

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #1

Do Not Mark In This Box

2013 MAY 24 AM 9:31

NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE

AGENCY: West Virginia Racing Commission TITLE NUMBER: 178

RULE TYPE: Interpretive CITE AUTHORITY: W. Va. Code §29A-3-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 8

TITLE OF RULE BEING PROPOSED: Racing Interpretive Rule

DATE OF PUBLIC HEARING: Tuesday, June 25 2013 TIME: 10:00 am

LOCATION OF PUBLIC HEARING: 900 Pennsylvania Avenue, Suite 533, Charleston, WV 25302

COMMENTS LIMITED TO: ORAL WRITTEN BOTH

DATE WRITTEN COMMENT PERIOD ENDS: Tuesday, June 25 2013 TIME: 10:00 am

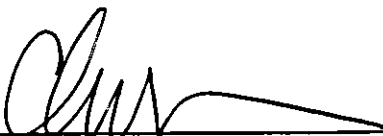
WRITTEN COMMENTS MAY BE MAILED TO:

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

West Virginia Racing Commission
900 Pennsylvania Avenue, Suite 533
Charleston, West Virginia 25302

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



Authorized Signature

Brief Summary of Proposed Rule

West Virginia Racing Commission

Title 178 Series 8

The Racing Commission proposes to clarify the process it uses to verify bona fide residency as required by the Racing law for payment of certain prizes to greyhound and thoroughbred racing participants. In addition, the proposal clarifies the allocation of excess lottery deposits to be distributed on a quarterly basis in accordance with the statute regulating unredeemed pari-mutuel tickets.

Statement of Circumstances

West Virginia Racing Commission

Title 178 Series 8

The Racing Commission is charged with making various disbursements to the horse and dog racing communities in accordance with its statute, W. Va. Code §§19-23-1, *et seq.* Certain provisions require the Racing Commission to verify bona fide residency as that term is defined in the law. The law is silent as to the precise tools the Commission may use to verify residency and it has determined a process that will allow it to efficiently administer the verification process and seeks to spell out that process by rule. In addition, the law providing for payment of certain thoroughbred bonus awards is made on a quarterly basis but the law that supplements the funds available for these payments with Lottery revenues is not explicit as to the timing of distribution. This interpretive rule will clarify that all payments are distributed quarterly and not in a single lump sum in accordance with the Racing Commission statute.

FISCAL NOTE FOR PROPOSED RULES

RACING INTERPRETIVE RULE

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: WEST VIRGINIA RACING COMMISSION

Address: 900 PENNSYLVANIA AVE, SUITE 533
CHARLESTON, WV 25302

Phone Number: 304-558-2150

Email: JOE.K.MOORE@WV.GOV

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

THE INTERPRETIVE RULE WILL HAVE NO FISCAL IMPACT ON STATE GOVERNMENT.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

RACING INTERPRETIVE RULE

Rule Title: _____

Rule Title: _____

- 3. Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

THE INTERPRETIVE RULE WILL HAVE NO FISCAL IMPACT ON THE WEST VIRGINIA RACING COMMISSION.

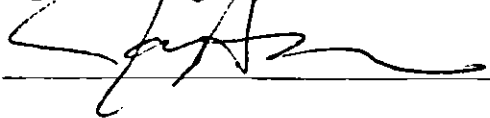
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

THE INTERPREIVE RULE IS TO CLARIFY THE RACING COMMISSION'S CURRENT PRACTICE AND WILL THEREFORE HAVE NO FISCAL IMPACT ON THE STATE.

Date: 5/14/13

Signature of Agency Head or Authorized Representative

 _____

INTERPRETIVE RULE
WEST VIRGINIA RACING COMMISSION
SERIES 8
RACING INTERPRETIVE RULE

§178-8-1. General.

1.1. Scope and Purpose. - The purpose of this interpretive rule is to disclose how the Racing Commission will interpret, clarify and explain provisions of Horse and Dog Racing, codified in W.Va. Code §§19-23-1, *et seq.*

1.2. Authority. - W. Va. Code - §29A-3-4

1.3. Filing Date. -

1.4. Effective Date. -

§178-8-2. Distribution of Excess Lottery Deposits for payment of Supplemental Purse Awards at Thoroughbred Racetracks.

2.1. Racetrack supplemental purse awards distributed pursuant to W. Va. Code §29-22A-18a(l) shall be allocated in four equal quarterly payments to each horse racetrack's racing commission special account – unredeemed pari-mutual tickets, combined with the unredeemed pari-mutuel tickets attributable to each licensee horse racetrack per quarter for claims made pursuant to W. Va. Code §19-23-13(c), and paid by the Racing Commission each calendar quarter. This section is effective for all distributions made in the fiscal year beginning July 1, 2013, and each fiscal year thereafter.

§178-8-3. Bona Fide Residency

3.1. For the purpose of distributing quarterly supplemental purse awards pursuant to W.Va. Code §19-23-13(c)(1)(A), the Racing Commission must first verify West Virginia residency. The Commission has interpreted the required documentation to show bona fide residency to include the following terms for consistency in application:

3.1.1. All claimants must timely provide a signed authorization for release of tax information so that the Racing Commission may obtain notification of appropriate tax filing from the State Tax Department and proof of payment of real or personal property taxes by April 30 of each year. At no time will the Racing Commission receive and retain copies of tax documentation.

3.1.2. Failure to submit the statutorily required documentation will result in denial of any quarterly claims and forfeiture of payments.

3.1.3. Upon receipt of the required documentation, the claimant will be deemed eligible to receive payments for claims; however no payment will be made for claims made prior to receipt of the documentation.

3.2. For the purpose of participating in the West Virginia Greyhound Development Fund pursuant to W.Va.. Code §29-23-10(d), the Racing Commission must verify West Virginia residency of prospective participants. The Commission has interpreted the required documentation to show bona fide residency to include the following terms for consistency in application:

3.2.1. All claimants must provide a signed authorization for release of tax information so that the Racing Commission may obtain notification of timely tax filing from the State Tax Department, proof of payment of real or personal property taxes, and the affidavit required by W. Va. Code §19-23-10(d) by April 30 of each year. At no time will the Racing Commission receive and retain copies of tax documentation.

3.2.2. Failure to submit the statutorily required documentation will result in forfeiture of distributions.

3.2.3. Upon receipt of the required documentation, the owner will be deemed eligible to earn points for the month in which documentation is approved.