

1 PUBLIC PROTECTION CABINET

2 KENTUCKY HORSE RACING COMMISSION

3 (Amendment)

4 810 KAR 1:090. Kentucky Thoroughbred Development Fund.

5 RELATES TO: KRS 138.510, 230.225(5)(c), 230.400

6 STATUTORY AUTHORITY: KRS 230.400

7 NECESSITY, FUNCTION AND CONFORMITY: KRS 230.400 establishes the Kentucky  
8 Thoroughbred Development Fund and authorizes the Kentucky Horse Racing Commission to  
9 promulgate administrative regulations as may be necessary to carry out its provisions and  
10 purposes. This administrative regulation establishes standards for eligibility and the  
11 administration of payments from the Kentucky Thoroughbred Development Fund.

12 Section 1. Definitions. (1) "Applicant" means the qualified entity who registers the foal or  
13 horse with the KTDF official registrar.

14 (2) "Historical horse race handle" means monies wagered at a licensed Kentucky  
15 association on historical horse races as defined in 810 KAR 1:001 Section 1(30).

16 (3) "Intra-state wagering" means monies wagered at a Kentucky thoroughbred association  
17 on thoroughbred races conducted at another Kentucky association.

18 (4) ~~(3)~~ "Inter-state wagering" means monies wagered from a Kentucky thoroughbred  
19 association on thoroughbred races conducted outside of Kentucky.

20 (5) ~~(4)~~ "KTDF" means the Kentucky Thoroughbred Development Fund.

1        ~~(6)~~~~(5)~~ "KTDF Advisory Committee" means the committee established by KRS 230.400(2)  
2 to advise and assist the KHRC in the development of a supplemental purse program pursuant to  
3 KRS 230.400(3)(a).

4        ~~(7)~~~~(6)~~ "KTOB" means the Kentucky Thoroughbred Owners and Breeders, Inc.

5        ~~(8)~~~~(7)~~ "Live racing handle" means the monies wagered by individuals present on  
6 association grounds on thoroughbred races physically conducted on association grounds.

7        ~~(9)~~~~(8)~~ "Nonlive racing handle" means the monies wagered at an association located in  
8 Kentucky on thoroughbred races not physically conducted at the association's grounds.

9        ~~(10)~~~~(9)~~ "Official Registrar" means the association recognized and designated as the sole  
10 official registrar of the KTDF for the purpose of registering Kentucky thoroughbred stallions and  
11 Kentucky bred thoroughbreds in accordance with KRS 230.400.

12        Section 2. KTDF Monies Earned. (1) One live thoroughbred association.

13        (a) Live racing handle. An association conducting live racing shall earn KTDF money to be  
14 deposited in the KTDF account for that association in the amount of 0.75 percent of the total  
15 live racing handle pursuant to KRS 138.510(1).

16        (b) Nonlive racing handle. An association conducting live racing shall earn KTDF money to  
17 be deposited in the KTDF account for that association in the amount of two (2) percent of the  
18 total nonlive racing handle pursuant to KRS 138.510(2).

19        (2) More than one (1) live thoroughbred association. Unless there is an agreement among  
20 the thoroughbred associations conducting live racing to the contrary, if two (2) or more  
21 thoroughbred associations are conducting live racing on the same day, the monies earned from  
22 the handle for that day shall be divided as follows:

1 (a) The association conducting the live racing shall earn KTDF money to be deposited in  
2 the KTDF account for that association in the amount of 0.75 percent of that association's live  
3 racing handle pursuant to KRS 138.510(1).

4 (b) The Intra-state wagering monies shall be allocated to that Kentucky thoroughbred  
5 association on which the wagering is placed for purposes of calculating that association's KTDF  
6 earnings.

7 (c) Inter-state wagering monies originating from an association conducting live  
8 thoroughbred racing shall be allocated to that association for purposes of calculating that  
9 association's KTDF earnings.

10 (d) Inter-State wagering monies from all other Kentucky associations shall be divided  
11 evenly among the associations conducting live racing.

12 (3) Historical horse race handle. An association offering wagering on historical horse races  
13 shall earn KTDF money to be deposited in the KTDF account for that association as provided by  
14 KRS 138.510(1).

15 Section 3. KTDF Reconciliation. (1) Each association shall file with the commission a copy  
16 of the pari-mutuel tax form filed with the Department of Revenue, along with a copy of the  
17 check submitted for each report. These reports shall be filed weekly.

18 (2) Each association shall report to the commission the actual KTDF purse distribution no  
19 later than fifteen (15) calendar days after the last day of a live race meeting.

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

1 (4) If at the close of a live race meet, an association has a balance of monies earned for  
2 that meet which has not been distributed in actual KTDF purse distribution, then the  
3 association may choose one of the following options to distribute the remaining balance,  
4 subject to the recommendation[approval] of the KTDF Advisory Committee and the approval of  
5 the commission:

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

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

10 (5) If at the close of a live race meet, an association offering wagering on historical horse  
11 aces has a balance of KTDF monies earned from historical horse race wagers, which has not  
12 been distributed in actual KTDF purse distribution, then the association may choose one of the  
13 following options to distribute a portion of the balance, subject to the recommendation of the  
14 KTDF Advisory Committee and the approval of the commission:

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

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

20 (c) Use historical horse race KTDF monies previously earned to supplement purses at  
21 another licensed thoroughbred Kentucky racetrack.

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

4        (7)~~(6)~~ An association, at its option, may pay advertising charges billed to the association  
5 by the KTOB from the association's KTDF available balance.

6        (8)~~(7)~~ Each association shall sign an agreement stating that it accepts and agrees with  
7 the reconciliation prior to reimbursement of any KTDF funds.

8        Section 4. Purse Structure. Each association shall submit its KTDF purse structure proposal  
9 to the KTDF Advisory Committee for approval at least forty-five (45) days prior to the opening  
10 day of the live racing meet. The KTDF Advisory Committee shall review the proposed purse  
11 structure and make a recommendation to the commission whether or not to approve the  
12 proposed purse structure based upon the best interests of Kentucky racing.

13        Section 5. Consent to Investigate by KTDF Applicants. The filing of a registration with the  
14 official registrar shall authorize the KTDF Advisory Committee and commission to investigate  
15 and verify information provided by the Applicant.

16        Section 6. Denial or Revocation of Registration. (1) The KTDF Advisory Committee may  
17 recommend to the commission to deny or revoke the registration of a horse to the KTDF if the  
18 Applicant:

19        (a) Provides the official registrar of the KTDF, the KTDF Advisory Committee, or the  
20 commission with incorrect, false, or misleading information concerning the registration of a foal  
21 or horse; or

22        (b) Violates this administrative regulation in any other manner.

1 (2) An applicant who provides incorrect, false, or misleading information concerning the  
2 registration of a foal or horse or violates this administrative regulation in any other manner  
3 shall be subject to the following penalties:

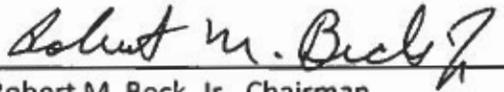
4 (a) Denial or revocation of the registration of the horse with the KTDF; or

5 (b) A bar of the applicant from registering foals or horses to the KTDF for a period of one  
6 (1) to five (5) years, based on the seriousness of the violation, beginning with the year in which  
7 the violation occurred.

8 (3) A second or subsequent violation of this administrative regulation may result in a  
9 lifetime bar of the applicant from being eligible to receive KTDF monies.

10 (4) The denial or revocation of the registration of a horse to the KTDF, and a bar of the  
11 applicant from registering foals or horses to the KTDF shall be subject to appeal and  
12 adjudication in accordance with 810 KAR 1:029 and KRS Chapter 13B.

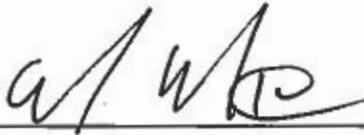
READ AND APPROVED:



Robert M. Beck, Jr., Chairman  
Kentucky Horse Racing Commission

3-23-15

Date



Ambrose Wilson, IV, Secretary  
Public Protection Cabinet

3-27-15

Date

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on May 27, 2015 at 10:00 A.M., at the offices 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 May 19, 2015, 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 until close of business on June 1, 2015. 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:** Katherine M. Paisley  
Deputy General Counsel  
Kentucky Horse Racing Commission  
4063 Iron Works Parkway, Building B  
Lexington, KY 40511  
Phone: (859) 246-2040  
FAX: (859) 246-2039

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Katherine M. Paisley, Deputy General Counsel, Kentucky Horse Racing Commission  
Telephone: (859) 246-2040

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards for eligibility and the administration of payments from the Kentucky Thoroughbred Development Fund ("KTDF").

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the efficient administration of the KTDF. It provides notice to participants regarding registration and eligibility standards for the program, provides the manner in which associations earn and can utilize the money in their respective accounts, and establishes a penalty structure for violations of the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS § 230.400(4), which created the KTDF, states: "The Kentucky Horse Racing Commission, with the advice and assistance of the Kentucky Thoroughbred Development Fund Advisory Committee, shall use the Kentucky thoroughbred development fund to promote, enhance, improve, and encourage the further and continued development of the thoroughbred breeding industry in Kentucky by providing, out of the Kentucky thoroughbred development fund, supplemental purses for designated stakes, handicap, allowance, nonclaiming maiden races, and allowance optional claiming races for a claiming price of not less than twenty-five thousand dollars (\$25,000) contested at licensed thoroughbred race meetings in Kentucky, the awarding and payment of which supplemental purses shall be conditioned upon the winning or placing in

designated races by Kentucky bred thoroughbred horses. The Kentucky Horse Racing Commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the requirements, conditions, and procedures for awarding and payment of supplemental purses in designated races by Kentucky-bred Thoroughbred horses.” This administrative regulation establishes the requirements, conditions, and procedures for awarding and payment of supplemental purses for Kentucky bred horses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS § 230.400(7) states, “The Kentucky Horse Racing Commission shall promulgate administrative regulations as may be necessary to carry out the provisions and purposes of this section, including the promulgation of administrative regulations and forms as may be appropriate for the proper registration of Kentucky stallions and Kentucky bred thoroughbreds with the official registrar...” This administrative regulation establishes a registration system to facilitate participation in the program. It also creates a system by which racing associations can earn and distribute money for the benefit of owners and trainers of Kentucky-bred horses. The amendment provides the associations with a system by which they can distribute KTDF money earned through wagers on historical horse races.

(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: The amendment provides the manner in which a thoroughbred association with an excess of KTDF money accrued through wagers on historical horse races may utilize those funds.

(b) The necessity of the amendment to this administrative regulation: Under the current regulatory structure, an association with an excess of KTDF money earned through wagers on historical horse races can only use those funds at its own live meet. Due to the success of historical horse racing, it will best benefit Kentucky racing to allow for transfer of an excess of these funds to other thoroughbred associations for use in their KTDF accounts for the ultimate goal of increased purses across the state.

(c) How the amendment conforms to the content of the authorizing statutes: Pursuant to KRS § 230.400(7), "The Kentucky Horse Racing Commission shall...administer the Kentucky-bred Thoroughbred program created hereby in a manner best designed to promote and aid in the further development of the Thoroughbred breeding industry in Kentucky, to upgrade the quality of Thoroughbred racing in Kentucky, and to improve the quality of Thoroughbred horses bred in Kentucky." This amendment provides the regulatory structure through which the Commission can follow this mandate.

(d) How the amendment will assist in the effective administration of the statutes: The regulation is currently silent on the manner in which funds accrued through wagers on historical horse races can be distributed. This amendment provides the regulatory structure for such distribution.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation directly affects Kentucky's licensed racing associations that offer thoroughbred racing and through purse supplements, the regulation affects owners of Kentucky bred thoroughbreds. The regulation indirectly affects everyone involved in thoroughbred racing, including farm owners and

employees; veterinarians and equine health care facilities; horse transportation companies; farriers; suppliers of hay, feed and grain; equine supply companies providing medical sales, daily maintenance care and tack; Kentucky thoroughbred sale companies; equine tourism generating state/local room taxes for lodging, gasoline tax on travel and transportation of horses; farm equipment retail stores and maintenance services; and state and local payroll tax generated by the above businesses.

(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: The racing associations will not be required to take any new action but will have an additional option for the use of KTRF money. None of the other entities will be required to take any new action.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Nothing.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): A transfer of money from one thoroughbred association to another will increase purse amounts at the receiving association. Increased purses typically result in bigger and better fields. This will allow owners of Kentucky bred horses to run for larger purses at a race meet that might be more conducive to their schedule or a better fit for their horses. An increase in horse population as a result of increased purses will provide additional revenues for the other entities involved in thoroughbred racing as listed in question (3).

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No increased costs.

(b) On a continuing basis: No increased costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are no increased costs however the KTDf is funded by the pari-mutuel tax established by KRS § 138.510.

(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.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amendment did not create or increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applied. All aspects of this administrative regulation will be applied equally to the affected parties.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 810 KAR 1:090

Contact Person: Katherine M. Paisley, Deputy General Counsel, Kentucky Horse Racing Commission

Phone number: (859) 246-2040

(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.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS § 230.400.

(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? The greatest increase to the state and local government will be the increase in payroll taxes by all participants noted in the Regulatory Impact Analysis and 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? The fiscal impact of the amendment will directly correlate to any increase in horse population, which would in turn drive the local thoroughbred industry.

(c) How much will it cost to administer this program for the first year? There will be no additional costs.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: