

CHAPTER 26

AN ACT concerning off-track wagering and amending and supplementing P.L.2001, c.199.

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

1. 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, to preserve the State's open spaces, to preserve and enhance the overall economic well-being of the horse racing and horse breeding industries, and to generate greater interest in the horse racing industry and the sport of horse racing in New Jersey.

- 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 and that, in doing so, these facilities strive to be of the highest quality in the country.

- 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 ensure the fiscal soundness and technical reliability of an account wagering system, and to be licensed, along with other well-suited entities, as off-track wagering licensees pursuant to the terms of this act.

- e. In establishing off-track wagering facilities, the authority and other licensees 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 having an off-track wagering facility sited within its boundaries is therefore entitled to receive an appropriate level of property tax for municipal services. Fundamental fairness 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 are typically available to the authority. Because the establishment of off-track wagering facilities is, in reality, essentially a private business function and not an essential government function a private holder of a Class C plenary retail consumption license is given priority to provide alcoholic beverages at an off-track wagering facility. However, many municipalities in New Jersey do not have a sufficient number of liquor licenses or licensees who are available. Therefore, in order to ensure the establishment of an off-track wagering facility when a license or a private holder of a plenary retail consumption license is not available, it is necessary in this act to allow for the issuance of a special concessionaire

permit to the authority, and a special license to other off-track wagering licensees, under certain limited circumstances.

2. 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.

"Applicant" means the New Jersey Sports and Exposition Authority or another entity that submits an application to the commission for a license to establish and conduct an off-track wagering facility 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, or another entity to which the commission has granted its approval 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 entered into prior to the effective date of P.L.2011, c.26, 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 subject to the agreement.

"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).

3. 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 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 pursuant to this subsection only if the permit holder at Monmouth Park and the thoroughbred and standardbred permit holders 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. (1) As part of the license application process, any participation agreement entered into for the purposes of subsection a. 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. Notwithstanding any other law, rule, or regulation to the contrary, a permit holder subject to a participation agreement entered into prior to the effective date of P.L.2011, c.26 shall have made progress since the signing of that agreement toward establishing the permit holder's share of the 15 off-track wagering facilities authorized pursuant to section 10 of P.L.2001, c.199 (C.5:5-136), provided that any facility that has not received a license under section 7 of P.L.2001, c.199 (C.5:5-133) by January 1 of 2012 shall no longer be considered as part of the permit holder's share, and shall be available to be established by a horsemen's organization in this State as provided by paragraph (2) of this subsection. However, if the commission finds that a permit holder is making progress toward obtaining an off-track wagering license and establishing an off-track

wagering facility according to specified benchmarks developed by the commission, the commission may allow a permit holder to retain its share of the off-track wagering facilities to be established, provided the permit holder continues to make progress on an annual basis. For the purposes of this section, a permit holder shall be deemed to have made progress toward establishing its share of off-track wagering facilities if it has entered into an agreement, in connection with good faith negotiations over the sale or lease of a racetrack under the permit holder's control, to transfer allocated off-track wagering licenses or facilities to an individual or entity that is a bona fide prospective purchaser or lessee, or has demonstrated to the satisfaction of the Commission that the execution of such an agreement is imminent based upon the portions of such an agreement agreed upon in principle by the parties as evidenced by a memorandum of understanding or similar accord.

(2) The commission is authorized to issue a license or licenses to any horsemen's organization in this State, for the establishment of one or more of the remaining off-track wagering facilities in partnership with other horsemen's organizations in this State, the authority, or private investors, in accordance with all applicable provisions of the "Off-Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.). A horsemen's organization shall make progress on an annual basis in establishing an off-track wagering facility from the date the organization is eligible to apply for an initial license pursuant to this subsection, provided that any facility that has not received a license under section 7 of P.L.2001, c.199 (C.5:5-133) within a reasonable timeframe from the date the horsemen's organization became eligible to apply for its initial license shall no longer be considered eligible to be established by a horsemen's organization under this paragraph, and shall be available to be established by a well-suited entity pursuant to subsection c. of this section.

c. With respect to any licenses that remain to be issued under paragraph (2) of subsection b. of this section, the commission is also authorized to issue a license to a well-suited entity to permit off-track wagering at a specified facility, upon application of the entity and in accordance with the provisions of this act and the provisions of section 14 of P.L.1940, c.17 (C.5:5-34). A license issued pursuant to this act shall be valid for a period of one year and, if the licensed entity is not a permit holder in this State, the license shall be contingent upon the licensee showing simulcast New Jersey races and allowing wagering thereon at the off-track wagering facility, subject to the rules and regulations of the commission, and shall be issued only if the permit holders schedule at least the minimum number of race dates required in section 30 of P.L.2001, c.199 (C.5:5-156). In assessing the qualifications of an entity to establish and conduct an off-track wagering facility, the commission shall apply substantially similar standards and criteria to those applied to the authority, its assignees, and other permit holders and licensees in the State. These standards and criteria shall enable the commission to determine by clear and convincing evidence in the opinion of the commission that the person or persons applying for licensure on behalf of the entity are well-suited to receive licensure, and shall include, but may not be limited to:

(1) proof of financial resources sufficient to enable the entity to establish and conduct a quality off-track wagering facility or facilities with appropriately staffed and managed operations;

(2) evidence of good character, honesty, competency and integrity;

(3) the absence of a conviction for a crime involving fraud, dishonesty or moral turpitude; and

(4) any additional standards and criteria the commission may establish by rule or regulation in accordance with this act.

d. (1) The commission, in consultation with the State Treasurer, shall develop a process by which the commission will accept bids for each off-track wagering license to be awarded under this act, P.L.2001, c.199. An off-track wagering licensee and an entity interested in establishing an off-track wagering facility and being licensed as an off-track wagering licensee shall be eligible to submit a bid. The bidding process shall include procedures for the establishment of a minimum bid threshold, for the selection of a successful bidder and, when the successful bidder is not yet licensed as an off-track wagering licensee, for the awarding of a bid to that successful bidder subject to its eligibility to be licensed as an off-track wagering licensee in compliance with the provisions of this act, P.L.2001, c.199. As part of the bidding process, and in addition to submitting a monetary bid, a bidder shall submit to the commission a conceptual plan of the off-track wagering facility the bidder intends to establish, which shall include, but may not be limited to, a description of the proposed facility and the amenities it would offer, and its proposed or intended location. In selecting a successful bidder, the commission shall consider and balance the following: (a) the monetary value of the bid in comparison to other bids submitted; (b) the level of quality of the proposed facility and amenities in striving to be a first-rate experience for the customer that includes the provision of first-class dining facilities; (c) the potential of the proposed facility and amenities to generate greater interest in the horse racing industry and the sport of horse racing in the State; and (d) the proximity of the bidder's proposed or intended location for the off-track wagering facility and its impact on other planned or existing off-track wagering facilities and racetracks in the State. For the purposes of this act, P.L.2001, c.199, a successful bid shall be conditional upon the successful bidder's compliance with all the provisions of this act, P.L.2001, c.199, and the applicable rules and regulations promulgated by the commission.

(2) The commission shall consider the amount of a successful bid pursuant to paragraph (1) of this subsection as a license fee in connection with the issuance of an initial license to an off-track wagering facility licensee. The initial license fee need not be uniform for all off-track wagering facility licenses, and may vary depending on the results of the bidding process for each license. The proceeds generated by the initial license fee shall be distributed as follows: 50% to the New Jersey Thoroughbred Horsemen's Association for programs designed to aid the horsemen, and 50% to the Standardbred Breeders' and Owners' Association of New Jersey for programs designed to aid the horsemen.

e. The commission shall, in consultation with the New Jersey Economic Development Authority, develop progress benchmarks, within three months of the effective date of P.L.2011, c.26, for each off-track wagering licensee to follow for the timely and expeditious establishment of each off-track wagering facility. Such benchmarks shall provide that a permit holder shall be deemed to have made progress toward establishing its share of off-track wagering facilities if it has entered into an agreement, in connection with good faith negotiations over the sale or lease of a racetrack under the permit holder's control, to transfer allocated off-track wagering licenses or facilities to an individual or entity that is a bona fide prospective purchaser or lessee, or has demonstrated to the satisfaction of the Commission that the execution of such an agreement is imminent based upon the portions of such an agreement agreed upon in principle by the parties as evidenced by a memorandum of understanding or similar accord. The failure of a licensee to meet the benchmarks shall constitute a basis for the denial by the commission of the renewal of the off-track wagering license, except that the licensee shall have the right to appeal the commission's decision.

4. 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; standards.

5. a. At the time of filing an application for an off-track wagering license, the applicant 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, which shall include the provision of first-class dining facilities; and

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

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

c. The commission shall charge each off-track wagering licensee an annual fee in connection with the renewal of the off-track wagering license, and shall establish by regulation procedures and conditions for renewal of licenses issued under this act. The amount of the annual license renewal fee shall be used by the commission to cover commission expenses associated with implementation of the provisions of this act, P.L.2001, c.199, and shall reasonably reflect those costs.

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

e. (1) Notwithstanding R.S.33:1-42, priority for the service of alcoholic beverages for on-premise consumption at an off-track wagering facility shall be given to a Class C plenary retail consumption licensee, by an agreement or contract with the off-track wagering licensee, 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. When a Class C plenary retail consumption license or licensee is available in the municipality, the authority shall not hold a license to provide alcoholic beverages at an off-track wagering facility. However, when a Class C plenary retail consumption licensee or license is not available in the municipality, the Director of the Division of Alcoholic Beverage Control shall issue a special concessionaire permit to the authority for the provision of alcoholic beverages at the off-track wagering facility and, if the off-track wagering license is held by an off-track wagering licensee other than the authority, the director may issue a non-transferable special license to provide alcoholic beverages at the off-track wagering facility pursuant to paragraph (2) of this subsection.

(2) The Director of the Division of Alcoholic Beverage Control may issue one special license to an individual, corporation, or other type of legal entity to serve alcoholic beverages at an off-track wagering facility located in the municipality where a Class C plenary retail consumption licensee was not available to provide alcoholic beverages at the off-track wagering facility pursuant to paragraph (1) of this subsection. The license shall authorize the sale of alcoholic beverages for immediate consumption on the premises of the off-track

wagering facility. The director may issue not more than 15 licenses pursuant to this paragraph. Furthermore, licenses issued pursuant to this paragraph shall be subject to the following requirements:

(a) No person who would fail to qualify as a licensee under Title 33 of the Revised Statutes shall be permitted to hold an interest in a special license under the provisions of this paragraph;

(b) Licenses shall be subject to the provisions of Title 33 of the Revised Statutes and rules and regulations promulgated by the director, to the extent those provisions are not inconsistent with the provisions of this act;

(c) No license issued pursuant to this paragraph shall be transferred to any other premises;

(d) Application for the initial issuance and renewal of each license shall be made to the director on an annual basis. The fee for the initial issuance of the license shall be the average sale price for the three most recent sales of plenary retail consumption licenses in the municipality where the license is being issued during the preceding five years. If the off-track wagering facility is located within the boundaries of two or more municipalities, the highest average sale price of the two or more municipalities shall be used. If less than three plenary retail consumption licenses have been sold in the municipality or municipalities, as the case may be, within the previous five years, the director shall obtain an appraisal, at the applicant's expense, to determine the appropriate fee for the license. The appraisal process shall include an examination of previous transactions in the municipality or municipalities, as the case may be, and shall reflect what a willing buyer, under no pressure to buy, would pay a willing seller, under no pressure to sell, for a plenary retail consumption license in that municipality or municipalities, as the case may be. One half of the amount of the application fee for the initial issuance of the license shall be paid upon the issuance of the license and the other half of that amount shall be paid one year later. The director shall establish an annual fee for the license which shall not exceed the fee which may be imposed by a municipality for a plenary retail consumption license pursuant to R.S.33:1-12, a portion of which shall be paid by the director to the New Jersey Racing Commission for the funding of horse breeding incentive programs;

(e) The fee for the initial issuance of the license shall be distributed in the following manner:

(i) Twenty-five percent shall be paid to the municipality where the off-track wagering facility is located and if the off-track wagering facility is located within the boundaries of two or more municipalities, the fee shall be divided equally among those municipalities;

(ii) Twenty-five percent shall be paid to the Director of the Division of Alcoholic Beverage Control;

(iii) Fifty percent shall be paid to the New Jersey Racing Commission for the funding of horse breeding incentive programs;

(f) The individual corporation or entity holding the license shall not be entitled to sell a license issued pursuant to this paragraph, and the license shall expire upon the closure of the off-track wagering facility;

(g) The director shall not issue a special concessionaire permit for any off-track wagering facility or premises which is eligible to obtain a license to serve alcoholic beverages under the provisions of this paragraph; and

(h) Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director shall adopt rules and regulations to effectuate the purposes of this paragraph.

(3) Nothing in this subsection shall be construed to allow the Director of the Division of Alcoholic Beverage Control to issue a special concessionaire permit or a special license described in paragraph (2) of this subsection to the authority pursuant to this act, P.L.2001, c.199, or to issue a special license to any individual, corporation, or other type of legal entity to serve alcoholic beverages in a municipality that prohibits the retail sale of alcoholic beverages within its boundaries.

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 and timelines for their establishment and completion, including, but not limited to, standards for quality, size, seating capacity, the provision of first-class dining facilities, parking and services to be provided, as well as expected dates of construction, renovations and opening. The failure of an off-track wagering licensee to meet these standards shall be sufficient cause for the commission to revoke, suspend or refuse to renew a license pursuant to the provisions of section 8 of P.L.2001, c.199 (C.5:5-134).

h. Notwithstanding the provisions of any law, rule, or regulation to the contrary, an off-track wagering facility shall be a permitted use in all commercial and industrial districts of a municipality.

i. In evaluating an application for an off-track wagering license, the commission shall consider the proximity of the applicant's proposed site to other planned or existing off-track wagering facilities and to racetracks in this State. If, in the opinion of the commission, the establishment of the facility at its proposed location would be inimical to the interests of another planned or established off-track wagering facility, or to a State racetrack, the commission shall require the applicant to consider alternative sites for the proposed facility.

5. Section 6 of P.L.2001, c.199 (C.5:5-132) is amended to read as follows:

C.5:5-132 Public hearing.

6. 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 commission, within 45 days of receipt of a completed application, certification and applicable fees, shall hold a public hearing in the municipality in which the proposed off-track wagering facility is to be located. The costs of the public hearing shall be paid by the applicant. The executive director shall cause a display advertisement, approximately 11 inches by 8 inches in size, to be published at least once in a daily newspaper, and at least once in a weekly newspaper, published, or circulated if none is published, in the county where the municipality is located at least 15 days before the date of the public hearing and to be published again in that daily newspaper on the third day preceding the public hearing and in the latest edition of that weekly newspaper that will be in circulation on the third day preceding the public hearing. The advertisement shall contain sufficient information to apprise the public as to the purpose of the hearing, the time and place thereof, and the nature of the license applied for. The advertisement shall be prepared and placed by the executive director, but shall be paid for by the applicant.

6. 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 applicant 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 applicant 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, an 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.

C.5:5-151.1 Payment in-lieu-of taxes, tax exemption, abatement.

7. Notwithstanding any other law, rule, or regulation to the contrary:

(1) when the authority is the owner of the land, building, and premises where an off-track wagering facility is operated pursuant to an initial off-track wagering facility license issued after the effective date of P.L.2011, c.26, the authority shall pay to the municipality where the facility is located a payment in-lieu-of taxes for the first five years of operation of the off-track wagering facility, which payment amount shall be determined upon agreement with the municipality, and shall pay regular property tax payments beginning on the sixth year and thereafter; and

(2) when a private off-track wagering licensee is the owner of the land, building, and premises where an off-track wagering facility is operated pursuant to an initial off-track wagering facility license issued after the effective date of P.L.2011, c.26, the private off-track wagering licensee shall be eligible to receive a five-year tax exemption, or abatement, or both, when located in an area in need of rehabilitation as defined under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), except that the private off-track wagering licensee shall pay to the municipality where the facility is located a payment in-lieu-of taxes for the first five years of operation of the off-track wagering facility, which payment amount shall be less than the amount of regular property tax payments as determined upon agreement with the municipality pursuant to section 10 of P.L.1991, c.441 (C.40A:21-10), and shall pay regular property tax payments beginning on the sixth year and thereafter.

8. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commission may adopt immediately upon filing with the Office of

Administrative Law such regulations as the Commission deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days and may thereafter be amended, adopted or readopted by the Commission in accordance with the requirements of P.L.1968, c.410.

9. This act shall take effect immediately.

Approved February 23, 2011.