

810 KAR 7:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund.

RELATES TO: KRS 138.510, 230.215, 230.225, 230.443, 230.445

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.445

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215 and 230.260 authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting. KRS 230.445 establishes the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund and requires the commission to promulgate administrative regulations to carry out the purpose of the statute and to administer the development fund in a manner to promote and aid in the development of the horse industry in Kentucky; upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, and the administration of purses and payments in these races.

Section 1. Definitions.

- (1) "Broodmare" means a mare that conceives and carries her genetic foal to term.
- (2) "Donor mare" means the mare from which an embryo is harvested for the purpose of performing an embryo transfer.
- (3) "Fund" means the Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund established by KRS 230.445.
- (4) "Historical horse race handle" means monies wagered at a licensed Kentucky association on historical horse races as defined in 810 KAR 2:001.
- (5) "Inter-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted outside of Kentucky.
- (6) "Intra-state wagering" means monies wagered at a Kentucky racing association on Quarter Horse, Paint Horse, Appaloosa, or Arabian races conducted at another Kentucky association.
- (7) "Kentucky bred" means a horse that meets the requirements of this administrative regulation and is:
 - (a) A Quarter Horse registered with the American Quarter Horse Association, or its successor;
 - (b) An Appaloosa registered with the Appaloosa Horse Club, or its successor;
 - (c) An Arabian registered with the Arabian Horse Association Registry, or its successor; or
 - (d) A Paint Horse registered with the American Paint Horse Association, or its successor.
- (8) "Live racing handle" means the monies wagered by individuals present on association grounds on Quarter Horse, Paint Horse, Appaloosa, or Arabian races physically conducted on that association's grounds.
- (9) "Mare" means a broodmare, donor mare, or recipient mare.
- (10) "Nonlive racing handle" means the monies wagered at an association located in Kentucky on Quarter Horse, Paint Horse, Appaloosa, or Arabian races not physically conducted on that association's grounds.
- (11) "Recipient mare" means a mare of any breed who:
 - (a) Is implanted with an embryo from a donor mare;
 - (b) Carries the non-genetic foal to term; and
 - (c) Is implanted with an electronic horse identification microchip that accurately identifies the horse and is compliant with international standards ISO 11784.

Section 2. Advisory Committee. The fund advisory committee shall consist of five (5) members, all of whom shall be Kentucky residents, to be appointed by the chairman of the commission by July 1 of each year. The committee shall consist of the following:

- (1) One (1) member of the commission;
- (2) One (1) officer or director of a licensed racing association in Kentucky conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing;
- (3) One (1) owner of a horse nominated to the fund;
- (4) One (1) owner of a mare registered with the fund; and
- (5) One (1) member of the Kentucky Quarter Horse Racing Association recommended by that organization's board of directors.

Section 3. Mare Eligibility.

(1) In order for a foal to be eligible to earn money from the fund, the broodmare or both the donor and recipient mares shall be registered with the fund on or before February 15 of the year of conception. Late registration may be accepted on or before June 15 of the year of conception as provided by subsection (4) of this section.

(2) In order to be eligible to be registered with the fund, a mare, whether a broodmare, donor mare, or recipient mare, shall reside in Kentucky continuously from conception or embryo transfer implantation until foaling unless one (1) of the exceptions established in this subsection is met.

(a) Medical procedure.

1. A medical procedure is required to be performed to protect the health of the mare or the unborn foal that involves an extraordinary medical situation and the owner of the mare desires to have an expert located outside of Kentucky conduct the procedure;
2. The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, within fourteen (14) days after the mare leaves Kentucky and provides information related to the procedure as requested by the commission;
3. The executive director of the commission approves the departure of the mare from Kentucky;
4. The mare remains under the care of a veterinarian during the entire period of time she is not residing in Kentucky, other than the time during which she is traveling to and from Kentucky;
5. The mare returns to Kentucky following the medical procedure for which her departure was authorized; and
6. The mare is in Kentucky for foaling, as established by documentation provided to the commission;

(b) Racing.

1. The owner of the mare desires to race the mare in a pari-mutuel race that is:
 - a. Held outside Kentucky; and
 - b. Sanctioned by the governing body of the jurisdiction in which the race is to be held;
2. The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the race outside of Kentucky as requested by the commission;
3. The executive director of the commission approves the departure of the mare from Kentucky based on the criteria in this paragraph;

4. The mare returns to Kentucky within ten (10) days after the running of the approved race; and
 5. The mare is in Kentucky for foaling as established by documentation provided to the commission; or
- (c) Auction.
1. The owner of the mare desires to enter her for sale at a catalogued auction for her breed held outside of Kentucky;
 2. The owner of the mare files with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky", KHRC 7-060-3, at least fourteen (14) days before the mare leaves Kentucky and provides information relating to the auction as requested by the commission;
 3. The executive director of the commission approves the departure of the mare from Kentucky based on the criteria in this paragraph;
 4. The mare returns to Kentucky no later than thirty (30) days after the auction; and
 5. The mare is in Kentucky for foaling, as established by documentation provided to the commission.
- (3) The owner of a mare approved to leave the state under subsection (2) of this section shall provide the commission with written notification of the mare's return within forty-eight (48) hours of her return.
- (4) A mare shall be registered with the fund by:
- (a) Completing and filing with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form", KHRC 7-060-1;
 - (b) Providing the commission with a photocopy of the mare's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, the Arabian Horse Association Registry, or The Jockey Club or their respective successors, or documentation regarding a recipient mare's electronic horse identification microchip; and
- (c) Paying the registration fee as follows:
1. A twenty-five (25) dollar fee for registrations postmarked no later than February 15 of the year of conception; or
 2. A \$200 late fee for registrations postmarked after February 15 and no later than June 15 of the year of conception.

Section 4. Nomination.

- (1) Except as set forth in subsection (5) of this section, in order for a horse to be eligible to earn money from the fund, it shall be a Kentucky bred as defined in this administrative regulation and shall be nominated to the fund on or before December 31 of its yearling year by:
- (a) Completing and filing with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2;
 - (b) Providing the commission with a photocopy of the horse's official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors; and
- (c) Paying the nomination fee as follows:
1. A twenty-five (25) dollar fee for nominations postmarked no later than December 31 of the weanling year; or
 2. A \$100 fee for nominations postmarked after the weanling year but no later than December 31 of the yearling year.

- (2) Except as provided in subsection (5) of this section, nominations postmarked after December 31 of the yearling year shall not be accepted.
- (3) In order for a foal that is the product of an embryo transfer to be eligible to earn monies from the fund, the donor mare and the recipient mare shall be registered as provided in Section 3 of this administrative regulation and shall meet the other requirements of this administrative regulation.
- (4) If a registered donor mare produces more than one (1) foal in one (1) breeding season, two (2) genetic foals may be nominated to the fund as determined by the owner of the donor mare.
- (5) A horse born before 2017 shall be eligible for nomination to the fund and participating in races offering monies from the fund. A horse shall be nominated by:
- (a) Completing and filing with the commission a "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2;
 - (b) Paying a nomination fee of \$300; and
 - (c) Including the following with the nomination form:
 - 1. A photocopy of the official breed registration papers from the American Quarter Horse Association, American Paint Horse Association, Appaloosa Horse Club, or the Arabian Horse Association Registry, or their respective successors;
 - 2. Registration papers showing ownership and demonstrating that the horse was foaled in Kentucky;
 - 3. An official breed registry shipped semen report or a stallion breeders certificate demonstrating that the horse was conceived in Kentucky; and
 - 4. A signed affidavit from the owner of the mare at the time of her pregnancy stating that the mare resided in Kentucky during the entirety of her pregnancy.
- (6) Nothing in this section shall prevent a registered mare from being eligible to race for monies from the fund.

Section 5. Monies Earned.

- (1) One (1) live association.
- (a) Live racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of the total live racing handle pursuant to KRS 138.510(1).
 - (b) Nonlive racing handle. An association conducting live racing shall earn monies to be deposited in the fund account for that association in the amount of two (2) percent of the total non-live racing handle pursuant to KRS 138.510(2).
- (2) More than one (1) live association. Unless there is a commission approved agreement among the associations conducting live racing to the contrary, if two (2) or more associations are conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races on the same day, the monies earned from the handle for that day shall be divided as established in this subsection.
- (a) Live racing handle. An association conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian races shall earn monies to be deposited in the fund account for that association in the amount of one (1) percent of that association's live racing handle pursuant to KRS 138.510(1).
 - (b) The intra-state wagering monies shall be allocated to that association on which the wagering is placed for purposes of calculating that association's fund earnings.
 - (c) Inter-state wagering monies originating from an association conducting live Quarter Horse, Paint Horse, Appaloosa, or Arabian races shall be allocated to that association for purposes of calculating that association's fund earnings.
 - (d) Inter-state wagering monies from all other Kentucky associations shall be divided evenly among the associations conducting live races.

(3) Historical horse race handle. An association offering wagering on historical horse races shall earn monies to be deposited in the fund account for that association as provided in KRS 138.510(1).

Section 6. Distribution of Funds.

(1) Each association shall submit a request to the advisory committee, including the proposed races eligible to receive monies from the fund and the proposed purse structure for those races, at least forty-five (45) days prior to the opening day of the live racing meet.

(2) Unless there is a commission approved proposal to the contrary, the proposed purse structure shall not exceed the total dollars generated by that breed to the association's fund account.

(3) The advisory committee shall review the proposed eligible races and purse structure and make a recommendation whether to approve the proposed races and purse structure to the commission based upon the best interests of Kentucky racing.

(4) Two (2) or more associations conducting Quarter Horse, Paint Horse, Appaloosa, or Arabian racing may request permission from the advisory committee to combine their respective fund monies to supplement purses at one (1) of the associations. The advisory committee shall recommend to the commission whether to approve the request.

Section 7. Reconciliation.

(1) Each association shall file weekly with the commission a copy of the pari-mutuel tax form filed with the Department of Revenue, along with a copy of the check submitted for each report.

(2) Each association shall report to the commission the actual purse distribution within fifteen (15) calendar days after the last day of a live race meeting.

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

(4) If, at the close of a live race meet, an association has a balance of monies earned for that meet that has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute the remaining balance, subject to the recommendation of the advisory committee and the approval of the commission:

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

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

(5) If, at the close of a live race meet, an association offering wagering on historical horse races has a balance of fund monies earned from historical horse race wagers that has not been distributed in actual fund purse distribution, then the association may choose one (1) of the following options to distribute a portion of the balance, subject to the recommendation of the advisory committee and the approval of the commission:

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

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

(c) Use historical horse race fund monies previously earned to supplement purses at another licensed Kentucky racetrack.

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

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

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Mare Registration Form", KHRC 7-060-1, 11/2018;

(b) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Nomination Form", KHRC 7-060-2, 11/2018; and

(c) "Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian Development Fund Application to Move Mare Outside of Kentucky Form", KHRC 7-060-3, 11/2018.

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(45 Ky.R. 1989; 3161; eff. 5-31-2019.)