

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

810 KAR 7:010. Backside Improvement Fund.

RELATES TO: KRS 230.218

STATUTORY AUTHORITY: KRS 230.218(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.218(3) requires the Kentucky Horse Racing Commission to promulgate administrative regulations for using the backside improvement fund to promote, enhance, and improve the conditions of the backside of eligible racing associations in Kentucky.

Section 1. Definition. "Backside facilities" means those facilities located at thoroughbred horse racing associations in Kentucky where horses are stabled and quartered and where stable employees work and live.

Section 2. Limitations. All monies disbursed by the commission pursuant to KRS 230.218 shall be used solely for improvements to backside facilities.

Section 3. Application.

(1) An application for monies from the backside improvement fund shall:

(a) Be submitted to the main office of the commission; and

(b) Include the following:

1. A prioritized list of all proposed projects;

2. A full written and graphic description of each proposed project, with justification of the need for each;

3. An itemized cost estimate of each proposed project; and

4. Any contract in existence relating to the proposed improvements.

Section 4. Consideration and Determination.

(1) An application shall be approved or denied at either:

(a) The first regularly scheduled commission meeting that occurs after the application has been received; or

(b) At the second regularly scheduled commission meeting, if the application is received less than seven (7) calendar days before a regularly scheduled commission meeting.

(c) Approval of the application shall be based on the likelihood that the proposal will promote, enhance, and improve the conditions of the eligible backside facilities.

Section 5. Disbursements. All disbursements of monies and other transactions between the commission and the horse racing association involved shall be according to the terms and conditions of the project proposal as approved by the commission.

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 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 regulation establishes the eligibility requirements for receiving monies from the backside improvement fund to promote, enhance and improve the conditions of the backside of eligible racing associations in Kentucky.

(b) The necessity of this administrative regulation: This regulation is necessary to exercise the statutory authority of the KHRC set forth in KRS 230.218(3) "The Kentucky Horse Racing Commission shall promulgate administrative regulations as may be necessary to carry out the provisions and purposes of this section". Specifically, this regulation is necessary to establish the requirements for using the backside improvement fund.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the statutory authority granted to the Kentucky Horse Racing Commission by KRS 230.218.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the requirements for applications for and receiving monies from the backside improvement fund.

(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: This administrative regulation will affect thoroughbred racing associations licensed and located in the Commonwealth of Kentucky; building maintenance and remodeling companies, retail hardware stores, and asphalt repair companies.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by ei-

ther 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: Entities identified in (3) will not have to take additional action to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None of the entities identified in (3) will incur any costs in complying with the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3)? The racing associations will have improved backside facilities and other entities will receive increased business.

(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.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are no cost associated with the implementation and enforcement of this administrative regulation. Funds collected under KRS 230.3615 are allocated to each association in the amount that was paid by that association to the backside improvement fund.

(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: It is not necessary to increase fees or funding to implement this administrative regulation.

(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 new 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. The statutory authority for this administrative regulation is found in KRS 230.218.

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? Although specific dollar estimates cannot be determined, the greatest impact of this regulation for the first year to the state and local government will be the increase in payroll taxes imposed upon all participants as noted in the Regulatory Impact Analysis & Tiering Statement, Section (3).

(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?

Although specific dollar estimates cannot be determined, participation in the program over subsequent years will increase payroll taxes imposed upon all participants as noted in the Regulatory Impact Analysis & Tiering Statement, Section (3).

(c) How much will it cost to administer this program for the first year? Because the infrastructure for administering the program is already in place, it is anticipated that there will be no additional net cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? Because the infrastructure for administering the program is already in place, it is anticipated that there will be no additional net cost to administer this program in subsequent years.

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

Revenues (+/-): Increase – No specific estimate

Expenditures (+/-): No impact

Other Explanation: This administrative regulation provides eligibility requirements for accessing the backside improvement fund. As licensed thoroughbred racing associations continue to access the funds, individuals identified in the Regulatory Impact Analysis and Tiering Statement may receive an increase in revenue.