

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

Form #5

Do Not Mark In This Box

FILED

2013 AUG -6 PM 3: 20

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: West Virginia Racing Commission TITLE NUMBER: 178

CITE AUTHORITY: W. Va. Code 29A-3-4

RULE TYPE: PROCEDURAL _____ INTERPRETIVE X _____

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 46

TITLE OF RULE BEING PROPOSED: Racing Interpretive Rule

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE

EFFECTIVE DATE OF THIS RULE IS Thirty (30) days from filing
September 5, 2013



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.

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.

2013 AUG -6 PM 3:21

INTERPRETIVE RULE
WEST VIRGINIA RACING COMMISSION

WEST VIRGINIA
SECRETARY OF STATE

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 - §19-23-1, *et seq*; §29A-3-4

1.3. Filing Date. -

1.4. Effective Date. -

§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 provide a signed authorization for release of tax information and if applicable, a copy of a filed federal tax extension, and proof of payment of real or personal property taxes by April 30 of each year.

3.1.2. Failure to submit the statutorily required documentation will result in denial of any quarterly claims until the items required by subsection 3.1.1 are provided to the Racing Commission.

3.2. For the purpose of participating in the West Virginia Greyhound Development Fund pursuant to W.Va. Code §19-23-10(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 participants must provide a signed authorization for release of tax information, and if applicable, a copy of a filed federal tax extension, and 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.

3.2.2. Failure to submit the statutorily required documentation will result in denial of distributions until the items required by subsection 3.2.1 are provided to the Racing Commission.

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, and shall remain eligible until such time as the documentation is required to be updated pursuant to W.Va. Code §19-23-10(d) and this rule.

Jon Amores
Executive Director

900 Pennsylvania Ave
Suite 533
Charleston, WV 25302



Sherry D. Dorsey
Racing Specialist

Phone (304) 558-2150
Fax (304) 558-6319

STATE OF WEST VIRGINIA
DEPARTMENT OF REVENUE
WEST VIRGINIA RACING COMMISSION

Earl Ray Tomblin
Governor

**COMMENTS AND AMENDMENTS TO PROPOSED INTERPRETIVE RULE,
WV RACING COMMISSION, TITLE NUMBER 178, SERIES 8**

A public hearing was held on June 25, 2013, at 10am, in the offices of the West Virginia Racing Commission, 900 Pennsylvania Avenue, Suite 533, Charleston, to receive any comments on the proposed interpretive rule. On behalf of the WV Racing Commission, Commissioner Bill Phillips and Executive Director Jon Amores were in attendance. The only individual to attend, and the only person to provide any comments during the 30-day comment period was Mr. Sam Burdette, from the WV Greyhound Owners' and Breeders' Association.

Mr. Burdette did not express any opposition to the proposed rules. He simply asked that the last section of the rule relating to bona fide state residency for participants in the Greyhound Development Fund be clarified, so that there is no confusion that anyone who qualifies as a bona fide resident shall remain qualified not only for the month that they provide their residency information, but for the subsequent months until they must again provide the yearly tax information required to establish residency, pursuant to WV Code §19-23-10(d). In response to his request, Rule 3.2.3 was modified to address his concerns. This was not a substantive change to the rule, and did not change its intended effect in any way.

Date: August 1, 2013

A handwritten signature in black ink, appearing to read "Jon Amores", written over a horizontal line.

Jon Amores, Executive Director

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 INTERPRETIVE 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


