

SB0152/563124/1

BY: Delegate Simmons

AMENDMENTS TO SENATE BILL 152
(Third Reading File Bill – Committee Reprint)

AMENDMENT NO. 1

On page 3, in line 7, after the semicolon insert “altering and repealing certain requirements of law relating to the use of proceeds from video lottery terminals; establishing a School Construction Account under the authority of the Interagency Committee on School Construction; providing for the purpose of the Account; requiring the Comptroller to pay certain money from the Account under certain circumstances; requiring that funding from the Account be used to service certain debt for school construction under certain circumstances; repealing a certain account used for racetrack facility renewal purposes; providing for a certain exception; altering certain termination dates;”.

On page 7, in line 18, after “9-117(a)(1)” insert “, 9-1A-09.1(c) and (d)(1), 9-1A-27, 9-1A-28;”; and after line 20, insert:

“BY repealing

Article – State Government

Section 9-1A-09 and 9-1A-29

Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)”;

On page 8, after line 27, insert:

“BY repealing

Chapter 412 of the Acts of the General Assembly of 2011

Section 4

BY repealing and reenacting, with amendments,

Chapter 412 of the Acts of the General Assembly of 2011

(Over)

Section 5".

AMENDMENT NO. 2

On page 41, after line 4, insert:

“[9-1A-09.

(a) As a condition of eligibility for funding under § 9-1A-29 of this subtitle, a racing licensee shall:

(1) (i) for Laurel Park and Pimlico Race Course, conduct a minimum of 220 annual live racing days combined between Laurel Park or Pimlico Race Course unless otherwise agreed to by the racing licensee and the organization that represents the majority of licensed thoroughbred owners and trainers in the State or unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee’s control;

(ii) for Rosecroft Raceway, conduct a minimum of 90 annual live racing days unless otherwise agreed to by the racing licensee and the organization that represents the majority of licensed standardbred owners and trainers in the State or unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee’s control; and

(iii) for Ocean Downs Racetrack, conduct a minimum of 40 annual live racing days unless otherwise agreed to by the racing licensee and the organization that represents the majority of licensed standardbred owners and trainers in the State or unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee’s control;

(2) if the racing licensee holds the racing license for Pimlico Race Course, retain in the State of Maryland the name, common law and statutory

copyrights, service marks, trademarks, trade names, and horse racing events that are associated with the Preakness Stakes and the Woodlawn Vase;

(3) if the racing licensee holds the racing license for the Pimlico Race Course, promote and conduct the Preakness Stakes each year at:

(i) the Pimlico Race Course; or

(ii) if the Pimlico Race Course no longer exists, the Preakness Stakes Race is prevented from being conducted at the Pimlico Race Course, or the State Racing Commission, under § 11–513 of the Business Regulation Article, deems an emergency exists, another track located in the State that is approved by the State Racing Commission;

(4) if the racing licensee holds the racing license for Laurel Park, permit the event known as the Maryland Million to be run annually at Laurel Park unless:

(i) the racing licensee is prevented from doing so by weather, acts of God, or other circumstances beyond the control of the racing licensee; or

(ii) the racing licensee and the Maryland Million LLC agree to another location that is approved by the State Racing Commission;

(5) develop and submit to the State Racing Commission a multiyear plan to improve the quality and marketing of horse racing at racetrack locations owned or operated by the racing licensee in Maryland, which shall include:

(i) goals, indicators, and timelines for specific actions that will be taken by the racing licensee to improve the quality and marketing of the horse racing industry in Maryland; and

(ii) if the racing licensee requests a capital grant, a master plan for capital improvements that reflects, at a minimum:

1. commitments that have been made to the State Racing Commission; and

2. an ongoing investment in capital maintenance and improvements in the horse racing facilities of at least \$1,500,000 annually, which may include amounts provided as a matching fund as required under § 9-1A-29(f)(2) of this subtitle; and

(6) develop with other racing industry representatives a multiyear plan to improve the quality and marketing of the horse racing industry in Maryland, which shall include goals, indicators, and timelines for specific actions that will be taken by the thoroughbred and harness racing industries to improve the quality and marketing of the horse racing industry in Maryland, including joint marketing efforts.

(b) As part of the capital maintenance and improvement items in the plan submitted under subsection (a)(5) of this section, a racing licensee shall include any improvements necessary to ensure that the condition of any part of the racetrack facility where individuals reside is satisfactory for human habitation and meets minimum housing and sanitation standards in the county where the facility is located.

(c) The plans required under subsection (a) of this section shall also be provided to the Department of General Services and to the Legislative Policy Committee of the General Assembly.

(d) (1) If a video lottery operation license has been issued for a racetrack location at Laurel Park, the video lottery operation license for the location shall be revoked if the name, common law and statutory copyrights, service marks, trademarks, trade names, or horse racing events that are associated with the

Preakness Stakes Race or the Woodlawn Vase are transferred to a location outside the State.

(2) As an additional condition of a video lottery operation license, if a racetrack licensee holds a video lottery operation license for Laurel Park, the licensee shall be required to:

(i) promote and conduct the Preakness Stakes Race at the Pimlico Race Course each year; or

(ii) if the Pimlico Race Course no longer exists, the Preakness Stakes Race is prevented from being conducted at the Pimlico Race Course, or the State Racing Commission, under § 11-513 of the Business Regulation Article, deems an emergency exists, promote and conduct the Preakness Stakes Race each year at another track located in the State that is approved by the State Racing Commission.

(3) If a racetrack licensee has been issued a video lottery operation license for a racetrack location at Laurel Park, the licensee shall permit the event known as the Maryland Million to be run annually at Laurel Park unless:

(i) the licensee is prevented from doing so by weather, acts of God, or other circumstances beyond the control of the licensee; or

(ii) the licensee and the Maryland Million LLC agree to another location that is approved by the State Racing Commission.

(4) (i) A racing licensee of a racetrack location at Laurel Park shall:

1. maintain the operation of the Bowie Training Center;
or

2. convey the property associated with the Bowie Training Center as preserved land.

(ii) 1. When the Bowie Training Center is no longer required by the State to be operated as a thoroughbred training facility, the State shall have the right of first refusal as grantee for any conveyance under subparagraph (i) of this paragraph.

2. The City of Bowie shall have the second right of refusal as grantee for any conveyance under subparagraph (i) of this paragraph.

3. A grantee under subparagraph 1 or 2 of this subparagraph may not be required to operate the Bowie Training Center as a training facility.]

9-1A-09.1.

(c) Except as provided in subsections (d) and (e) of this section, as a condition of eligibility for funding under [§§ 9-1A-28 and 9-1A-29] § 9-1A-28 of this subtitle, an agreement shall be reached on or before July 1, 2011, between the parties through at least December 31, 2013, as applicable, regarding the sharing of revenues derived from wagering on simulcast races as such issues relate to:

(1) the Interstate Horseracing Act of 1978, 15 U.S.C. §§ 3001 through 3007;

(2) pari-mutuel betting on out-of-state races under § 11-804 of the Business Regulation Article; and

(3) intertrack betting under §§ 11-808 through 11-812 of the Business Regulation Article.

(d) (1) If an agreement described in subsection (c) is not reached by July 1, 2011, a potential party to an agreement shall be eligible for funding under [§§ 9-1A-28 and 9-1A-29] § 9-1A-28 of this subtitle if the party indicates to the Secretary, in writing, its consent to participate in the process described in this subsection.

9-1A-27.

(a) Except as provided in subsection (b) of this section, on a properly approved transmittal prepared by the Commission, the Comptroller shall pay the following amounts from the proceeds of video lottery terminals at each video lottery facility:

(1) 2% to the State Lottery Agency for costs as defined in § 9-1A-01 of this subtitle;

(2) to the video lottery operation licensee, the percentage stated in the accepted application for the location, not to exceed 33%;

(3) 5.5% in local impact grants, in accordance with § 9-1A-31 of this subtitle;

(4) [7%] 9.5% to the [Purse Dedication] School Construction Account established under § 9-1A-28 of this subtitle, not to exceed a total of [\$100,000,000] \$140,000,000 to the Account annually;

(5) [for the first 8 years of operations at a video lottery facility, 2.5% to the Racetrack Facility Renewal Account established under § 9-1A-29 of this subtitle, not to exceed a total of \$40,000,000 to the Account annually;

(6) 1.5% to the Small, Minority, and Women-Owned Businesses Account established under § 9-1A-35 of this subtitle; and

(Over)

[(7)] (6) the remainder to the Education Trust Fund established under § 9-1A-30 of this subtitle.

(b) (1) For the first 10 years of operations at a video lottery facility in Allegany County, on a properly approved transmittal prepared by the Commission, the Comptroller shall pay the following amounts from the proceeds of video lottery terminals at a video lottery facility in Allegany County:

(i) 2% to the State Lottery Agency for costs as defined in § 9-1A-01 of this subtitle;

(ii) to the video lottery operation licensee, the percentage stated in the accepted application for the location, not to exceed 50%;

(iii) 2.75% in local impact grants, in accordance with § 9-1A-31 of this subtitle;

(iv) 2.5% to the [Purse Dedication] School Construction Account established under § 9-1A-28 of this subtitle;

(v) 0.75% to the Small, Minority, and Women-Owned Businesses Account established under § 9-1A-35 of this subtitle; and

(vi) the remainder to the Education Trust Fund established under § 9-1A-30 of this subtitle.

(2) After the first 10 years of operations at a video lottery facility in Allegany County, the proceeds generated at the facility in Allegany County shall be allocated as provided in subsection (a) of this section.

(c) (1) If the costs of the State Lottery Agency are less than the proceeds specified in subsection (a)(1) of this section, any amount not distributed to the State Lottery Agency shall be paid to the Education Trust Fund established under § 9-1A-30 of this subtitle.

(2) The costs of the Commission shall be as provided in the State budget.

9-1A-28.

(a) (1) There is a [Purse Dedication] SCHOOL CONSTRUCTION Account under the authority of the [State Racing Commission] INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION.

(2) THE PURPOSE OF THE ACCOUNT IS TO PROVIDE FUNDING FOR SCHOOL CONSTRUCTION IN THE STATE.

(b) (1) The Account shall receive money as required under § 9-1A-27 of this subtitle.

(2) Money in the Account shall be invested and reinvested by the Treasurer and interest and earnings shall accrue to the Account.

(3) The Comptroller shall:

(i) account for the Account; and

(ii) on a properly approved transmittal prepared by the [State Racing Commission] INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION AND IN ACCORDANCE WITH TITLE 5, SUBTITLE 3 OF THE EDUCATION ARTICLE.

(Over)

issue a warrant to pay out money from the Account in the manner provided under this section.

(4) The Account is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(5) Expenditures from the Account shall only be made on a properly approved transmittal prepared by the [State Racing Commission] INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION as provided under subsection (c) of this section.

(c) [Subject to subsections (d) and (e) of this section] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, the [State Racing Commission] INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION shall allocate funds in the Account [as follows] TO SERVICE STATE DEBT ISSUED TO FUND SCHOOL CONSTRUCTION IN THE STATE'S CAPITAL BUDGET PROVIDED THAT:

(1) [80% to the thoroughbred industry] THE FUNDS ALLOCATED IN THE CAPITAL BUDGET FOR SCHOOL CONSTRUCTION REPRESENT AN INCREASE OVER THE LEVEL OF FUNDS ALLOCATED FOR SCHOOL CONSTRUCTION IN THE CAPITAL BUDGET OF THE PREVIOUS FISCAL YEAR; [and]

(2) [20% to the standardbred industry] THE FUNDS DEDICATED TO DEBT SERVICE SHALL BE ASSOCIATED WITH THE INCREASE FOR EACH YEAR THE DEBT IS OUTSTANDING; AND

(3) THE DEBT ISSUED FOR SCHOOL CONSTRUCTION IS IN ACCORDANCE WITH THE LIMITS ESTABLISHED BY THE CAPITAL DEBT AFFORDABILITY COMMITTEE UNDER TITLE 8 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

[(d) The amount of funds allocated to thoroughbred purses and the Maryland-bred Race Fund shall be allocated as follows:

(1) 89% to thoroughbred purses at the Pimlico Race Course, Laurel Park, the racecourse in Allegany County, and the racecourse at Timonium; and

(2) 11% to the Maryland-bred Race Fund.

(e) The amount of funds allocated to standardbred purses and the Standardbred Race Fund shall be allocated as follows:

(1) 89% to standardbred purses at Rosecroft Raceway, Ocean Downs Race Course, and the racecourse in Allegany County, allocated based on the number of live racing days at each track location; and

(2) 11% to the Standardbred Race Fund.

(f) From the amount provided to thoroughbred purses, the State Racing Commission shall pay an annual grant of \$100,000 to Fair Hill, as defined under § 11-811 of the Business Regulation Article.

(g) Of the amount provided from the Purse Dedication Account under subsection (e)(1) of this section:

(1) for Ocean Downs Race Course, up to \$1,200,000 may be used to provide operating assistance to support a minimum of 40 live racing days for calendar year 2012 only unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control; and

(2) for Rosecroft Raceway, up to \$1,200,000 may be used to provide operating assistance to support a minimum of 40 live racing days for calendar year

(Over)

2012 only unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control.

(h) (1) To obtain operating assistance under this section:

(i) a holder of a racing license to race at Ocean Downs Race Course or Rosecroft Raceway may apply to the Secretary of Labor, Licensing, and Regulation for the reimbursement of expenditures made by the racing licensee to conduct the annual live racing schedule; and

(ii) a holder of a racing license to race at Rosecroft Raceway shall:

1. agree to rehire workers employed at the facility prior to the end of live racing on June 27, 2008; and

2. recognize collective bargaining agreements that were in place as of June 1, 2008.

(2) (i) On the completion of the review of the application by a certified public accountant, the Secretary may authorize the reimbursement of expenditures by the racing licensee that are necessary to conduct the annual live racing schedule.

(ii) Expenditures eligible for reimbursement under subparagraph (i) of this paragraph shall include the ordinary and reasonable costs of conducting the race meetings, pari-mutuel wagering, and stabling activities of the racing licensee, net of ordinary income and receipts.

(iii) The reimbursement calculation under subparagraph (ii) of this paragraph may not include:

1. extraordinary income and expense-related items, including extraordinary litigation expenses;

2. lobbying fees;

3. capital investments, including predevelopment costs;

or

4. prior year adjustments and claims.

(3) All costs associated with the racing licensee's application shall be paid by the racing licensee.

(4) In support of the racing licensee's application and request for reimbursement submitted under paragraph (1) of this subsection, the racing licensee shall provide to the Secretary:

(i) monthly financial information requested by the Secretary, in a form satisfactory to the Secretary; and

(ii) an annual audited financial statement.

(5) A racing licensee may not receive assistance under this section while the racing licensee is a party to a proceeding challenging the issuance or denial of a video lottery operation license.

(i) The provisions of this section may not be construed to apply to the racecourse in Allegany County until horse racing begins at that racecourse.

(j) On or before December 1, 2014, the State Racing Commission shall:

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(1) conduct a study to determine the impact of the Purse Dedication Account on the racing industry in the State; and

(2) make recommendations to the General Assembly regarding the continuation of the Purse Dedication Account and the amount of money distributed to the Purse Dedication Account.]

(D) FOR A FISCAL YEAR WITH NO INCREASE IN THE LEVEL OF FUNDS FOR SCHOOL CONSTRUCTION IN THE CAPITAL BUDGET OVER THE PREVIOUS FISCAL YEAR, THE INTERAGENCY COMMITTEE ON SCHOOL CONSTRUCTION SHALL CREDIT TO THE GENERAL FUND IN THAT FISCAL YEAR, SUBJECT TO THE PROVISIONS OF LAW RELATING TO BUDGETARY PROCEDURE TO THE EXTENT APPLICABLE, AN AMOUNT NOT TO EXCEED THE AMOUNT CREDITED TO THE SCHOOL CONSTRUCTION ACCOUNT DURING THE PREVIOUS FISCAL YEAR, OR AS MUCH THEREOF AS REQUIRED TO ACCOMPLISH THE DESIGNATED PURPOSE OF THIS SECTION.

[9-1A-29.

(a) There is a Racetrack Facility Renewal Account under the authority of the State Racing Commission.

(b) (1) The Account shall receive money as required under § 9-1A-27 of this subtitle.

(2) Money in the Account shall be invested and reinvested by the Treasurer and interest and earnings shall accrue to the Account.

(3) The Comptroller shall:

(i) account for the Account; and

(ii) on a properly approved transmittal prepared by the State Racing Commission, issue a warrant to pay out money from the Account in the manner provided under this section.

(4) The Account is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(5) Expenditures from the Account shall only be made on a properly approved transmittal prepared by the State Racing Commission as provided under subsection (c) of this section.

(c) Funds from the Account shall be used to provide a grant to the holder of a license to hold a race meeting in the State:

(1) for racetrack facility capital construction and improvements; and

(2) for Laurel Park and Pimlico Race Course, up to \$6,000,000 per year for operating assistance to support a minimum of 146 annual live racing days in calendar years 2012 and 2013, unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control.

(d) Except as provided in subsection (e) of this section, the amount of funds made available from the Racetrack Facility Renewal Account shall be allocated as follows:

(1) 80% to the Pimlico Race Course, Laurel Park, and the racecourse at Timonium; and

(2) 20% to Rosecroft Raceway and Ocean Downs Race Course.

(e) For fiscal year 2012, the amount of funds made available from the Racetrack Facility Renewal Account shall be allocated as follows:

(1) 80% to the Pimlico Race Course, Laurel Park, and the racecourse at Timonium:

(i) minus 20% of the amount credited to the Account in fiscal year 2011; and

(ii) minus the amount necessary to repay funds to the Maryland Economic Development Corporation in accordance with Section 16 of Chapter 397 (S.B. 87/H.B. 72) of the Acts of the General Assembly of the Session of 2011 (the Budget Reconciliation and Financing Act of 2011); and

(2) 20% to Rosecroft Raceway and Ocean Downs Race Course, plus 20% of the amount credited to the Account in fiscal year 2011.

(f) In order to obtain a capital grant, a holder of a license to hold a race meeting in the State shall:

(1) submit a capital construction plan to be implemented within a specified time frame to the State Racing Commission for approval; and

(2) except as provided in subsection (g) of this section, provide and expend a matching fund.

(g) (1) Of the amount provided from the Racetrack Facility Renewal Account under subsection (d)(1) of this section, the racecourse at Timonium shall be provided the following amounts for racetrack facility capital construction and improvements:

(i) for fiscal year 2012, \$1,125,000;

- (ii) for fiscal year 2013, \$1,250,000;
- (iii) for fiscal year 2014, \$1,125,000;
- (iv) for fiscal year 2015, \$1,000,000; and
- (v) for fiscal year 2016, \$1,000,000.

(2) A matching fund is not required for the amount provided for the racecourse at Timonium under paragraph (1) of this subsection.

(3) (i) From the amounts provided in paragraph (1) of this subsection, the holder of a racing license to race at the racecourse at Timonium may use up to \$350,000 per year to support a minimum of 7 live racing days.

(ii) Use of funds authorized under subparagraph (i) of this paragraph must be approved by the Secretary of Labor, Licensing, and Regulation under terms and a process consistent with the provisions of subsection (j) of this section.

(h) Of the amount provided from the Racetrack Facility Renewal Account under subsection (d)(1) of this section, the State Racing Commission may provide direct grant funding for the establishment of a horse racing museum as part of the Pimlico Race Course.

(i) After a capital grant has been provided under this section, the State Racing Commission shall:

(1) in consultation with the Department of General Services, monitor the implementation of the approved capital construction plan; and

(Over)

(2) make provisions for recapture of grant moneys if the capital construction plan is not implemented within the time frame approved by the State Racing Commission.

(j) (1) To obtain operating assistance under subsection (c)(2) of this section, a holder of a racing license to race at Pimlico Race Course or Laurel Park may apply to the Secretary of Labor, Licensing, and Regulation for the reimbursement of expenditures made by the racing licensee to conduct the annual live racing schedule.

(2) Subject to paragraph (5) of this subsection, the racing licensee's application shall include:

(i) a 12-month business plan, subject to review by a certified public accountant, that sets forth the income- and expense-related items that are necessary to conduct a live racing schedule of at least the number of live racing days that was stated in the application; and

(ii) a 5-year business plan that describes the challenges impacting the economics of operating the racing facilities and strategies for addressing those challenges.

(3) (i) On the completion of the review of the application by a certified public accountant, the Secretary may authorize the reimbursement of expenditures by the racing licensee that are necessary to conduct the annual live racing schedule.

(ii) Expenditures eligible for reimbursement under subparagraph (i) of this paragraph shall include the ordinary and reasonable costs of conducting the race meetings, pari-mutuel wagering, and stabling activities of the racing licensee, net of ordinary income and receipts.

(iii) The reimbursement calculation under subparagraph (ii) of this paragraph may not include:

1. extraordinary income and expense-related items, including extraordinary litigation costs;

2. lobbying fees;

3. capital investments, including predevelopment costs;

or

4. prior year adjustments and claims.

(4) All costs associated with the racing licensee's application shall be paid by the racing licensee.

(5) In support of the racing licensee's application and request for reimbursement submitted under paragraph (1) of this subsection, the racing licensee shall provide to the Secretary:

(i) monthly financial information requested by the Secretary, in a form satisfactory to the Secretary; and

(ii) an annual audited financial statement.

(6) A racing licensee may not receive assistance under this section while the racing licensee is a party to a proceeding challenging the issuance or denial of a video lottery operation license.

(k) Any unencumbered funds remaining in the Racetrack Facility Renewal Account on July 1, 2018, shall be paid to the Education Trust Fund established under § 9-1A-30 of this subtitle.

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(l) The State Racing Commission shall adopt regulations to implement the provisions of this subsection, including regulations to address minimum criteria for the types of improvements to be made by the holder of a license.

(m) The provisions of this section may not be construed to apply to the racecourse in Allegany County.]”.

AMENDMENT NO. 3

On page 61, after line 34, insert:

“Chapter 412 of the Acts of 2011

[SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of the termination provision specified in Section 5 of this Act.]

SECTION [5.] 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011. [Sections 1 and 3 of this Act shall remain effective for a period of 2 years and 6 months and, at the end of December 31, 2013, with no further action required by the General Assembly, Sections 1 and 3 of this Act shall be abrogated and of no further force and effect.]”.