WEST VIRGINIA CODE: §29-22A-10b

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

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

(1) The commission shall receive 41 percent of net terminal income, which the commission shall deposit in the state Excess Lottery Revenue Fund created in §29-22-18a of this code;

(2) Until July 1, 2005, eight percent of net terminal income at a licensed racetrack shall be deposited in the special fund established by the licensee and used for payment of regular purses in addition to other amounts provided in §19-23-1 *et seq*. of this code; on and after July 1, 2005, the rate shall be four percent of net terminal income;

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

(A) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this code is in excess of the two percent received during fiscal year 1999 by a county in which a racetrack is located that has participated in the West Virginia Thoroughbred Development Fund since on or before January 1, 1999, shall be divided as follows:

(i) The county shall receive 50 percent of the excess amount; and

(ii) The municipalities of the county shall receive 50 percent of the excess amount, the 50 percent to be divided among the municipalities on a per capita basis as determined by the most recent decennial United States census of population; and

(B) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this code is in excess of the two percent received during fiscal year 1999 by a county in which a racetrack other than a racetrack described in paragraph (A) of this proviso is located and where the racetrack has been located in a municipality within the county since on or before January 1, 1999, shall be divided, if applicable, as follows:

(i) The county shall receive 50 percent of the excess amount; and

(ii) The municipality shall receive 50 percent of the excess amount; and

(C) In a county in which a racetrack other than a racetrack described in paragraphs (A) or (B) of this subdivision is located and where the racetrack has been located within that county since on or before January 1, 1999, and where the racetrack is not located in a municipality, the two percent of net terminal income shall be divided, if applicable, as

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follows:

(i) The county shall receive one percent; and

(ii) The remaining one percent shall be distributed in equal shares to all municipalities within the county. Per capita population has no effect on distributions under this paragraph;

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

(5) (A) The West Virginia Thoroughbred Development Fund created pursuant to §19-23-13b of this code shall receive one and one-half percent of the net terminal income originating at licensed thoroughbred racetracks;

(B) Effective July 1, 2026, the West Virginia Greyhound Breeding Development Fund created pursuant to §19-23-10 of this code shall receive one and one-half percent of the net terminal income originating at licensed greyhound tracks;

(6) The West Virginia Racing Commission shall receive one percent of the net terminal income which shall be deposited and used as provided in §19-23-13c of this code;

(7) A licensee shall receive 42 percent of net terminal income;

(8) The Tourism Promotion Fund established in §5B-2-12 of this code shall receive three percent of the net terminal income: *Provided*, That for each fiscal year beginning after June 30, 2004, this three percent of net terminal income shall be distributed pursuant to the provisions of §29-22A-10(c)(8)(B) of this code;

(9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited into the Workers' Compensation Debt Reduction Fund created in §23-2D-5 of this code: *Provided*, That in any fiscal year when the amount of money generated by this subdivision together with the total allocation transferred by the operation of §29-22A-10(c)(9) of this code totals $11 million, all subsequent distributions under this subdivision during that fiscal year shall be deposited in the special fund established by the licensee and used for payment of regular purses in addition to other amounts provided in §19-23-1 *et seq.* of this code;

(B) The deposit of the four percent of net terminal income into the Worker's Compensation Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to these funds, which shall be deposited in the special fund established by the licensee and used for payment of regular purses in addition to the other amounts provided in §19-23-1 *et seq.* of this code on and after the first day of the month following the month in which the Governor certifies to the Legislature that: (i) The revenue bonds issued pursuant to §23-2D-1 *et seq.* of this code have been retired or payment of the debt service is provided for; and (ii) that an independent certified actuary has determined that the unfunded liability

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of the Old Fund, as defined in chapter 23 of this code, has been paid or provided in its entirety; and

(10) (A) One percent of the net terminal income shall be deposited in equal amounts in the capitol dome and improvements fund created under §5A-4-2 of this code and cultural facilities and capitol resources matching grant program fund created under §29-1-3 of this code; and

(B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for each fiscal year beginning after June 30, 2004, this one percent of net terminal income shall be distributed pursuant to the provisions of §29-22A-10(c)(9)(B)(ii) of this code.

(b) The commission may establish orderly and effective procedures for the collection and distribution of funds under this section in accordance with the provisions of this section and §29-22A-10 of this code.

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