

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(New Administrative Regulation)**

810 KAR 5:050. Stakes and futurities.

RELATES TO: KRS 230.215, 230.260(1)

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(3) authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for stakes and futurities.

Section 1. (1) Application. A stake or futurity sponsor or presenter shall submit an annual application to the commission for approval not less than 120 days prior to taking payments. The application shall contain:

- (a) Satisfactory evidence that purse money is available;
- (b) Proposed conditions;
- (c) Sums to be deducted for organization or promotion; and
- (d) An agreement to file with the commission a surety bond in the amount of the advertised purse, conditioned on faithful performance of the conditions, including guarantees that:

1. The stake or futurity will be raced as advertised unless:

- a. Unanimous consent is obtained from owners of eligibles to transfer or change the date of the race; or
 - b. Prevented by a natural disaster or conditions beyond the control of the sponsor; and
2. Ensure the segregation of funds and an assurance that the sponsor or presenter shall make all payments.

3. If the association furnishes evidence of the availability of funds to conduct the race in a manner satisfactory to the commission, that evidence may be accepted in lieu of surety bond.

(2) Waiver of bond. The requirement to post a surety bond may be waived by the commission:

(a) Upon written request of a sponsor:

1. That is an association;
2. Whose financial statement shows a net worth of not less than five (5) times the amount of trust funds received from payments in stakes and futurities; and
3. Who furnishes a certified copy of the bank deposit in lieu of bond; or

(b) If bond is posted with the United States Trotting Association.

(3) Trust funds. Collections resulting from the forfeiture of a bond shall be paid to the contestants according to the order of finish, or if the race is not contested, shall be divided equally among owners or eligibles on the date the breach of conditions occurs.

(4) Appeal of application rejection. An applicant may appeal the rejection of an application to the commission by registered mail within twenty (20) days after the mailing of the notice of rejection. The appeal shall be in writing to the executive director.

(5) Receipt of printed conditions. The commission must receive printed conditions of all stakes and futurities by their closing dates.

(6) Conflicting conditions. Stakes and futurities conditions which conflict with KRS Chapter 230 or Title 810 KAR shall be refused.

(7) A sponsor or presenter shall:

(a) Provide or make available to the commission a list of nominations within sixty (60) days

after the date of closing.

(b) Furnish to the commission, by January 15th of each year, a financial statement for the preceding year and, within thirty (30) days following the day of the race, a final financial statement;

(c) Notify all nominators and the commission within twenty (20) days of closing if the stake or futurity does not fill;

(d) Provide or make available to the commission, within twenty (20) days of closing, a complete list of all horses remaining eligible, segregated by age, sex, and gait.

(e) Provide or make available, within twenty (20) days following the last payment before the starting fee, a complete list of all horses remaining eligible, segregated by age, sex, and gait, to the owners or agents of all eligibles and to the commission, together with a list of any nominations transferred or substituted if permitted by the conditions. The list of eligibles shall include a resume indicating the current financial status of the stake and futurity, or of each individual division if there is more than one (1) division, by listing the number of horses remaining eligible, the amount of money that has been paid in, and the amount to be added. The purse shall constitute this amount plus starting fees, if any;

(f) Set the nominating date and the dates for sustaining payments (except the starting fee) for the 15th day of the month. There shall be no payments on yearlings except a nomination payment which shall be due not later than August 15. Before receiving any sustaining payments during the year the race is to be contested, the date and place of the race shall be stated. A stake or futurity sustaining fee shall not be due prior to February 15 of any year. There shall be no conditions that require payments in stakes or futurities after August 15 and before February 15 of the following year. The date for closing of the nominations of yearlings to stakes shall be May 15 and the date for closing of the nominations to futurities shall be July 15. There shall be a maximum of one (1) sustaining payment on two (2) year olds in stakes and futurities that do not have a two (2) year old division; and

(g) Advertise the week and place, if possible, that the stake or futurity will be raced before taking nominations. If either the week or place, or both, cannot be announced before taking nominations, that information shall be furnished as soon as the stake or futurity is sold or awarded.

(8) Estimated purse. An estimated purse shall not be advertised or published in excess of the actual purse paid or distributed during the previous year, unless increased by guaranteed added money. A stake or futurity shall not be raced for less than seventy- five (75) percent of the average estimated purse.

Section 2. (1) If an event is not raced due to circumstances beyond the control of a nontrack operating sponsor, the sponsor shall not be required to contribute a sum as added money, but instead shall only refund such nominating, sustaining, and starting fees as it has collected toward the canceled event.

(2) A stake or futurity shall not be approved for extended pari-mutuel meetings if the added money is not at least thirty (30) percent of the purse. For all other meetings at least ten (10) percent of the purse shall be added.

(3) If a stake or futurity is split into more than two (2) divisions, the conditions of the race shall determine the divisions of the purse.

Section 3. Failure to Make Payment. Failure to make any payment required by the conditions shall constitute an automatic withdrawal from the event.

Section 4. Refund of Nomination Fee. If a mare nominated to a futurity fails to have a live

foal, the nominator shall receive a return on his or her payment if notification is given by December 1 of the year the mare failed to foal. If conditions permit, the nominator may substitute.

Section 5. A sponsor shall not pay monetary awards to nominators or breeders from stake or futurity funds.

Section 6. Deductions Prohibited. A deduction, voluntary or involuntary, shall not be made from any purse, stake, or futurity unless the conditions specifically so provide. If deductions are permitted, reasonable deductions may be made for clerical, printing, postage, and surety bond expenses specifically related to the purse, stake, or futurity.

Section 7. Unless otherwise specified in the conditions of a stake or futurity, the money division shall be:

(1) Five (5) or more starters: fifty (50) percent to the winning horse, twenty-five (25) percent to the horse that finishes second, twelve (12) percent to the horse that finishes third, eight (8) percent to the horse that finishes fourth, and five (5) percent to the horse that finished fifth;

(2) Four (4) starters only: fifty (50) percent to the winning horse, twenty-five (25) percent to the horse that finishes second, fifteen (15) percent to the horse that finish third, and ten (10) percent to the horse that finishes fourth;

(3) Three (3) starters only: fifty-five (55) percent to the winning horse, thirty (30) percent to the horse that finishes second, and fifteen (15) percent to the horse that finishes third; and

(4) Two (2) starters only: sixty-five (65) percent to the winning horse and thirty-five (35) percent to the horse that finishes second.

FRANKLIN S. KLING, JR., Chairman

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 15, 2018 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 28, 2018 at 10:00 a.m., at the office of the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify the Kentucky Horse Racing Commission in writing by no later than five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m., December 31, 2018. Please send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: John L. Forgy, General Counsel, Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039, email John.Forgy@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John L. Forgy

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the rules for entering stakes races and futurity races (futures are races in which horses are entered while still a foal, and sometimes prior to birth). The regulation establishes rules concerning the payment of sustaining and nomination fees, and the division of purses.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific requirements and procedures for entry into stakes and futurity races.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This rule prescribes conditions under which the stake and futurity review and approved.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation fulfills the Commission's statutory mandate to prescribe the conditions under which horse racing is conducted in the Commonwealth by establishing a comprehensive set of rules governing the selection of horses for entry into standardbred stakes and futurity races.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statute: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's two licensed standardbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the Commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Participants in horse racing, and especially owners and trainers, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to entries and starters in standardbred racing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No significant costs are associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3)? Participants in racing will benefit from clearly defined rules that enhance the integrity of racing.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

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(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any new fees or increase any current fees to participate.

(9) TIERING: Is tiering applied? Tiering was not applied because this administrative regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission will be impacted by this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 230.370.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government for subsequent years.

(c) How much will it cost to administer this program for the first year? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this regulation for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other explanation: None.