder, provided that the authority shall retain responsibility for license renewals. In the event the authority assigns an off-track wagering license, the assignee shall reimburse the authority for its costs associated with the application for the license. With the approval of the commission, the off-track wagering licensee may enter into a contract or agreement with a person or entity to conduct or operate an off-track wagering facility for the licensee and to act as the agent of the licensee in all off-track wagering matters approved by the commission.

8. Section 13 of P.L.2001, c.199 (C.5:5-139) is amended to read as follows:

C.5:5-139 Issuance of license to establish account wagering system.

13. a. The commission is authorized to issue a license to the authority to establish an account wagering system in accordance with the provisions of this act, P.L.2001, c.199 (C.5:5-127 et seq.). A license issued pursuant to this act shall be valid for a term of one year. The commission shall issue a license only if the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack schedule at least the minimum number of race dates required in section 30 of this act, P.L.2001, c.199 (C.5:5-156), and it is satisfied that the authority has entered into a participation agreement with each and every person, partnership, association, corporation or authority or the successor in interest to such person, partnership, association, corporation or authority that:

(1) held a valid permit to hold or conduct a race horse meeting within this State in the calendar year 2000 consisting of at least 40 live race dates in the aggregate at the permit holder's racetrack;

(2) has complied with the terms of such permit; and

(3) is in good standing with the commission and the State of New Jersey.

An account wagering license may not be transferred or assigned to a successor in interest without the approval of the commission and the Attorney General, which approval may not be unreasonably withheld.

b. As part of the license application process, any participation agreement, or any modification to the agreement made thereafter, entered into for the purposes of this section shall be reviewed by the commission and the Attorney General to determine whether the agreement meets the requirements of this act and shall be subject to the approval of the commission and the Attorney General.

c. At the time of filing an application for licensure under this section, the authority shall submit to the commission a non-refundable filing fee in an amount established by regulation by the commission, and a certification in a form prescribed by the commission which specifies, but is not limited to, information about the operation of the account wagering system and the

authority's participation therein.

9. Section 14 of P.L.2001, c.199 (C.5:5-140) is amended to read as follows:

C.5:5-140 Public hearing.

14. a. Within 14 days of receipt of a completed application, certification and applicable fees, the executive director shall determine whether the same is in due form and meets the requirements of law in all respects, and upon being satisfied thereof, the executive director, within 45 days of receipt of a completed application, certification and applicable fees, shall hold a public hearing, the costs of which shall be paid by the applicant.

b. No sooner than 30 days nor later than 60 days following the public hearing, the commission shall make a final determination on the application. The commission shall approve the application if it determines that the authority has demonstrated by clear and convincing evidence that wagers placed through the proposed account wagering system will be accurately processed and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State. The commission's determination shall be submitted to the Attorney General for review and approval. The determination of the commission shall be deemed approved by the Attorney General if not affirmatively approved or disapproved by the Attorney General within 14 days of the date of submission. The decision of the Attorney General shall be deemed a final decision. Upon approval by the Attorney General, the commission shall issue to the authority a license to participate in the account wagering system.

c. With the approval of the commission, the authority may assign the account wagering license to a permit holder, provided that the authority shall retain responsibility for license renewals. In the event the authority assigns the account wagering license, the assignee shall reimburse the authority for its costs associated with the application for the license. With the approval of the commission, the account wagering licensee may enter into a contract or agreement with a person or entity to conduct or operate an account wagering system or facility for the licensee and to act as the agent of the licensee in all account wagering matters approved by the commission.

10. Section 30 of P.L.2001, c.199 (C.5:5-156) is amended to read as follows:

C.5:5-156 Scheduling of race dates, minimum required.

30. a. The permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack together shall schedule (1) no fewer than 120 thoroughbred race dates in the aggregate in each of calendar years 2004 through 2007; (2) no fewer than 141 thoroughbred race dates in the aggregate in each of calendar years 2008 through 2016; and (3) beginning in calendar year 2017 and in each calendar year thereafter, no fewer than 141 thoroughbred race dates in the aggregate, provided that in calendar year 2017 and in each calendar year thereafter the permit holders may schedule fewer than 141 thoroughbred race dates in the aggregate if the commission determines, upon application by the permit holders, that scheduling fewer dates in that calendar year is in the best interest of the racing industry and the State. In making its determination, the commission shall consider all factors, including, but not limited to, handle, number of starters, interstate competition, and export marketability. Notwithstanding the foregoing in (3), in no calendar year shall the permit holders schedule, in the aggregate, fewer than 120 thoroughbred race dates.

b. The standardbred permit holder at Meadowlands Racetrack shall schedule annually no fewer than 151 standardbred race dates.

c. The permit holders at Freehold Raceway shall schedule annually no fewer than 192 standardbred race dates.

d. Notwithstanding subsection a. of this section, the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack may schedule 120 thoroughbred race dates in the aggregate in each calendar year from 2004 through 2007 only if the thoroughbred permit holder at Meadowlands Racetrack or the permit holder at Monmouth Park guarantee in each calendar year from 2004 through 2007 at least \$4,200,000 in thoroughbred stakes at

Meadowlands Racetrack and Monmouth Park, and guarantee the average daily overnight purses for thoroughbred race meetings at the following levels: (1) at least \$300,000 at Meadowlands Racetrack in each calendar year from 2004 through 2007; (2) for the traditional meet at Monmouth Park, at least \$320,000 in calendar year 2004, at least \$325,000 in calendar year 2005, at least \$330,000 in calendar year 2006 and at least \$335,000 in calendar year 2007; and (3) for the 18-day supplemental meet at Monmouth Park, at least \$300,000 in each calendar year from 2004 through 2006. In any calendar year from 2004 through 2007 in which the permit holder at the Meadowlands Racetrack or the permit holder at Monmouth Park, as appropriate, fails to guarantee the required minimum for thoroughbred stakes or the required minimum in average in daily overnight purses pursuant to this subsection, the permit holder at Monmouth Park and the thoroughbred permit holder at Meadowlands Racetrack together shall schedule no fewer than 141 thoroughbred race dates in the aggregate in that calendar year.

11. Section 7 of P.L.1971, c.137 (C.5:10-7) is amended to read as follows:

C.5:10-7 Application for permit.

7. a. The authority or a lessee of the authority is hereby authorized, licensed and empowered to apply to the Racing Commission for a permit or permits to hold and conduct, at any of the projects set forth in paragraphs (1) and (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), horse race meetings for stake, purse or reward, and to provide a place or places on the race meeting grounds or enclosure for wagering by patrons on the results of such horse races by the parimutuel system, and to receive charges and collect all revenues, receipts and other sums from the operation thereof and, in the case of the authority, the ownership thereof.

b. Except as otherwise provided in this section, such horse race meetings and parimutuel wagering shall be conducted by the authority or a lessee of the authority in the manner and subject to compliance with the standards set forth in P.L.1940, c.17 (C.5:5-22 et seq.) and the rules, regulations and conditions prescribed by the Racing Commission thereunder for the conduct of horse race meetings and for parimutuel betting at such meetings.

c. Application for said permit or permits shall be on such forms and shall include such accompanying data as the Racing Commission shall prescribe for other applicants. The Racing Commission shall proceed to review and act on any such application within 30 days after its filing and the Racing Commission is authorized in its sole discretion to determine whether a permit shall be granted to the authority or a lessee of the authority. If, after such review, the Racing Commission acts favorably on such application, a permit shall be granted to the authority or a lessee of the authority without any further approval and shall remain in force and effect so long as any bonds or notes of the authority remain outstanding, the provisions of any other law to the contrary notwithstanding. In granting a permit to the authority or a lessee of the authority to conduct a horse race meeting, the Racing Commission shall not be subject to any limitation as to the number of tracks authorized for the conduct of horse race meetings pursuant to any provision of P.L.1940, c.17 (C.5:5-22 et seq.). Said permit shall set forth the dates to be allotted to the authority for its initial horse race meetings. Thereafter application for dates for horse race meetings by the authority or a lessee of the authority and the allotment thereof by the Racing Commission, including the renewal of the same dates theretofore allotted, shall be governed by the applicable provisions of P.L.1940, c.17 (C.5:5-22 et seq.). Notwithstanding the provisions of any other law to the contrary, the Racing Commission shall allot annually to the authority or a lessee of the authority for the Meadowlands Complex, in the case of harness racing, not less than 100 racing days, and in the case of running racing, not less than 56 racing days, if and to the extent that application is made therefor.

d. No hearing, referendum or other election or proceeding, and no payment, surety or cash bond or other deposit, shall be required for the authority or a lessee of the authority to hold or conduct the horse race meetings with parimutuel wagering herein authorized.

e. The authority or a lessee of the authority shall determine the amount of the admission fee for the races and all matters relating to the collection thereof.

f. Distribution of sums deposited in parimutuel pools to winners thereof shall be in accordance with the provisions of section 44 of P.L.1940, c.17 (C.5:5-64) pertaining thereto.

The authority or a lessee of the authority shall make disposition of the deposits remaining undistributed as follows:

(1) In the case of harness races:

(a) Hold and set aside in an account designated as a special trust account 1% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

(i) 42 1/2% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(ii) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(iii) 5 1/2% thereof to the Sire Stakes Program for purse supplements designed to improve and promote the standardbred breeding industry in New Jersey by increasing purses for owners of horses that are sired by a New Jersey registered stallion and are eligible to participate in the Sire Stakes Program. The Sire Stakes Program board of trustees shall consult with the Standardbred Breeders' and Owners' Association of New Jersey before disbursing money for purse supplements;

(iv) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

Payment of the sums held and set aside pursuant to subparagraphs (iii) and (iv) shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

(b) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 5.1175%, or in the case of races on a charity racing day 5%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.5% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the authority or a lessee of the authority. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the authority or a lessee of the authority shall distribute as purse money 5.6175%, or in the case of races on a charity racing day 5.5%, of the total contributions and for pools where the patron is required to select three or more horses, the authority or a lessee of the authority shall distribute as purse money 7.1175%, or in the case of races on a charity racing day 7%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the authority or a lessee of the authority shall retain out of the 7.1175% or 7% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(c) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen.1175% of such total contributions.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses.02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8).01% of such total contributions.

(2) In the case of running races:

(a) Hold and set aside in an account designated as a special trust account.05% of such total contributions, to be used and distributed for State horse breeding and development programs,

research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(b) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association 4.475%, or in the case of races on a charity racing day 4.24%, of such total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horsemen's Association shall not exceed 2.9% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horsemen's Association and the authority or a lessee of the authority. Notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the authority or a lessee of the authority shall distribute as purse money 7.475%, or in the case of races on a charity racing day 7.24%, of the total contributions.

(c) Deduct and set aside in a special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66) for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey.1% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be.6%. The money in the special trust account shall be used to: (i) improve purses for closed races; (ii) provide awards to owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks or in closed races at an out-of-State track as part of a multi-state event to promote thoroughbred breeding, and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners; and (iii) provide awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (a) of this paragraph.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey.02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8).01% of such total contributions.

Payment of the sums held and set aside pursuant to subparagraphs (a) and (c) of this subsection shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

In addition to the amounts above, in the case of races on a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), an amount equal to ½ of 1% of all parimutuel pools shall be paid to the commission at the time and in the manner prescribed by the commission.

All amounts remaining in parimutuel pools, including the breaks, after such distribution and payments shall constitute revenues of the authority or a lessee of the authority. Except as otherwise expressly provided in this section 7, the authority or a lessee of the authority shall not be required to make any payments to the Racing Commission or others in connection with contributions to parimutuel pools.

g. All sums held by the authority or a lessee of the authority for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within the time provided by law shall be paid upon the expiration of such time, without further obligation to such ticketholder, as follows:

(1) In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the Racing Commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);

(2) In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46b.(1)(e) and section 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and

(3) In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

h. No admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from the authority or a lessee of the authority by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

I. Any horse race meeting and the parimutuel system of wagering upon the results of horse races held at such race meeting shall not under any circumstances, if conducted as provided in the act and in conformity thereto, be held or construed to be unlawful, other statutes of the State to the contrary notwithstanding.

j. Each employee of the authority or a lessee of the authority engaged in the conducting of horse race meetings shall obtain the appropriate license from the Racing Commission, subject to the same terms and conditions as is required of similar employees of other permitholders. The Racing Commission may suspend any member of the authority upon approval of the Governor and the license of any employee of the authority or a lessee of the authority in connection with the conducting of horse race meetings, pending a hearing by the Racing Commission, for any violation of the New Jersey laws regulating horse racing or any rule or regulation of the commission. Such hearing shall be held and conducted in the manner provided in said laws.

C.5:10-7.1 Proposals to lease horse racetrack facilities; notification.

12. If the authority seeks proposals to lease one or both of its horse racetrack facilities, it shall promptly provide written notification thereof to the President of the Senate and the Speaker of the General Assembly. Within 20 days after the receipt of such notice, the President of the Senate and Speaker of the General Assembly shall designate a member of the Senate and a member the General Assembly, as appropriate, to serve as a liaison between the Legislature and the authority with respect to the potential leasing of one or both of the authority's horse racetracks, and shall provide written notification to the authority of the designations. The President and Chief Executive Officer of the authority shall describe to the liaisons each significant proposal and the authority's analysis of each significant proposal. Any recommendation regarding a lease proposal submitted by the President and Chief Executive Officer or staff of the authority to the board of commissioners shall include the opinions of the liaisons. The authority's members shall not award the contract in a lease transaction less than 45 days after the liaisons receive descriptions and analyses of the proposals.

13. Section 4 of P.L.1971, c.137 (C.5:10-4) is amended to read as follows:

C.5:10-4 "New Jersey Sports and Exposition Authority"; membership.

4. a. There is hereby established in the Department of Community Affairs a public body corporate and politic, with corporate succession, to be known as the "New Jersey Sports and Exposition Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by the act shall be deemed and held to be an essential governmental function of the State and the application of the revenue derived from the projects to the purposes provided in this act shall be deemed and held to be applied in support of government.

b. The authority shall consist of the State Treasurer, the President of the New Jersey Sports and Exposition Authority, and a member of the Hackensack Meadowlands Development Commission, to be appointed by the Governor, who shall be members ex officio, 11 members appointed by the Governor with the advice and consent of the Senate, one member appointed by the President of the Senate and one member appointed by the Speaker of the General Assembly, for terms of four years. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be

eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. Each appointed member may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. The chairman shall be appointed by the Governor from the members of the authority other than ex officio members, and the members of the authority shall elect one of their number as vice chairman thereof. The authority shall elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer. The powers of the authority shall be vested in the members thereof in office from time to time and nine members of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least eight members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member and the treasurer of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member or treasurer, as the case may be, in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of his acceptance of the office of ex officio member of the authority or his services therein.

g. Each ex officio member of the authority may designate an officer or employee of his department or agency to represent him at meetings of the authority, and each such designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any such designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority all property, funds and assets thereof shall be vested in the State.

I. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 15 days after such copy of the minutes shall have been so delivered unless during such 15-day period the Governor shall approve the same, in which case such action shall become effective upon such approval. If, in said 15-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this subsection I. upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection I. shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

14. Section 5 of P.L.1971, c.137 (C.5:10-5) is amended to read as follows:

C.5:10-5 Powers of authority.

5. Except as otherwise limited by the act, the authority shall have power:

- a. To sue and be sued;
- b. To have an official seal and alter the same at pleasure;
- c. To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;
- d. To maintain an office at such place or places within the State as it may determine;
- e. To acquire, hold, use and dispose of its income, revenues, funds and moneys;
- f. To acquire, lease as lessee or lessor, rent, lease, hold, use and dispose of real or personal property for its purposes;
- g. To borrow money and to issue its negotiable bonds or notes and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement, and otherwise to provide for and secure the payment of its bonds and notes and to provide for the rights of the holders thereof;
- h. To make and enter into all contracts, leases, and agreements for the use or occupancy of its projects or any part thereof or which are necessary or incidental to the performance of its duties and the exercise of its powers under the act;
- i. To make surveys, maps, plans for, and estimates of the cost of its projects;
- j. To establish, acquire, construct, lease the right to construct, rehabilitate, repair, improve, own, operate, and maintain its projects, and let, award and enter into construction contracts, purchase orders and other contracts with respect thereto in such manner as the authority shall determine, subject only to the provisions of sections 1 through 3 of P.L.1981, c.447 (C.5:10-21.1 through 5:10-21.3) and section 3 of P.L.1987, c.318 (C.5:10-21.1a);
- k. To fix and revise from time to time and charge and collect rents, tolls, fees and charges for the use, occupancy or services of its projects or any part thereof or for admission thereto, and for the grant of concessions therein and for things furnished or services rendered by the authority;
- l. To establish and enforce rules and regulations for the use or operation of its projects or the conduct of its activities, and provide for the policing and the security of its projects;
- m. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or, except with respect to the State, by the exercise of the power of eminent domain, any land and other property, including land under water, meadowlands, and riparian rights, which it may determine is reasonably necessary for any of its projects or for the relocation or reconstruction of any highway by the authority and any and all rights, title and interest in such land and other property, including public lands, reservations, highways or parkways, owned by or in which the State or any county, city, borough, town, township, village, public corporation, or other political subdivision of the State has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon or the benefit of restrictions upon abutting property, to preserve and protect any project, except that the authority shall not have the right to exercise the power of eminent domain in connection with projects authorized under paragraphs (5), (6), and (7) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6);
- n. To provide through its employees, or by the grant of one or more concessions, or in part through its employees and in part by grant of one or more concessions, for the furnishing of services and things for the accommodation of persons admitted to or using its projects or any part thereof;
- o. To hold and conduct horse race meetings for stake, purse or reward and to provide and operate a parimutuel system of wagering at such meetings, but subject only to the provisions of section 7 of the act;
- p. To acquire, construct, operate, maintain, improve, and make capital contributions to others for transportation and other facilities, services and accommodations for the public's use of its projects and to lease or otherwise contract for the operation thereof;

q. Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds or notes, in such obligations, securities and other investments as the authority shall deem prudent;

r. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of the act, with the terms and conditions thereof;

s. Subject to any agreements with bondholders or noteholders, to purchase bonds or notes of the authority out of any funds or money of the authority available therefor, and to hold, cancel or resell such bonds or notes;

t. To appoint and employ a president, who shall be the chief executive officer, and such additional officers, who need not be members of the authority, and accountants, attorneys, financial advisors or experts and all such other or different officers, agents and employees as it may require and to determine their qualifications, terms of office, duties and compensation, all without regard to the provisions of Title 11A of the New Jersey Statutes; provided that it is the express intent of the Legislature that the authority within its sole discretion shall utilize, to the fullest extent feasible, the services of the officers, personnel and consultants of the Meadowlands Commission, in connection with its project in the Meadowlands complex;

u. To do and perform any acts and things authorized by the act, under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation;

v. To procure insurance against any losses in connection with its property, operations or assets, in such amounts and from such insurers as it deems desirable;

w. To do any and all things, including, but not limited to, the creation or formation of profit or not-for-profit corporations, necessary or convenient to carry out its purposes and exercise the powers given and granted in the act;

x. To determine the location, type and character of a project or any part thereof and all other matters in connection with all or any part of a project, notwithstanding any land use plan, zoning regulation, building code or similar regulation heretofore or hereafter adopted by the State, any municipality, county, public body politic and corporate, including but not limited to the Meadowlands Commission, or any other political subdivision of the State, except that all projects constructed after the effective date of this 1987 amendatory and supplementary act shall conform to the Barrier-Free Sub-Code promulgated as part of the State Uniform Construction Code pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.) and further excepted that the authority shall consult with the Meadowlands Commission before making any determination as to the location, type and character of any project under the jurisdiction of the Meadowlands Commission; and

y. To provide, with or without charge as it deems appropriate, through or by means of its officers, agents or employees, advisory, consulting, management or operating services to any political subdivision of the State, or any agency or instrumentality of the State or of any political subdivision of the State, with regard to a stadium, arena, concert hall or other sports or entertainment facility in operation as of January 1, 2004 and owned or operated by such entity as of January 1, 2004.

15. This act shall take effect immediately and except for sections 12 and 13 shall be retroactive to January 1, 2004.

Approved August 8, 2004.