

KHRGC 3-030-2 (11/2018)

**KENTUCKY HORSE RACING AND GAMING
CORPORATION**

4047 Iron Works Parkway

Lexington, Kentucky 40511

Telephone (859) 246-2040 / Facsimile (859) 246-2039

WEBSITE: khrc.ky.gov

**TOTALIZATOR SERVICES
CHANGE OF CONTROL FORM**

(Original and 6 copies must be submitted)

This change of control form must be completed pursuant to 810 KAR 3:030.

This change of control form must be completed by or on behalf of the Applicant, as defined on page 2 of this application, before a substantial change in ownership of a licensed association occurs. **Failure to obtain the Corporation's approval before a substantial change of ownership of the Totalizator Licensee occurs shall result in termination of the license.** If the Applicant is a business entity, the chief executive officer, managing partner, or equivalent official shall complete and sign the change of control form.

If space available is insufficient to answer a particular question, attach a separate sheet of paper to the change of control form and precede each answer with a reference to the appropriate question. The person completing this form must initial each page in the blank in the lower left hand corner. By placing his or her initials on each page, the person completing the change of control form is attesting to the accuracy and completeness of the information contained on that page.

OPEN RECORDS ACT – KRS 61.878(1)(c)(2) exempts from disclosure under the Kentucky Open Records Act records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained for the grant or review of a license to do business. The Kentucky Horse Racing and Gaming Corporation considers tax returns, copies of contracts, financial documents and similar information to be confidential and proprietary and exempt from disclosure, to the extent permitted by law. ANY INFORMATION SUBMITTED WITH THIS CHANGE OF CONTROL FORM THAT THE APPLICANT CONSIDERS CONFIDENTIAL OR PROPRIETARY SHALL BE MARKED, STAMPED, OR OTHERWISE IDENTIFIED AS CONFIDENTIAL OR PROPRIETARY.

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ATTACHMENTS: Attach the following along with any other documents requested in this form.

Certificate of good standing in state of incorporation and in Kentucky (question B. 4).

A certified copy of the articles of incorporation, bylaws, partnership agreement, articles of organization, operating agreement, or other organizational document, and any amendments to the document(s), as applicable.

Audited financial statements of the Applicant for each of the three (3) fiscal years immediately preceding the change of control form, or for the period of organization if less than three (3) years. If the Applicant has not completed a full fiscal year since its organization, or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year. All financial information shall be accompanied by an unqualified opinion of a licensed certified public accountant, or if the opinion is given with qualifications, the reasons for the qualifications must be stated. The financial information to be provided with the application is that of the Applicant, and not that of a parent or affiliated entity. Although the Corporation may request information related to a parent or an affiliated entity, that information shall not be included with the initial application.

DEFINITIONS – The following definitions are provided:

“Totalizator licensee” means an individual, person or entity licensed by the Corporation to provide totalizator services to any licensed racing association, simulcast facility, advanced deposit wagering licensee or secondary pari-mutuel organization doing business in the Commonwealth of Kentucky.

“Applicant” means the individual, person or business entity acquiring a controlling interest in the individual, person, or entity offering totalizator services, i.e., the Totalizator licensee. “Applicant” does not mean a parent, subsidiary, or affiliate that will not directly own the controlling interest in the Totalizator licensee.

“Controlling interest” refers to all stockholders or other individuals who own, hold, or control, either directly or indirectly, five percent (5%) or more of stock or financial interest in the collective organization.

“Investors” means investors owning a five percent (5%) or more share in the Applicant.

“Principal” means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to offer totalizator services in the Commonwealth or is an applicant to offer totalizator services in the Commonwealth:

- a) The chairman and all members of the board of directors of a corporation;
- b) All partners of a partnership and all participating members of a limited liability company;
- c) All trustees and trust beneficiaries;
- d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;
- e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, five percent (5%) or more of stock or financial interest in the collective organization; and
- f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the Applicant's or licensee's operation.

“Relative” includes spouse, parents, step parent, children, step children, siblings, mother- and father-in-law, and sons- and daughters-in-law.

“Shares” refers to any type of ownership interest in the Applicant, whether the Applicant is a corporation, partnership, limited liability company, or other business entity.

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PRELIMINARY INFORMATION:

1. Name of Applicant (see definition of Applicant on page 2 of this application): _____
 2. Present business address and phone number of Applicant: _____
 3. All other names, business addresses, and phone numbers under which the Applicant does business: _____
- A. INDIVIDUAL COMPLETING THE CHANGE OF CONTROL FORM:

1. Full name of individual completing the change of control form: _____
2. Occupation: _____
3. Relationship to Applicant: _____
4. Date on which relationship with Applicant commenced: _____
5. Address: _____
6. Telephone: (_____) _____
7. Date of birth: _____ Sex: _____
8. Place of birth (City, County, State/ZIP, Country): _____
9. Driver's License Number: _____ State: _____
10. A citizen of the United States? Yes No

If alien, registration number: _____

If naturalized, certificate number: _____

Date: _____

Place: _____ (If naturalized, document must be verified.)

B. ORGANIZATIONAL AND FINANCIAL INFORMATION:

1. Name of Applicant (see definition of Applicant on page 2 of this form): _____
2. Address of Applicant's principal business office and telephone number: _____
3. Trade or Corporate Name: _____:
Address: _____
4. Check the appropriate box to indicate whether the Applicant is:
An Individual Partnership Limited Liability Company Corporation

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Other (describe): _____

5. If the Applicant is a corporation, limited liability company, partnership or other entity:

a) In what year was the Applicant formed? _____

b) In what state was Applicant formed? _____

c) Attach a certified copy of the articles of incorporation, bylaws, partnership agreement, articles of organization, operating agreement, or other organizational document, and any amendments to the document(s).

d) Is Applicant in good standing with the state of formation?

Yes No

If yes, attach certificate of existence and good standing issued by the state of formation.

If not, why not? _____

e) If the Applicant was not formed in the Commonwealth of Kentucky, is Applicant authorized to do business in the Commonwealth of Kentucky?

Yes No

If yes, attach certificate of authorization issued by Kentucky.

If not, why not? _____

f) Have all Kentucky laws relating to corporations or an entity of that type been complied with?

Yes No (If not, explain). _____

g) Name and address of registered agent: _____

6. Provide the name, business address and telephone number of the Applicant's representative for:

Legal services, including in-house attorneys and all attorneys retained in connection with Corporation matters;
Accounting services, including all outside auditors and accountants;
Banking and financing; and
Lobbying.

7. Identify the name, address and telephone number of the Applicant's managing agents. _____

8. What amount of capital is Applicant investing to offer totalizator services in Kentucky? _____

9. Identify any failed or abandoned business projects in the last five (5) years, in which the Applicant or any of its Investors was an Investor owning an interest of five percent (5%) or greater. _____

10. Has the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal ever held a financial interest in a gambling venture, including but not limited to a horse race track, dog race track, simulcasting, lottery, casino, bookmaking operation, or pari-mutuel operation in the last ten (10) years?

Yes No

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If yes:

a) Identify the name of the gambling venture(s);

b) State when and where the interest was held and give names and locations of the businesses involved and the names and addresses of all partners or investors owning an interest of five percent (5%) or more in the gambling venture; and

c) State whether there have ever been any investigations into or disciplinary actions taken against the gambling venture and describe the nature of those investigation(s) and/or disciplinary action(s).

11. Explain whether Applicant will have sole decision-making authority, or will share such authority with any other entity or person, including Investors? If the decision-making authority will be shared, identify the persons or entities with whom that authority will be shared.

12. If the Applicant is a corporation, limited liability company, partnership, or other organization, complete the following.

TYPE OF OWNERSHIP INTEREST (e.g. common stock, preferred stock, membership interest, partnership interest)

Authorized

Issued

Unissued

In Treasury

13. If the Applicant is an individual, partnership, limited liability company, or other organization other than a corporation, give the full name, residence, address, and nature and amount of investment of the individual, all partners, or all members therein; if the Applicant is a corporation, furnish the same information for all corporate officials*, directors, and shareholders (including other corporations or business organizations owning shares) owning or holding directly, indirectly or beneficially, five percent (5%) or more of the shares of the Applicant. USE A SEPARATE SHEET IF NECESSARY AND ATTACH IT TO THIS CHANGE OF CONTROL FORM.

* "Corporate officials" include the president, vice president, secretary, treasurer and any other executive official, manager, or other person who performs policymaking or managerial functions for the Applicant.

a) _____
Name

Address

Title

Shares Issued

Nature and/or % Of Interest

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b) _____
Name Address

Title Shares Issued

Nature and/or % Of Interest

c) _____
Name Address

Title Shares Issued

Nature and/or % Of Interest

d) _____
Name Address

Title Shares Issued

Nature and/or % Of Interest

14. List below the names and addresses of any persons or organizations that have issued loans, advances or guarantees that are still outstanding to the Applicant to finance any part of its operations. Include the terms of any agreements creating any security interest. Loan documents, including any security agreement, shall be made available for inspection by the Corporation upon request. _____

a) _____
Name Address

Amount of Loan, Advance or Guaranty

b) _____
Name Address

Amount of Loan, Advance or Guaranty

c) _____
Name Address

Amount of Loan, Advance or Guaranty

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d) _____
 Name Address

 Amount of Loan, Advance or Guaranty

Is Applicant current on payment obligations to the lenders listed above? Yes No

If no, explain the circumstances. _____

15. Briefly summarize any ownership interest allowing in the Applicant a debt holder to convert debt to equity and assert financial or managerial control over the Applicant. _____

16. Outline briefly all ownership interests in the Applicant, whether issued or authorized to be issued, including any options, dividend rights, voting rights, liquidation rights, pre-emptive rights, conversion rights and redemption provisions relating to issued stock as well as treasury stock. _____

17. May the rights of holders of shares be modified otherwise than by a vote of majority or more of the shares outstanding, voting as a class? Yes No If yes, explain briefly. _____

18. Provide the following for the Applicant:

- a) Kentucky Department of Revenue tax identification number: _____
- b) Federal Taxpayer Identification Number: _____

C. OWNERSHIP INTERESTS:

List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for profit or not for profit that the Applicant has owned within the preceding five (5) years as a legal or equitable interest exceeding two hundred fifty thousand dollars (\$250,000) or five percent (5%), whichever is less. The value or percentage of a business interest is to be determined as of the time of the filing of this change of control form. The value assigned to a holding is the fair market value. A business interest includes ownership of mineral rights. The address reported for land should include the rural route, town and state or township, county and state. Use a separate sheet of paper, if necessary.

BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTEREST, INCLUDING PERCENTAGE OF OWNERSHIP IN BUSINESS	HELD BY WHOM
NAME			
ADDRESS			

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NAME			
ADDRESS			
NAME			
ADDRESS			

D. DIRECT BUSINESS ORGANIZATIONAL CHART:

Attach a DIAGRAM of corporate or other business relationships. Include all relationships with investors, parent companies, subsidiaries, or other affiliated companies involving an ownership or control interest of five percent (5%) or more.

E. FINANCIAL STATEMENTS

1. Attach to this application a copy of the Applicant's audited financial statements for each of the three (3) fiscal years immediately preceding the application, or for the period of organization if less than three (3) years. The financial statements **must** be included with this application; making the statements available for review is insufficient and may be grounds for denial of the license.

2. If the Applicant has not completed a full fiscal year since its organization, or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, attach to this application financial information for the current fiscal year.

All financial information provided in response to question 1 or 2 shall be accompanied by an unqualified opinion of a licensed certified public accountant, or if the opinion is given with qualifications, the reasons for the qualifications must be stated.

NOTE: Additional financial information, including that of an Applicant's parent, subsidiaries, and affiliates, may be requested by the Corporation but need not be included with the initial application.

F. ANNUAL REPORT AND SEC REPORT:

If applicable, attach to this application copies of the most recent annual reports and Securities and Exchange Commission ("SEC") reports of the Applicant.

G. FEDERAL AND STATE INCOME TAX RETURNS:

Attach to this application copies of the Applicant's most recent federal and state tax returns.

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H. RELATIVES EMPLOYED BY THE COMMONWEALTH OF KENTUCKY:

On a separate sheet of paper, list any Principal(s) or relatives of Principals of the Applicant who are employed by the Commonwealth of Kentucky, or who serve on any board, committee, or commission for the Commonwealth of Kentucky. This request also applies to the agent, officer, or employee completing the change of control form on behalf of the Applicant. Indicate whether the agent, officer, or employee information presented applies to the Applicant or the person completing the change of control form.

I. CRIMINAL HISTORY:

Does the Applicant perform background checks on its employees? Yes No
On its vendors? Yes No

1. Has the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal or any relative of any Principal ever been convicted of any crime of moral turpitude, embezzlement, theft, or larceny, or any violation of any law pertaining to horse racing, pari-mutuel wagering, gaming or gambling, or any crime that is inimical to the declared policy of the Commonwealth of Kentucky with regard to horse racing and pari-mutuel wagering thereon?

Yes No If yes, furnish details on a separate page.

2. Has the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal or any relative of any Principal ever been convicted in any jurisdiction inside or outside of the United States of any crime that is or would be a felony or Class A misdemeanor in the Commonwealth of Kentucky?

Yes No If yes, furnish details on a separate page.

3. Has the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal or any relative of any Principal ever been arrested, indicted, or the subject of any current or ongoing criminal investigation for any criminal activities in any jurisdiction inside or outside of the United States?

Yes No

If yes, give details on a separate sheet of paper attached to the form as to the criminal charge(s) involved, name(s) address(es) and telephone number(s) of federal, state, or local agency(ies) and individual(s) which investigated and/or prosecuted, and disposition of the investigation(s)/charge(s). List all cases without exception.

4. Has a criminal indictment, information, or complaint ever been returned against the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal or any relative of any Principal for which no one was arrested, or in which any of these entities or individuals were named as an un-indicted co-party?

Yes No If yes, furnish details on a separate page.



5. Has the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal or any relative of any Principal ever received a pardon for any criminal offense?

Yes No

If yes, when? _____

List City, County, and State/ZIP: _____

If yes, give details on a separate sheet of paper attached to the form as to the criminal charge(s) involved, any sentence received, any sentence served, and the circumstances of the pardon.

6. Has the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal or any relative of any Principal ever been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or of being of notorious or unsavory reputation?

Yes No If yes, furnish details on a separate page.

J. CIVIL COURT RECORDS AND ADMINISTRATIVE PROCEEDINGS:

1. Has the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal ever had a license to offer totalizator services, or participate in pari-mutuel horse racing in any other way in any jurisdiction inside or outside of the United States denied, revoked, suspended, withdrawn, or otherwise subject to disciplinary action?

Yes No If so, identify the jurisdiction and explain the circumstances. _____

2. Has the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal ever had any other professional license in any jurisdiction inside or outside the United States denied, revoked, suspended, withdrawn, or otherwise subject to disciplinary action?

Yes No

If so, identify the type of license, the jurisdiction and explain the circumstances. _____

3. List all occasions in the ten (10) year period preceding January 1 of the calendar year in which this form is completed when the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal has been a party in a court action in which unfair labor practices, discrimination, or violation of government regulations pertaining to racing or gaming laws were an issue, or, or a court action over business practices or disciplinary action over a business license..

Date: _____ City: _____ State/ZIP: _____

Court: _____

Nature and disposition of case: _____

Date: _____ City: _____ State/ZIP: _____

Court: _____

Nature and disposition of case: _____

4. List all occasions in the ten (10) year period preceding January 1 of the calendar year in which this form is completed when the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal has been a party in any corporate or personal bankruptcy proceeding.

Date: _____ City: _____ State/ZIP: _____

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Court: _____
Nature and disposition of case: _____

Date: _____ City: _____ State/ZIP: _____
Court: _____
Nature and disposition of case: _____

5. List all occasions in the ten (10) year period preceding January 1 of the calendar year in which this form is completed when the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal has failed to satisfy any judgments, orders or decrees.

Date: _____ City: _____ State/ZIP: _____
Court: _____
Nature and disposition of case: _____

Date: _____ City: _____ State/ZIP: _____
Court: _____
Nature and disposition of case: _____

6. List all occasions in the ten (10) year period preceding January 1 of the calendar year in which this form is completed when the Applicant, or any parent organization, subsidiary, or affiliate of the Applicant, or any Principal has been delinquent in filing tax reports or remitting taxes. _____

K. SERVICES RENDERED:

List the name and address of each individual, person, or other entity that provides (or will provide) contractual services, equipment, or property related to offering totalizator services in Kentucky. Indicate the nature of the service (to be) rendered and equipment or property (to be) provided. _____

L. ADDITIONAL INFORMATION

On a separate sheet, include any other information the Applicant believes would be helpful to the Corporation evaluating the change of control form.



SWORN STATEMENT ENDORSING CHANGE OF CONTROL FORM

I, _____, under penalty of perjury being duly sworn, depose and say that the above statements are true and correct and that this change of control form and accompanying documents are executed with the knowledge that misrepresentations or failure to reveal information requested may be deemed sufficient cause for denial of a license and any other penalties permitted by law. I understand that the change of control form for a license, which I have submitted, is a matter of public record, subject to any exceptions permitted by KRS 61.878. Furthermore, I understand that the Corporation may conduct an investigation of my personal and financial background, and/or that of the Applicant, and I hereby authorize the appropriate background checks. I understand that I will be required to pay the cost of any background checks. I understand that I may be asked to answer questions in open public meetings of the Corporation.

I further understand that in the event of the denial or withdrawal of this change of control form, any change of control form fees submitted by the Applicant shall not be refunded except to the extent that the fees have not been expended in the change of control form process.

I hereby expressly waive, release and forever discharge the Commonwealth of Kentucky, and its agents, from any and all manner of action and causes of action whatsoever, which I, my administrators or executors can, shall, or may have against the Commonwealth of Kentucky, or its agents, as a result of my applying for a license to offer totalizator services in the Commonwealth of Kentucky.

Signature
Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public
My Commission Expires: _____

I, _____, under the penalty of perjury being duly sworn, deposes and says that the above statements are true and correct to the best of his/her knowledge and belief and that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for the refusal to issue or revocation of a state license and criminal prosecution.

Signatory for Applicant
Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public
My Commission Expires: _____

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AUTHORIZATION FOR EXAMINATION AND RELEASE OF INFORMATION

I, _____, hereby authorize a review, full disclosure and release of any and all records concerning myself to any agent or independent contractor of the Corporation, whether the records are of a public, private, or confidential nature, with the following understanding:

1. The information reviewed, disclosed, and/or released may be used by the Corporation its officers, agents, employees, and independent contractors for any lawful purpose and/or to determine suitability for licensure, appointment, or employment.
2. I specifically authorize review, full disclosure, and release of any and all records pertaining to any present or past credit, employment, medical treatment (physical or emotional), state, federal, and local taxation, professional licensure and discipline, education, criminal history, bankruptcy, civil lawsuit (as plaintiff or defendant) or pertaining to my character or integrity.
3. I release the providers and users of the information collected pursuant to this authorization from any liability under state or federal laws and further release the Corporation, its officers, agents, employees, and independent contractors from any liability which may be incurred as a result of the collection and use of the information.
4. If this authorization is not sufficient to obtain access to certain records, it is understood that I may be requested to execute other appropriate authorization or release, and that any failure to do so may be taken into consideration.
5. I understand that I may revoke this authorization in writing at any time. Such revocation of this authorization may be taken into consideration by the Corporation in the course of reviewing this change of control form.
6. This authorization will automatically expire one year from the date it is signed by me.

DATE: _____, 20_____
Date of Birth: _____
Social Security Number: _____

Signature _____
Applicant's Name: _____

Subscribed and sworn to before me on this the _____ day of _____, 20_____.

Notary Public in and for _____ County
State of _____
My Commission Expires: _____

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