WEST VIRGINIA CODE: §19-23-13b

§19-23-13b. West Virginia Thoroughbred Development Fund; distribution; restricted races; nonrestricted purse supplements; preference for West Virginia accredited thoroughbreds.

(a) The Racing Commission shall deposit moneys required to be withheld by an association or licensee in subsection 9(b) of this article in a banking institution of its choice in a special account to be known as West Virginia Racing Commission Special Account – West Virginia Thoroughbred Development Fund: *Provided*, That after the West Virginia Lottery Commission has divided moneys between the West Virginia Thoroughbred Development Fund and the West Virginia Greyhound Breeding Development Fund, pursuant to the provisions of sections §29-22-10 and §29-22-10b, the Racing Commission shall, beginning October 1, 2005, deposit the remaining moneys required to be withheld from an association or licensee designated to the Thoroughbred Development Fund under the provisions of subsection (b), section nine of this article, subdivision (3), subsection (e), 12(b) of this article, subsection (b), section 12(c) of this article, paragraph (B), subdivision (3), subsection (b), section 13(c) of this article and sections §29-22A-10 and §29-22A-10b of this code into accounts for each thoroughbred racetrack licensee with a banking institution of its choice with a separate account for each association or licensee. Each separate account shall be a special account to be known as West Virginia Racing Commission Special Account – West Virginia Thoroughbred Development Fund and shall name the licensee for which the special account has been established: *Provided, however*, That the Racing Commission shall deposit all moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, from July 8, 2005, until the effective date of the amendment to this section passed during the fourth extraordinary session of the 77th Legislature shall be paid into the purse fund of that thoroughbred racetrack licensee: *Provided further*, That the moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, shall be transferred into that licensee's purse fund until April 1, 2006. Notice of the amount, date and place of the deposits shall be given by the Racing Commission, in writing, to the State Treasurer. The purpose of the funds is to promote better breeding and racing of thoroughbred horses in the state through awards and purses for accredited breeders/raisers, sire owners and thoroughbred race horse owners: *Provided*, That five percent of the deposits required to be withheld by an association or licensee in subsection (b), section nine of this article shall be placed in a special revenue account hereby continued in the State Treasury called the Administration and Promotion Account: *Provided, however*, That four and one-half percent of the deposits into the Thoroughbred Development Fund shall be placed in the Administration and Promotion Account, except that of this percentage, no more than $305,000 shall be placed in the account in any year.

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

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

(d) Funds in the Thoroughbred Development Fund or funds in the separate accounts for each association or licensee as provided in subsection (a) of this section shall be expended for awards and purses except as otherwise provided in this section. Annually, the first $800,000 shall be available for distribution for a minimum of 14 accredited stakes races at a racetrack which has participated in the West Virginia Thoroughbred Development Fund for a period of more than four consecutive calendar years prior to December 31, 1992. The weights for all accredited stakes races shall be weight for age. One of the stakes races shall be the West Virginia Futurity and the second shall be the Frank Gall Memorial Stakes. The accredited stake races shall be chosen by the committee set forth in subsection (f) of this section.

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

(1) The breeders/raisers of accredited thoroughbred horses that earn a purse at a participating West Virginia meet shall receive a bonus award calculated at the end of the year as a percentage of the fund dedicated to the breeders/raisers, which shall be 60 percent of the fund available for distribution in any one year. The total amount available for the breeders'/raisers' awards shall be distributed according to the ratio of purses earned by an accredited racehorse to the total amount earned in the participating races by all accredited racehorses for that year as a percentage of the fund dedicated to the breeders/raisers. However, no breeder/raiser may receive from the fund dedicated to breeders'/raisers' awards an amount in excess of the earnings of the accredited horse at West Virginia meets. In addition, should a horse's breeder and raiser qualify for the same award on the same horse, they will each be awarded one half of the proceeds. The bonus referred to in this subdivision may only be paid on the first $100,000 of any purse and not on any amounts in excess of the first $100,000.

(2) The owner of an accredited West Virginia sire of an accredited thoroughbred horse that earns a purse in any race at a participating West Virginia meet shall receive a bonus award calculated at the end of the year as a percentage of the fund dedicated to sire owners, which shall be 15 percent of the fund available for distribution in any one year. The total amount

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available for the sire owners' awards shall be distributed according to the ratio of purses earned by the progeny of accredited West Virginia stallions in the participating races for a particular stallion to the total purses earned by the progeny of all accredited West Virginia stallions in the participating races. However, no sire owner may receive from the fund dedicated to sire owners an amount in excess of 35 percent of the accredited earnings for each sire. The bonus referred to in this subdivision shall only be paid on the first $100,000 of any purse and not on any amounts in excess of the first $100,000.

(3) The owner of an accredited thoroughbred horse that earns a purse in any participating race at a West Virginia meet shall receive a restricted purse supplement award calculated at the end of the year, which shall be 25 percent of the fund available for distribution in any one year, based on the ratio of the earnings in the races of a particular race horse to the total amount earned by all accredited race horses in the participating races during that year as a percentage of the fund dedicated to purse supplements. However, the owners may not receive from the fund dedicated to purse supplements an amount in excess of 35 percent of the total accredited earnings for each accredited race horse. The bonus referred to in this subdivision shall only be paid on the first $100,000 of any purse and not on any amounts in excess of the first $100,000.

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

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

Distribution shall be made on the 15th day of each February for the preceding year's achievements.

(f)(1) Each pari-mutuel thoroughbred horse track shall provide at least one restricted race per racing day: *Provided*, That sufficient horses and funds are available. For purposes of the one restricted race required by this subdivision, there are sufficient horses if there are at least seven single betting interests received for the race: *Provided, however*, That, if sufficient horses and funds are available, any thoroughbred horse racetrack whose licensee participated in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, shall provide three restricted races per racing day, at least one of which may be split at the discretion of the racing secretary. For the purposes of a second restricted race there shall be at least seven single betting interests and for purposes of a third restricted race there must be at least nine single betting interests in one of the restricted races run that day. The restricted race required by this section must be included in the first nine races written in the condition book for that racing day. Effective May 1, 2026, West Virginia certified thoroughbred horses are also eligible for restricted races under this subsection for purse money only, provided that accredited thoroughbreds

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shall receive preference over West Virginia certified thoroughbreds only in the event of an oversubscribed field. Effective July 1, 2026, accredited West Virginia thoroughbreds may race for an additional percentage of purses in restricted races under this subsection as by written agreement between the racing association and the organization that represents the majority of owners and trainers at that racetrack.

(2) The restricted races established in this subsection shall be administered by a three-member committee at each track consisting of:

(A) The racing secretary at each track;

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

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

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

(A) Moneys placed in the general purse fund: *Provided*, That a thoroughbred horse racetrack which did not participate in the West Virginia Thoroughbred Development fund for a period of more than four consecutive years prior to December 31, 1992, may fund restricted races in an amount not to exceed $2 million per year;

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

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

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

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

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

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

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

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

(j) Beginning July 1, 2006, any racing association licensed by the Racing Commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article must have a West Virginia Thoroughbred Racing Breeders Program.

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