



TEXAS RACING COMMISSION
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Thursday, October 17, 2019
10:30 a.m.
Texas Animal Health Commission
2105 Kramer Lane
Austin, TX 78758

RULES COMMITTEE
AGENDA

I. CALL TO ORDER

II. PROCEEDINGS ON RULES

Discussion and possible action to make recommendations to the Commission regarding:

- A. amendments to the following sections of the Rules of the Texas Racing Commission, as proposed in the September 27, 2019, issue of the *Texas Register*:
 - 1. 16 TAC § 309.8, Racetrack License Fees
 - 2. 16 TAC § 309.51, Designation of Active and Inactive Racetrack Licenses
 - 3. 16 TAC § 309.118, Regulatory Office Space and Equipment
 - 4. 16 TAC § 319.3, Medication Restricted
 - 5. 16 TAC § 319.102, Veterinarian's List
 - 6. 16 TAC § 319.333, Specimen Tags
 - 7. 16 TAC § 321.313, Select Three, Four, or Five
- B. new 16 TAC Chapter 303, Subchapter G, Horse Industry Escrow Account, as proposed in the September 27, 2019, issue of the *Texas Register*, including:
 - 1. 16 TAC § 303.301, Definitions
 - 2. 16 TAC § 303.302, General Provisions
 - 3. 16 TAC § 303.311, Allocations to Horse Racetrack Associations
 - 4. 16 TAC § 303.312, Limitation on Use of Funds by Racetrack Associations
 - 5. 16 TAC § 303.321, Allocations to Breed Registries

6. 16 TAC § 303.322, Limitations on Use of Funds by Breed Registries
 7. 16 TAC § 303.323, Modifications to Approved Events
 8. 16 TAC § 303.324, Recordkeeping and Audits
 9. 16 TAC § 303.325, Quarterly Reports
- C. the repeal of 16 TAC § 321.509, Escrowed Purse Account, as proposed in the September 27, 2019, issue of the *Texas Register*
- D. new 16 TAC § 309.106, Transfers to Texas-Bred Incentive Fund

III. PUBLIC COMMENT

IV. ADJOURN

CHAPTER 309 **RACETRACK LICENSES AND OPERATIONS**
SUBCHAPTER A **RACETRACK LICENSES**
DIVISION 1 **GENERAL PROVISIONS**
SECTION 309. 8 **RACETRACK LICENSE FEES**

1 (a) Purpose of Fees. An association shall pay a license fee to the Commission to pay
2 the Commission's costs to administer and enforce the Act[;] and to regulate, oversee,
3 and license live and simulcast racing at racetracks.

4 (b) Annual License Fee. A licensed racing association shall pay an annual license fee
5 by remitting to the Commission 1/12th of the fee on the first business day of each
6 month. The annual license fee for each license type is as follows:

7 (1) for a Class 1 racetrack, \$200,000;

8 (2) for a Class 2 racetrack, \$95,000;

9 (3) for a Class 3 or 4 racetrack, \$25,000; and

10 (4) for a Greyhound racetrack, \$140,000.

11 (c) Adjustment of Fees.

12 (1) Annual fees are calculated using a projected base of 48 days of live horse racing
13 per Class 1 racetrack, 8 days of live horse racing per Class 3 or 4 racetrack, and a total
14 of 36 performances of live greyhound racing per fiscal year. If a Class 1 horse racetrack
15 does not intend to use all of the race days allotted to it, it shall share the unused days
16 with another Class 1 track, provided that the track receiving the unused days is not
17 required to compensate the track sharing the days. To cover the additional regulatory
18 cost in the event additional days or performances are requested by the associations, the
19 executive secretary may:

20 (A) recalculate a horse racetrack's annual fee by adding \$5,345 for each live race
21 day added beyond the base; and

22 (B) recalculate a greyhound racetrack's annual fee by adding \$750 for each live
23 performance added beyond the base.

24 (2) If the simulcast tax revenue collected in any quarter ending November 30,
25 February 28, May 31, or August 31 is less than 96 percent of the amount collected in
26 the same period the year before, the fees in subsection (b) of this section shall be
27 increased, for the second month of the following quarter, on a pro rata basis in an

28 amount sufficient to generate revenue in the amount of the difference between the
29 amount of simulcast tax revenue collected in the quarter and the amount that is 96
30 percent of the amount collected in the same quarter the year before.

31 (3) If the executive secretary determines that the total revenue from the annual fees
32 exceeds the amount needed to pay its costs, the executive secretary shall order a
33 moratorium on all or part of the license fees remitted monthly by any or all of the
34 associations. Before entering a moratorium order, the executive secretary shall develop
35 a formula for imposing the moratorium in an equitable manner among the associations.
36 In developing the formula, the executive secretary shall consider the amount of excess
37 revenue received by the Commission, the source of the revenue, the Commission's
38 costs associated with regulating each association, the Commission's projected receipts
39 for the next fiscal year, and the Commission's projected expenses during the next fiscal
40 year.

41 ~~[(b) Fees for The Period From September 1, 2018, Through February 28, 2019.~~

42 ~~(1) Base License Fee. A licensed racing association shall pay a license fee in the~~
43 ~~following annualized amount:~~

- 44 ~~(A) for a Class 1 racetrack, \$714,650;~~
- 45 ~~(B) for a Class 2 racetrack, \$127,600;~~
- 46 ~~(C) for a Class 3 or 4 racetrack, \$35,725; and~~
- 47 ~~(D) for a Greyhound racetrack, \$204,175.~~

48 ~~(2) Adjustment of Fees. Annualized fees are calculated using a base of 68 days of~~
49 ~~live horse racing and 36 performances of live greyhound racing per fiscal year. To cover~~
50 ~~the additional regulatory cost in the event additional days or performances are~~
51 ~~requested by the associations the executive secretary may:~~

- 52 ~~(A) recalculate a horse racetrack's annualized fee by adding \$6,313 for each live~~
53 ~~day added beyond the base;~~
- 54 ~~(B) recalculate a greyhound racetrack's annualized fee by adding \$750 for each~~
55 ~~live performance added beyond the base; and~~
- 56 ~~(C) review the original or amended race date request submitted by each~~
57 ~~association to establish race date baselines for specific associations if needed.~~

58 (3) Payment of Fee. Each association shall pay its license fee by remitting to the
59 Commission 1/12 of its annualized fee on the first business day of each month.

60 ~~(c) Unless the Commission Amends These Provisions, Fees for The Period Beginning~~
61 ~~March 1, 2019:~~

62 (1) Base License Fee. A licensed racing association shall pay a license fee in the
63 following annualized amount:

64 (A) for a Class 1 racetrack, \$540,000;

65 (B) for a Class 2 racetrack, \$230,000;

66 (C) for a Class 3 or 4 racetrack, \$70,000; and

67 (D) for a Greyhound racetrack, \$360,000.

68 (2) Adjustment of Fees. Annualized fees are calculated using a base of 83 days of
69 live horse racing and 270 performances of live greyhound racing per fiscal year. To
70 cover the additional regulatory cost in the event additional days or performances are
71 requested by the associations the executive secretary may:

72 (A) recalculate a horse racetrack's annualized fee by adding \$3,750 for each live
73 day added beyond the base;

74 (B) recalculate a greyhound racetrack's annualized fee by adding \$750 for each
75 live performance added beyond the base; and

76 (C) review the original or amended race date request submitted by each
77 association to establish race date baselines for specific associations if needed.

78 (3) Payment of Fee.

79 (A) For the period from March 1 through August 31, 2019:

80 (i) On the first business day of the month, an association that is conducting
81 live racing or simulcasting shall pay its license fee by remitting to the Commission 1/12
82 of the fee specified in Section 309.8(c)(1), as adjusted pursuant to Section 309.8(c)(2).

83 (ii) On the first business day of the fiscal quarter, an association that is not
84 conducting live racing or simulcasting shall pay its license fee by remitting to the
85 Commission 1/4 of the fee specified in Section 309.8(c)(1).

86 (B) For the period beginning September 1, 2019:

87 ~~(i) An association that is conducting live racing or simulcasting shall pay its~~
88 ~~license fee by remitting to the Commission 1/12 of the total fee on the first business day~~
89 ~~of each month.~~

90 ~~(ii) An association that is not conducting live racing or simulcasting shall pay~~
91 ~~its license fee in four equal installments on September 1, December 1, March 1, and~~
92 ~~June 1 of each fiscal year.~~

93 ~~(d) If the executive secretary determines that the total revenue from the fees exceeds~~
94 ~~the amount needed to pay those costs, the executive secretary may order a moratorium~~
95 ~~on all or part of the license fees remitted monthly by any or all of the associations.~~
96 ~~Before entering a moratorium order, the executive secretary shall develop a formula for~~
97 ~~providing the moratorium in an equitable manner among the associations. In developing~~
98 ~~the formula, the executive secretary shall consider the amount of excess revenue~~
99 ~~received by the Commission, the source of the revenue, the Commission's costs~~
100 ~~associated with regulating each association, the Commission's projected receipts for the~~
101 ~~next fiscal year, and the Commission's projected expenses during the next fiscal year.]~~

CHAPTER 309 **RACETRACK LICENSES AND OPERATIONS**
SUBCHAPTER B **OPERATION OF RACETRACKS**
DIVISION 2 **FACILITIES AND EQUIPMENT**
SECTION 309.118 **REGULATORY OFFICE SPACE AND EQUIPMENT**

- 1 (a) An association shall provide adequate office space for the use of the stewards or
2 racing judges, occupational licensing personnel, the Commission's investigative unit, the
3 pari-mutuel auditing staff and the staff employed by the comptroller, the Commission
4 veterinary and drug testing staff, and the Department of Public Safety. The location and
5 size of the office space, furnishings, electrical outlets, telephone lines, television
6 monitors, and equipment required under this section must be approved by the executive
7 director [~~secretary~~].
- 8 (b) – (d) (No change.)
- 9 (e) The office space for occupational licensing personnel must consist of two rooms,
10 one of which must be private. The room that is not private must be equipped with:
- 11 (1) – (5) (No change.)
- 12 (6) a dedicated Ethernet [~~telephone~~] line to be used by a credit card machine or
13 other secure line with access to the internet that is acceptable to the executive director
14 [~~and that does not require a code to access an outside line~~];
- 15 (7) – (9) (No change.)
- 16 (f) The office space for the pari-mutuel auditing staff and the staff employed by the
17 comptroller must:
- 18 (1) – (7) (No change.)
- 19 (8) if requested by the Commission or the comptroller, have an additional Ethernet or
20 other secure line with access to the internet that is acceptable to the executive director
21 [~~voice line to support dial-up capabilities for a personal computer~~]; and
- 22 (9) a dedicated telephone line to be used by a fax machine.
- 23 (g) Commission Veterinarian's Office.
- 24 (1) – (4) (No change.)
- 25 (5) The office must be equipped with:
- 26 (A) a sink with hot and cold water built into a counter of a size required by the
27 executive director [~~secretary~~];
- 28 (B) desks and filing cabinets, in numbers as required by the executive director
29 [~~secretary~~], equipped with locks;
- 30 (C) at horse racetracks, refrigerators and freezers, in sizes and numbers as
31 required by the executive director [~~secretary~~], equipped with locks;

32 (D) at greyhound racetracks, a freezer in a size as required by the executive
33 director [secretary];

34 (E) a storage area, of a size required by the executive director [secretary], with a
35 door approved by the executive director; [secretary.]

36 (F) telephone lines with telephones as required by the executive director
37 [secretary];

38 (G) television monitors as required by the executive director [secretary]; and

39 (H) at horse racetracks, a freestanding counter of a size required by the
40 executive director [secretary].

41 (6) All locks must be of a type approved by the executive director [secretary].

42 (h) (No change.)

43 (i) All telephone lines provided under this section must:

44 (1) be assigned a unique telephone number that is directly accessible by outside
45 callers;

46 (2) if requested by the executive director [secretary], be listed in the governmental
47 section of the local telephone directory; and

48 (3) if requested by the executive director [secretary], be listed on the association's
49 website.

50 (j) An association shall provide at its expense computer lines, phone equipment, and
51 any necessary voice and data network cabling in the offices of the state regulatory and
52 law enforcement personnel as prescribed by the executive director [secretary]. In
53 addition, the association shall reimburse the Commission for the costs of any network or
54 data circuits installed or caused to be installed by the Commission at the association's
55 location.

56 (k) All costs of telecommunications for regulatory and law enforcement personnel
57 provided under this section shall be paid by the association and the telecommunications
58 service may not be interrupted at any time. To ensure minimal disruption to the
59 Commission's regulatory functions, the association shall ensure the Commission staff
60 has twenty-four hour access and keys to any telecommunications rooms serving
61 regulatory and law enforcement personnel as prescribed by the executive director
62 [secretary].

63 (l) An association shall provide to the Commission a number of keys to the Commission
64 offices as approved by the executive director [secretary].

65 (m) (No change.)

CHAPTER 319 **VETERINARY PRACTICES AND DRUG TESTING**
SUBCHAPTER A **GENERAL PROVISIONS**
SECTION 319.3 **MEDICATION RESTRICTED**

1 (a) – (e) (No change.)

2 (f) Except as provided in paragraph (1) [~~(2)~~] of this subsection, clenbuterol and albuterol
3 are [~~is~~] prohibited and shall not be administered to a horse participating in racing at any
4 time.

5 [~~(1) Any horse that is the subject of a finding by the stewards that a test specimen~~
6 ~~contains clenbuterol shall immediately be placed on the Veterinarian's List for not less~~
7 ~~than 60 days.~~

8 (A) ~~In order to have a horse removed from the Veterinarian's List after being~~
9 ~~placed on the list under this subsection, the trainer must contact a commission~~
10 ~~veterinarian to schedule a time and test barn location where the horse must be~~
11 ~~presented after the sixtieth day in order for a commission veterinarian to obtain test~~
12 ~~specimens to be submitted to the official laboratory for testing.~~

13 (B) ~~The cost of each test conducted under this section, including applicable~~
14 ~~shipping costs, shall be borne by the owner and must be paid in full at the time the~~
15 ~~specimens are shipped to the laboratory.~~

16 (C) ~~The collected specimens must not have any detectable level of clenbuterol. If~~
17 ~~no detectable level of clenbuterol is present, the horse shall be removed from the~~
18 ~~Veterinarian's List. If a detectable level of clenbuterol is present, then the horse shall~~
19 ~~remain on the Veterinarian's List until such time that a test specimen reveals no~~
20 ~~detectable level of clenbuterol.~~

21 (D) ~~A horse placed on the Veterinarian's List pursuant to this subsection may not~~
22 ~~be entered in a race until it has been removed from the list.]~~

23 (1) [~~(2)~~] A horse may only be administered clenbuterol or albuterol if:

24 (A) it [~~the clenbuterol~~] is prescribed by a licensed veterinarian;

25 (B) within 24 hours of initiating treatment, the trainer or owner has submitted to
26 the Commission a form prescribed by the Commission and signed by the veterinarian,
27 indicating:

28 (i) the name of the horse;

- 29 (ii) the name of the trainer;
- 30 (iii) the name of the veterinarian;
- 31 (iv) that the veterinarian has personally examined the horse and made an
- 32 accurate clinical diagnosis justifying the ~~[clenbuterol]~~ prescription;
- 33 (v) the proper dosage and route of administration; and
- 34 (vi) the expected duration of treatment; and

35 (C) only FDA-approved clenbuterol or albuterol that is labeled for use in the

36 horse is prescribed and dispensed.

37 (2) ~~[(3)]~~ A horse that has been administered clenbuterol or albuterol under paragraph

38 (1) ~~[(2)]~~ of this subsection shall be placed on the Veterinarian's List for a period ending

39 not less than 30 days after the last administration of the drug as prescribed, subject to a

40 negative test for clenbuterol, albuterol, or any other beta-agonist drug ~~[test]~~ before being

41 removed from the list.

42 (A) In order to have a horse removed from the Veterinarian's List after being

43 placed on the list pursuant to paragraph (1) ~~[(2)]~~ of this subsection, the trainer must

44 contact a commission veterinarian to schedule a time and test barn location where the

45 horse must be presented after the thirtieth day in order for a commission veterinarian to

46 obtain test specimens to be submitted to the official laboratory for testing.

47 (B) (No change.)

48 (C) The collected specimens must not have any detectable level of clenbuterol,

49 albuterol, or any other beta-agonist drug. If no detectable level of clenbuterol, albuterol,

50 or any other beta-agonist drug is present, the horse shall be removed from the

51 Veterinarian's List. If a detectable level of clenbuterol, albuterol, or any other beta-

52 agonist drug is present, then the horse shall remain on the Veterinarian's List until such

53 time that a test specimen reveals no detectable level of clenbuterol, albuterol, or any

54 other beta-agonist drug.

55 (D) A horse placed on the Veterinarian's List pursuant to paragraph (1) ~~[(2)]~~ of

56 this subsection may not be entered in a race until it has been removed from the list.

CHAPTER 319 **VETERINARY PRACTICES AND DRUG TESTING**
SUBCHAPTER B **TREATMENT OF HORSES**
SECTION 319.102 **VETERINARIAN'S LIST**

- 1 (a) – (c) (No change.)
- 2 (d) Before removing a horse from the veterinarian's list, the commission veterinarian
3 may require the horse to perform satisfactorily in a workout or qualifying race.
4 Performance in such a workout or qualifying race must be conducted in accordance with
5 §319.3 of this title (relating to Medication Restricted), except that, for a workout or
6 qualifying race to be used for the purpose of removing a horse from the veterinarian's
7 list, the horse must not have any detectable level of permissible therapeutic medication
8 other than furosemide. The commission veterinarian may require the collection of test
9 specimens from a horse after a workout or race required under this subsection. If a
10 specimen is collected under this subsection, the commission veterinarian may not
11 remove the horse from the veterinarian's list until the results of the test are negative.
- 12 (e) (No change.)

CHAPTER 319 **VETERINARY PRACTICES AND DRUG TESTING**
SUBCHAPTER D **DRUG TESTING**
DIVISION 2 **TESTING PROCEDURES**
SECTION 319.333 **SPECIMEN IDENTIFICATION [TAGS]**

1 (a) Each specimen obtained for testing must be marked for identification in a manner
2 that ensures that: [~~with a tag with multiple parts. A part of the tag must accompany the~~
3 ~~specimen to the testing laboratory and the commission veterinarian or test barn~~
4 ~~supervisor shall retain a part of the tag in a locked cabinet in the test barn or test area.~~

5 (1) the commission can identify which horse, trainer, owner, and race the specimen
6 came from; and

7 (2) the laboratory testing the sample cannot identify from the labeling on the
8 specimen which horse, trainer, owner, or race the specimen came from.

9 (b) The executive director may issue standards for specimen identification in a manner
10 that ensures the integrity of the specimens. [~~The part of the tag that is sent with the~~
11 ~~specimen to the laboratory may contain only the date the specimen was obtained and a~~
12 ~~unique identification number assigned by the executive secretary. The part of the tag~~
13 ~~that is retained in the test barn or test area must contain:~~

14 (1) ~~the signature of the commission veterinarian or test barn supervisor;~~

15 (2) ~~the initials of each individual who collected the urine or serum;~~

16 (3) ~~the initials of the individual who processed the serum for split sampling;~~

17 (4) ~~the date the specimen was obtained;~~

18 (5) ~~the unique identification number;~~

19 (6) ~~the name of the race animal;~~

20 (7) ~~the signature of the witness, if any; and~~

21 (8) ~~any other information required by the executive secretary.]~~

CHAPTER 321 **PARI-MUTUEL WAGERING**
SUBCHAPTER C **REGULATION OF LIVE WAGERING**
DIVISION 2 **DISTRIBUTION OF PARI-MUTUEL POOLS**
SECTION 321.313 **SELECT THREE, FOUR, OR FIVE**

1 (a) – (i) (No change.)

2 (j) When the condition of the turf course warrants a change of racing surface in any of
3 the races open to a select three, four, or five, and such change has not been made
4 known to the betting public prior to the close of wagering for the first select three, four,
5 or five race, the stewards shall declare each changed race a “no contest” for select
6 three, four, or five purposes and the pool shall be distributed in accordance with
7 subsection (i) of this section. Following the designation of a race as a “no contest,” no
8 tickets shall be sold selecting a horse in such “no contest” race.

9 (k) [(j)] In the event of a dead heat for win between two or more animals:

10 (1) – (2) (No change.)

11 (l) [(k)] A pari-mutuel ticket for the select three, four, or five pool may not be sold,
12 exchanged, or canceled after the time wagering closes in the first of the races
13 comprising the select three, four, or five, except for refunds on select three, four, or five
14 tickets as required by subsection (h) of this section. A person may not disclose the
15 number of tickets sold in the select three, four, or five pool or the number or amount of
16 tickets selecting winners of select three, four, or five races until the stewards or racing
17 judges have determined the last race comprising the select three, four, or five to be
18 official.

CHAPTER 303
SUBCHAPTER G
DIVISION 1

GENERAL PROVISIONS
HORSE INDUSTRY ESCROW ACCOUNT
GENERAL PROVISIONS

1 303.301, Definitions

2 The following words and terms, when used in this subchapter, shall have the following
3 meanings:

4 (1) Account – the horse industry escrow account.

5 (2) Association – a horse racetrack association.

6 (3) Event – a planned occasion or activity, such as a competition or other public gathering,
7 including one planned and/or hosted by an organization other than a state horse breed
8 registry.

9
10 303.302 General Provisions

11 (a) At least once each year, the Commission shall make an allocation of funds from the
12 horse industry escrow account in accordance with §§2028.204-.205 of the Act.

13 (b) The Commission may make allocations of funds from the account at different times to
14 horse racetrack associations and to breed registries, provided that not more than 70% of
15 the amount deposited into the account is allocated to racetrack associations each year.

16 (c) At least 30 days before a deadline for submitting requests for allocation from the
17 account, the executive director shall notify all entities eligible to request funds from the
18 account at that time.

19

20 **DIVISION 2** **HORSE RACETRACK ASSOCIATIONS**

21 303.311 Allocations to Horse Racetrack Associations

22 (a) When requesting allocation from the account for purses, each association shall also
23 recommend the percentages by which it will divide its share of the horse industry escrow
24 account funds among the various breeds of horses.

25 (b) The Commission shall determine the amount of the allocation to each racetrack in
26 accordance with the standards set forth in the Act, §§2028.204-.205.

27 (c) The percentages by which an association will divide the horse industry escrow account
28 revenue among the various breeds of horses is subject to the approval of the Commission.
29 When requesting Commission approval of the percentages, the association shall present

30 in writing studies, statistics, or other documentation to support its proposed division of
31 horse industry escrow account revenue. The Commission may consider the following
32 criteria when evaluating the association's studies, statistics, or other documentation
33 submitted to support its proposed division of horse industry escrow account revenue
34 before granting its approval:

35 (1) local public interest in each breed as demonstrated by, but not limited to, the
36 following factors:

37 (A) simulcast import handle by breed;

38 (B) live handle by breed; and

39 (C) live attendance.

40 (2) earnings generated by the association from each breed;

41 (3) racetrack race date request and opportunities given to each breed;

42 (4) statewide need by breed; and

43 (5) national public interest in each breed as determined by the live simulcast export
44 handle of each Texas meet.

45 (d) If the Commission determines that the association's proposed division of the horse
46 industry escrow account revenue is inconsistent with the association's obligation to accord
47 reasonable access to races for all breeds of horses, the Commission may:

48 (1) require the association to submit additional information supporting its
49 recommendation for consideration at the next Commission meeting;

50 (2) reject the association's recommendation and require the association to submit a
51 new recommendation for consideration at the next Commission meeting; or

52 (3) reject the association's recommendation and approve an alternate division of the
53 horse industry escrow account revenue as determined by the Commission.

54 (e) In lieu of the process outlined in subsections (c) and (d) of this section, a signed
55 agreement between the association and the organizations recognized by the Commission
56 or in the Act as representatives of horse owners, trainers, and/or breeders may be
57 submitted to the Commission for consideration and approval. For the Commission to
58 approve the agreement, the agreement must:

59 (1) delineate the percentages by which the horse industry escrow account revenue
60 received by the association will be divided amongst the various breeds of horses; and

61 (2) be signed by all organizations recognized by the Commission or in the Act as
62 representatives of horse owners, trainers, and/or breeders.

63
64 303.312 Limitation on Use of Funds by Racetrack Associations
65 Funds allocated to racetrack associations from the horse industry escrow account may
66 only be used for purses.

67
68 **DIVISION 3** **BREED REGISTRIES**

69 303.321 Allocations to Breed Registries

70 (a) A breed registry is eligible to request funds from the horse industry escrow account if it
71 is listed in Section 2030.002(a) of the Act.

72 (b) When requesting an allocation from the horse industry escrow account, an eligible
73 breed registry shall indicate the event(s) for which it intends to use the funds and provide
74 the following information for each event:

75 (1) the date(s) or approximate date(s);

76 (2) a detailed description of the event;

77 (3) the dollar amount requested for the event;

78 (4) a detailed explanation of the budget for the event; and

79 (5) the anticipated economic impact of the event on the horse industry.

80 (c) The Commission may approve a request for allocation of funds submitted by an eligible
81 breed registry if, after considering the factors set forth in the Act, §2028.204(b), it finds that
82 the request satisfies the requirement that the funds be used for events to further the horse
83 industry. Requests may be approved in full or in part, at the discretion of the Commission.

84 (d) In the event that the total of funds requested by eligible breed registries exceed the
85 funds expected to be available in the account, the Commission may approve requests on a
86 pro rata basis, may approve funding for certain events but not others, or a combination.

87 Priority shall be given to events that the Commission finds likely to have the greatest
88 economic impact in the following areas:

89 (1) the state's horse racing industry;

90 (2) live racing at the state's racetracks;

91 (3) the horse breeding industry;

92 (4) the state of Texas as a whole; and

93 (5) non-racing horse industry activities.

94 (e) Notwithstanding subsections (c) and (d) of this section, prior to January 1, 2020, the
95 executive director may act on behalf of the Commission to approve requests for allocation
96 from the account.

97
98 303.322 Limitations on Use of Funds by Breed Registries

99 (a) A breed registry may use horse industry escrow account funds only for events that
100 further the horse industry. The Commission may require a breed registry to repay funds if
101 the breed registry fails to expend the funds in accordance with Section 2028.204 of the Act
102 and this section within twelve months of the date it receives the funds. The following types
103 of costs may not be paid from funds allocated from the account:

104 (1) operating expenses, including the salaries of breed registry staff, interest and other
105 financial costs related to borrowing and the cost of financing, contributions to a
106 contingency reserve or any similar provision for unforeseen events, and audits or other
107 accounting services;

108 (2) the purchase of capital assets or capital improvements;

109 (3) donations or contributions made to any individual or organization without express
110 approval from the Commission for such contribution or donation;

111 (4) costs of entertainment, amusements, social activities, and incidental costs relating
112 thereto, including tickets to shows or sports events, meals, alcoholic beverages, lodging,
113 rentals, transportation, tips, and gratuities;

114 (5) fines, penalties, or other costs resulting from violations of or failure to comply with
115 federal, state, or local laws and regulations;

116 (6) liability insurance coverage not specific to a particular event or series of events for
117 which the Commission has allocated funds from the account;

118 (7) expenses related to litigation;

119 (8) professional association fees or dues for the breed registry or an individual;

120 (9) legislative expenses such as salaries and other expenses associated with lobbying
121 the state or federal legislature or similar local governmental bodies, whether incurred for
122 purposes of legislation or executive direction; or

123 (10) fundraising.

124 (b) A breed registry may pay a cost out of funds awarded from the horse industry escrow
125 account if it satisfies subsection (a) of this section and is reasonable and adequately
126 documented.

127 (1) A cost is reasonable if the cost does not exceed that which would be incurred by a
128 prudent individual or organization under the circumstances prevailing at the time the
129 decision was made to incur the cost and it is necessary to achieve the purpose for which
130 the funds were sought.

131 (2) A cost is adequately documented if the cost is supported by Generally Accepted
132 Accounting Principles, the breed registry's accounting records, and documented in
133 accordance with §303.325 of this subchapter (relating to Quarterly Reports).

134

135 303.323 Modifications to Approved Events

136 (a) A breed registry seeking to make a modification to the date, description, or budget for
137 an event for which funds have been allocated from the horse industry escrow account shall
138 submit a request to:

139 (1) the executive director for changes to one or more of the following:

140 (A) the date, if the proposed new date is within six months of the original date;

141 (B) the description, if the change does not materially change the nature or scope of
142 the event; or

143 (C) the budget, if the proposed new budget is within ten percent of the original
144 budget for the event; or

145 (2) the Commission, for all other changes.

146 (b) The request must explain the proposed change, the reason for the change, and the
147 anticipated economic impact of the event as modified on the horse industry.

148 (c) The executive director may approve or deny a change requested under subsection
149 (a)(1) of this section or may forward the request to the Commission for consideration.

150

151 303.324 Recordkeeping and Audits

152 (a) Subject to audit by the Commission or auditors or investigators working on behalf of the
153 Commission, including the State Auditor and/or the Comptroller of Public Accounts for the
154 State of Texas, a breed registry receiving funds from the horse industry escrow account

155 shall maintain all records of expenses paid out of funds from the account for a minimum of
156 five years following the event. Records may be maintained in electronic or paper format.

157 (b) The Commission may request, and the breed registry must provide, any such record as
158 part of a review or audit.

159 (c) The funds received and/or expended by the breed registry from the horse industry
160 escrow account must be included in the breed registry's annual audit of the financial
161 statements required to be submitted by June 15 of each year. An auditor's statement must
162 be included as part of the annual audit attesting to the proper use of the funds received
163 from the horse industry escrow account by the breed registry.

164

165 303.325 Quarterly Reports

166 (a) A breed registry receiving funds from the horse industry escrow account shall submit to
167 the Commission a report every quarter. The report must include:

168 (1) the amount of funds expended toward each event for which funds have been
169 allocated;

170 (2) for each completed event, the total amount of funds expended toward the event and
171 a breakdown of the funds expended for that event; and

172 (3) the following certification: "By my signature below, I certify that (1) all of the
173 information in this report is correct, (2) all funds expended from the horse industry escrow
174 account were used in accordance with Section 2028.204 of the Texas Racing Act and the
175 Rules of the Texas Racing Commission, and (3) the breed registry has all documentation
176 required by 16 TAC § 303.324.

177 (b) Quarterly reports shall be submitted to the Commission no later than November 30,
178 February 28, May 31, and August 31 of each year.

CHAPTER 321 **GENERAL PROVISIONS**
SUBCHAPTER D **SIMULCAST WAGERING**
DIVISION 2 **COMMON POOL WAGERING**
SECTION 321.509 **ESCROWED PURSE ACCOUNT**

1 ~~(a) At least once a year, the Commission shall distribute all funds accrued in the escrowed~~
2 ~~purse account. The executive secretary shall establish a deadline for receiving requests for~~
3 ~~distribution from the account and publicize that deadline to the horse racetrack~~
4 ~~associations at least 30 days before the deadline. The associations when requesting for~~
5 ~~distribution from the account shall also recommend the percentages by which it will divide~~
6 ~~the escrowed purse account revenue among the various breeds of horses.~~

7 ~~(b) The Commission shall determine the amount of the distribution to each racetrack in~~
8 ~~accordance with the standards set forth in the Act, §§2028.204-.205.~~

9 ~~(c) The percentages by which an association will divide the escrowed purse account~~
10 ~~revenue among the various breeds of horses is subject to the approval of the Commission.~~
11 ~~When requesting Commission approval of the percentages, the association shall present~~
12 ~~in writing studies, statistics, or other documentation to support its proposed division of~~
13 ~~escrowed purse account revenue. The Commission may consider the following criteria~~
14 ~~when evaluating the association's studies, statistics, or other documentation submitted to~~
15 ~~support its proposed division of escrowed purse account revenue before granting its~~
16 ~~approval:~~

17 ~~(1) local public interest in each breed as demonstrated by, but not limited to, the~~
18 ~~following factors:~~

- 19 ~~(A) simulcast import handle by breed;~~
- 20 ~~(B) live handle by breed; and~~
- 21 ~~(C) live attendance.~~

22 ~~(2) earnings generated by the association from each breed;~~

23 ~~(3) racetrack race date request and opportunities given to each breed;~~

24 ~~(4) statewide need by breed; and~~

25 ~~(5) national public interest in each breed as determined by the live simulcast export~~
26 ~~handle of each Texas meet.~~

27 ~~(d) If the Commission determines that the association's proposed division of the escrowed~~
28 ~~purse account revenue is inconsistent with the association's obligation to accord~~
29 ~~reasonable access to races for all breeds of horses, the Commission may:~~

30 ~~(1) require the association to submit additional information supporting its~~
31 ~~recommendation for consideration at the next Commission meeting;~~

32 ~~(2) reject the association's recommendation and require the association to submit a~~
33 ~~new recommendation for consideration at the next Commission meeting; or~~

34 ~~(3) reject the association's recommendation and approve an alternate division of the~~
35 ~~escrowed purse account revenue as determined by the Commission.~~

36 ~~(e) In lieu of the process outlined in subsections (c) and (d) of this section, a signed~~
37 ~~agreement between the association and the organizations recognized by the Commission~~
38 ~~or in the Act as representatives of horse owners, trainers, and/or breeders may be~~
39 ~~submitted to the Commission for consideration and approval. For the Commission to~~
40 ~~approve the agreement, the agreement must:~~

41 ~~(1) delineates the percentages by which the escrowed purse account revenue received~~
42 ~~by the association will be divided amongst the various breeds of horses; and~~

43 ~~(2) be signed by all organizations recognized by the Commission or in the Act as~~
44 ~~representatives of horse owners, trainers, and/or breeders.]~~

CHAPTER 309 **RACETRACK LICENSES AND OPERATIONS**
SUBCHAPTER B **OPERATIONS OF RACETRACKS**
DIVISION 1 **GENERAL PROVISIONS**
SECTION 309.106 **Transfers to Texas-Bred Incentive Fund**

- 1 A racetrack association shall initiate the transfer of funds due to the Texas-bred incentive fund
- 2 within two business days of the date of the performance for which the funds were earned.