

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

**810 KAR 7:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund.**

RELATES TO: KRS 138.510, 230.215, 230.225, 230.443, 230.445

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.445

NECESSITY, FUNCTION AND CONFORMITY: KRS 230.215 and 230.260 authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting. KRS 230.445 establishes the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund and requires the commission to promulgate administrative regulations to carry out the purpose of the statute and to administer the development fund in a manner to promote and aid in the development of the horse industry in Kentucky; upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, and the administration of purses and payments in these races.

Section 1. Definitions.

- (1) "Broodmare" means a mare that conceives and carries her genetic foal to term.
- (2) "Donor mare" means the mare from which an embryo is harvested for the purpose of performing an embryo transfer.
- (3) "Fund" means the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund established by KRS 230.445.
- (4) "Historical horse race handle" means monies wagered at a licensed Kentucky association on historical horse races as defined in 810 KAR 2:001.
- (5) "Inter-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted outside of Kentucky.
- (6) "Intra-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted at another Kentucky association.
- (7) "Kentucky bred" means a horse that meets the requirements of this administrative regulation and is:
  - (a) A Quarter Horse registered with the American Quarter Horse Association, or its successor;
  - (b) An Appaloosa registered with the Appaloosa Horse Club, or its successor;
  - (c) An Arabian registered with the Arabian Horse Association Registry, or its successor; or
  - (d) A Paint Horse registered with the American Paint Horse Association, or its successor.
- (8) "Live racing handle" means the monies wagered by individuals present on association grounds on Quarter Horse, Paint Horse, Appaloosa, or Arabian races physically conducted on that association's grounds.
- (9) "Mare" means a broodmare, donor mare, or recipient mare.
- (10) "Nonlive racing handle" means the monies wagered at an association located in Kentucky on Quarter Horse, Paint Horse, Appaloosa, or Arabian races not physically conducted on that association's grounds.
- (11) "Recipient mare" means a mare of any breed who:

- (a) Is implanted with an embryo from a donor mare;
- (b) Carries the non-genetic foal to term; and
- (c) Is implanted with an electronic horse identification microchip that accurately identifies the horse and is compliant with international standards ISO 11784.

Section 2. Advisory Committee. The fund advisory committee shall consist of five (5) members, all of whom shall be Kentucky residents, to be appointed by the chairman of the commission by July 1 of each year. The committee shall consist of the following:

- (1) One (1) member of the commission;
- (2) One (1) officer or director of a licensed racing association in Kentucky conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing;
- (3) One (1) owner of a horse nominated to the fund;
- (4) One (1) owner of a mare registered with the fund; and
- (5) One (1) member of the Kentucky Quarter Horse Racing Association recommended by that organization's board of directors.

### Section 3. Mare Eligibility.

(1) In order for a foal to be eligible to earn money from the fund, the broodmare or both the donor and recipient mares shall be registered with the fund on or before February 15 of the year of conception. Late registration may be accepted on or before June 15 of the year of conception as provided by subsection (4) of this section.

(2) In order to be eligible to be registered with the fund, a mare, whether a broodmare, donor mare, or recipient mare, shall reside in Kentucky continuously from conception or embryo transfer implantation until foaling unless one (1) of the exceptions established in this subsection is met.

#### (a) Medical procedure.

1. A medical procedure is required to be performed to protect the health of the mare or the unborn foal that involves an extraordinary medical situation and the owner of the mare desires to have an expert located outside of Kentucky conduct the procedure;

2. The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, within fourteen (14) days after the mare leaves Kentucky and provides information related to the procedure as requested by the commission;

3. The executive director of the commission approves the departure of the mare from Kentucky;

4. The mare remains under the care of a veterinarian during the entire period of time she is not residing in Kentucky, other than the time during which she is traveling to and from Kentucky;

5. The mare returns to Kentucky following the medical procedure for which her departure was authorized; and

6. The mare is in Kentucky for foaling, as established by documentation provided to the commission;

#### (b) Racing.

1. The owner of the mare desires to race the mare in a pari-mutuel race that is:

a. Held outside Kentucky; and

b. Sanctioned by the governing body of the jurisdiction in which the race is to be held;

2. The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, at least fourteen (14) days before the mare leaves Kentucky and provides in-

formation relating to the race outside of Kentucky as requested by the commission;

3. The executive director of the commission approves the departure of the mare from Kentucky;

4. The mare returns to Kentucky within ten (10) days after the running of the approved race; and

5. The mare is in Kentucky for foaling as established by documentation provided to the commission; or

(c) Auction.

1. The owner of the mare desires to enter her for sale at a catalogued auction for her breed held outside of Kentucky;

2. The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the auction as requested by the commission;

3. The executive director of the commission approves the departure of the mare from Kentucky;

4. The mare returns to Kentucky no later than thirty (30) days after the auction; and

5. The mare is in Kentucky for foaling, as established by documentation provided to the commission.

(3) The owner of a mare approved to leave the state under subsection (2) of this section shall provide the commission with written notification of the mare's return within forty-eight (48) hours of her return.

(4) A mare shall be registered with the fund by:

(a) Completing and filing with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form", KHRC 7-060-1;

(b) Providing the commission with a photocopy of the mare's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, the Arabian Horse Association Registry, or The Jockey Club or their respective successors, or documentation regarding a recipient mare's electronic horse identification microchip; and

(c) Paying the registration fee as follows:

1. A twenty-five (25) dollar fee for registrations postmarked no later than February 15 of the year of conception; or

2. A \$200 late fee for registrations postmarked after February 15 and no later than June 15 of the year of conception.

#### Section 4. Nomination.

(1) Except as set forth in subsection (5) of this section, in order for a horse to be eligible to earn money from the fund, it shall be a Kentucky bred as defined in this administrative regulation and shall be nominated to the fund on or before December 31 of its yearling year by:

(a) Completing and filing with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2;

(b) Providing the commission with a photocopy of the horse's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors; and

(c) Paying the nomination fee as follows:

1. A twenty-five (25) dollar fee for nominations postmarked no later than December 31 of the weanling year; or

2. A \$100 fee for nominations postmarked after the weanling year but no later than December 31 of the yearling year.

(2) Except as provided in subsection (5) of this section, nominations postmarked after December 31 of the yearling year shall not be accepted.

(3) In order for a foal that is the product of an embryo transfer to be eligible to earn monies from the fund, the donor mare and the recipient mare shall be registered as provided in Section 3 of this administrative regulation and shall meet the other requirements of this administrative regulation.

(4) If a registered donor mare produces more than one (1) foal in one (1) breeding season, two (2) genetic foals may be nominated to the fund as determined by the owner of the donor mare.

(5) A horse born before 2017 shall be eligible for nomination to the fund and participating in races offering monies from the fund. A horse shall be nominated by:

(a) Completing and filing with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2;

(b) Paying a nomination fee of \$300; and

(c) Including the following with the nomination form:

1. A photocopy of the official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors;

2. Registration papers showing ownership and demonstrating that the horse was foaled in Kentucky;

3. An official breed registry shipped semen report or a stallion breeders certificate demonstrating that the horse was conceived in Kentucky; and

4. A signed affidavit from the owner of the mare at the time of her pregnancy stating that the mare resided in Kentucky during the entirety of her pregnancy.

(6) Nothing in this section shall prevent a registered mare from being eligible to race for monies from the fund.

#### Section 5. Monies Earned.

(1) One (1) live association.

(a) Live racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of the total live racing handle pursuant to KRS 138.510(1).

(b) Nonlive racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of two (2) percent of the total non-live racing handle pursuant to KRS 138.510(2).

(2) More than one (1) live association. Unless there is a commission approved agreement among the associations conducting live racing to the contrary, if two (2) or more associations are conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races on the same day, the monies earned from the handle for that day shall be divided as established in this subsection.

(a) Live racing handle. An association conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian races shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of that association's live racing handle pursuant to KRS 138.510(1).

(b) The intra-state wagering monies shall be allocated to that association on which the wagering is placed for purposes of calculating that association's fund earnings.

(c) Inter-state wagering monies originating from an association conducting live Quarter

Horse, Paint Horse, Appaloosa, or Arabian races shall be allocated to that association for purposes of calculating that association's fund earnings.

(d) Inter-state wagering monies from all other Kentucky associations shall be divided evenly among the associations conducting live races.

(3) Historical horse race handle. An association offering wagering on historical horse races shall earn monies to be deposited in the fund account for that association as provided in KRS 138.510(1).

#### Section 6. Distribution of Funds.

(1) Each association shall submit a request to the advisory committee, including the proposed races eligible to receive monies from the fund and the proposed purse structure for those races, at least forty-five (45) days prior to the opening day of the live racing meet.

(2) Unless there is a commission approved proposal to the contrary, the proposed purse structure shall not exceed the total dollars generated by that breed to the association's fund account.

(3) The advisory committee shall review the proposed eligible races and purse structure and make a recommendation whether to approve the proposed races and purse structure to the commission based upon the best interests of Kentucky racing.

(4) Two (2) or more associations conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing may request permission from the advisory committee to combine their respective fund monies to supplement purses at one (1) of the associations. The advisory committee shall recommend to the commission whether to approve the request.

#### Section 7. Reconciliation.

(1) Each association shall file weekly with the commission a copy of the pari-mutuel tax form filed with the Department of Revenue, along with a copy of the check submitted for each report.

(2) Each association shall report to the commission the actual purse distribution within fifteen (15) calendar days after the last day of a live race meeting.

(3) The commission shall on a monthly basis reconcile the weekly reports submitted by the association with the Department of Revenue's reports and deposits.

(4) If, at the close of a live race meet, an association has a balance of monies earned for that meet that has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute the remaining balance, subject to the recommendation of the advisory committee and the approval of the commission:

(a) Use fund monies previously earned to supplement purses at future live racing meets held by that association; or

(b) Use fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations.

(5) If, at the close of a live race meet, an association offering wagering on historical horse races has a balance of fund monies earned from historical horse race wagers that has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute a portion of the balance, subject to the recommendation of the advisory committee and the approval of the commission:

(a) Use the historical horse race fund monies previously earned to supplement purses at future live racing meets held by that association;

(b) Use historical horse race fund monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations; or

(c) Use historical horse race fund monies previously earned to supplement purses at another licensed Kentucky racetrack.

(6) Reasonable and customary administrative charges for time spent reconciling the account may be charged to each association by the commission based on the percentage of funds generated by each association for the previous calendar year.

(7) Each association shall sign an agreement stating that it accepts and agrees with the reconciliation prior to reimbursement of any funds.

#### Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form", KHRC 7-060-1;

(b) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2; and

(c) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky Form", KHRC 7-060-3.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the commission's Web site at <http://khrc.ky.gov>.

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](mailto: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 provides the rules governing eligibility for participation in the Kentucky Quarter Horse, Paint Horse, Appaloosa and Arabian Development Fund (the "Fund") and the administration of the Fund.

(b) The necessity of this administrative regulation: KRS 230.445 requires the Kentucky Horse Racing Commission ("KHRC") to promulgate administrative regulations regarding eligibility for participation in the Fund and the administration of the Fund. This regulation fulfills that statutory mandate. While this is a new regulation, it replaces 811 KAR 2:190.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.445(2) establishes the Fund and requires the KHRC to "use the development fund to promote races and provide purses for races for horses bred and foaled in the Commonwealth" and to "provide for distribution of money to the credit of the development fund to persons, corporations, or associations operating licensed tracks within Kentucky conducting quarter horse, paint horse, Appaloosa, or Arabian horse racing." This regulation establishes eligibility standards, administrative practices to enforce the standards and the administration of payments from the Fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides the specific rules for eligibility to earn monies from the Fund, conditions for races with purses supplemented by monies from the Fund, and the distribution of monies from the 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 those persons who breed and race Quarter Horses, Paint Horses, Appaloosas and Arabians in conformity with the requirements of the regulation, boarding farm owners and employees; Kentucky veterinarians and equine healthcare facilities; horse transportation companies; farriers; farmers and suppliers of hay, feed and grain; equine supply companies; daily maintenance care and tack; retail stores; and state and local payroll tax.

(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: This administrative regulation updates the title & chapter number(s) and references within the regulation. All entities identified in (3) will not require any additional responsibilities.

(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 amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3)? As a result of compliance, the entities identified in question (3) will receive direct and indirect financial benefits.

(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: The implementation and enforcement of this administrative regulation will be funded out of the Fund pursuant to KRS 230.445(4)(b). No additional funding is required.

(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: No increase in fees or funding will be necessary 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 amended 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 230.445.

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, continued growth and 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? Currently, there is very little Quarter Horse and Arabian racing in the Commonwealth and no Paint Horse or Appaloosa racing. However, if the number of participants increases, there will be a corresponding increase in the costs associated with administering the Fund.

(d) How much will it cost to administer this program for subsequent years? See answer to 4(c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. This administrative regulation requires mares to be bred and foaled in Kentucky in order for the resulting foal to be eligible to receive distributions from the fund. This requirement provides economic support to all businesses and individuals who provide services necessary for the breeding and racing of Quarter Horses, Paint Horses, Appaloosa and Arabian horses. See Regulatory Impact Analysis and Tiering State-



ment, Section (3).

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: None.