



Ohio Revised Code

Section 3769.0810 Collection and settlement agent for simulcast fees.

Effective: July 1, 2015

Legislation: House Bill 386 - 129th General Assembly

(A) As used in this section:

(1) "Collection and settlement agent" means the permit holder designated by the state racing commission under division (B) of this section.

(2) "Racing week" means a seven-day period commencing on a Monday and ending on a Sunday.

(3) "Simulcast guest" and "simulcast host" have the same meanings as in section 3769.089 of the Revised Code.

(4) "Satellite facility" has the same meaning as in section 3769.25 of the Revised Code.

(5) "Settlement of wagering accounts" means the exchange of funds in order to equalize payments of winning wagers at all tracks and facilities participating in a common pari-mutuel pool.

(B) Except as provided in division (K) of this section, the state racing commission shall annually appoint as the collection and settlement agent one or more permit holders of tracks that hold no fewer than three fifty-six-day permits issued under section 3769.07 of the Revised Code. The collection and settlement agent shall give a cash or surety bond payable to the treasurer of state in an amount set by the commission for the performance of its duties under this section, and the bond shall be filed with the commission.

(C)(1) At the close of each day, each permit holder acting as a simulcast guest shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent an amount equal to one-half of one per cent of the total of all moneys wagered on that day on out-of-state simulcast racing programs simulcast to the simulcast guest from a simulcast host, to reimburse the simulcast host for administrative and simulcast costs.



(2) Within five business days after the close of each racing week, the collection and settlement agent shall pay and distribute to each simulcast host operating during that racing week its pro rata share of the fees collected from simulcast guests during that racing week. If a simulcast host acted as a host for day-simulcast racing programs only, then its share of the fees collected by the collection and settlement agent shall be computed and based on fees paid by simulcast guests offering such day-simulcast racing programs at their tracks. If a simulcast host acted as a simulcast host for evening-simulcast racing programs only, then its share of the fees shall be computed and based on fees paid by simulcast guests offering such evening-simulcast racing programs at their tracks. In making a calculation of the amount of fees to be distributed to simulcast hosts, the collection and settlement agent shall allocate equally between the accounts of simulcast hosts conducting only day-simulcast racing programs and only evening-simulcast racing programs those fees received by the agent from simulcast guests for simulcast racing programs that commenced on or after three p.m. and on or before four p.m. The times listed in division (C)(2) of this section are standard time as described in section 1.04 of the Revised Code and in the "Uniform Time Act of 1966," 80 Stat. 107, 15 U.S.C. 260 to 265.

(D)(1) At the close of each day, each permit holder shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent the intrastate simulcast fee provided in division (D) of section 3769.089 of the Revised Code in the amount equal to one and three-eighths per cent of the total of all moneys wagered on that day at its track or enclosure on live races conducted in this state and simulcast to its facility.

(2) Within five business days after the close of each racing week, the collection and settlement agent shall pay and distribute to permit holders that conducted live racing programs in this state during that racing week their share of the fees collected from other permit holders for that racing week.

(E) At the close of each day, each permit holder and satellite facility shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent a sum equal to required fees due to tracks, racing associations, or state regulatory agencies located outside this state for races simulcast into this state based on the totals of all money wagered that day at its track or enclosure or satellite facility on simulcast racing programs of races conducted outside this state. The collection and settlement agent shall inform the permit holders and the satellite facilities each day of the fee charged by each track, racing association, or state regulatory



agency located outside this state for the simulcast of simulcast racing programs on races conducted outside this state and simulcast into this state. The collection and settlement agent shall be responsible for paying and disbursing to these tracks, racing associations, and state regulatory agencies on a timely basis the fees collected by it from permit holders and satellite facilities under this division.

(F) On or before the tenth day of each month, the collection and settlement agent shall file a report with the state racing commission showing all of the following:

(1) All collections of moneys and fees from permit holders and satellite facilities during the preceding calendar month;

(2) All payments and disbursements made by the agent to permit holders operating as simulcast hosts and the method of calculation of the share of each simulcast host;

(3) All payments and disbursements of required fees to tracks, racing associations, and state regulatory agencies located outside this state from which there were simulcasts of simulcast racing programs into this state;

(4) Such other information regarding the performance of its duties under this section as the commission may request.

(G) All moneys and fees received and collected by the collection and settlement agent shall be deposited into, and disbursed from, separate bank accounts maintained with banks domiciled in this state established by the agent for this purpose, and no other funds or money of the agent or any other person shall be commingled with, deposited into, or withdrawn from the accounts. The collection and settlement agent may retain as its fee for services it provides and expenses it incurs in the performance of its duties under this section any interest earned on the bank accounts maintained by the agent under this division. The commission shall annually audit the bank account records, and the books and records, of the collection and settlement agent.

(H)(1) The collection and settlement agent shall assist permit holders and satellite facilities in the settlement of wagering accounts between and among simulcast hosts, simulcast guests, and satellite



facilities for intrastate simulcast racing programs.

(2) The collection and settlement agent on behalf of all permit holders and satellite facilities operating in this state shall be responsible for the settlement of wagering accounts for interstate simulcast racing programs with all tracks, racing associations, and state regulatory agencies located outside this state. The agent shall notify each permit holder and satellite facility not less frequently than weekly of the amounts that may be due from it, or the amounts that may be due to it, for the settlement of wagering accounts on interstate simulcast racing programs simulcast into this state during the preceding race week. If a permit holder or satellite facility owes money for the settlement of wagering accounts for that racing week, it shall promptly pay, by check, draft, or money order, or by wire transfer of funds, to the agent the amount due. From the amounts it collects, the agent shall pay and disburse to permit holders and satellite facilities and to tracks, racing associations, and state regulatory agencies located outside this state, the amounts necessary to provide for the settlement of wagering accounts for that racing week.

(I) If a permit holder or satellite facility fails to timely pay and remit to the collection and settlement agent the money and fees provided for in this section and in sections 3769.089 and 3769.26 of the Revised Code, the agent shall promptly notify the commission, or if the collection and settlement agent fails to collect, pay, disburse, and account for, the moneys and fees in the manner provided for in this section, then in any such event or occurrence, based on the information in the commission's possession, the commission may issue an emergency order prohibiting the permit holder, satellite facility, or agent, as the case may be, from serving as a simulcast host or simulcast guest or from receiving any simulcast racing program, and conducting wagering thereon, at its track or satellite facility, until such time as the permit holder, satellite facility, or agent complies with the requirements of this section and sections 3769.089 and 3769.26 of the Revised Code in the manner and to the extent set forth in the commission's order. In addition, the commission may make an assessment against the permit holder, satellite facility, or agent, as the case may be, based on information in the commission's possession. The commission shall give the party assessed written notice of the assessment by personal service or certified mail. All assessments not paid within thirty days after service of the notice of assessment, shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code computed from and after the date the assessment is made by the commission and entered in its official records until paid.



Unless the party to whom the notice of assessment is directed files with the commission, within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by the party's authorized agent having knowledge of the facts, the assessment shall become conclusive and the amount of the assessment, together with interest on it, shall be due and payable from the party assessed to the commission. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commission.

Unless the petitioner waives a hearing, the commission shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commission may continue the hearing from time to time if necessary.

The commission may make such correction to its assessment as it finds proper. The commission shall serve a copy of its final determination on the petitioner by personal service or certified mail, and its decision in the matter is final, subject to appeal under section 119.12 of the Revised Code.

After an assessment becomes final, if any portion of the assessment, or interest due on it, remains unpaid, a certified copy of the commission's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the track for which the permit was issued is located or the county in which the party assessed resides or has its principal place of business. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county. The clerk, immediately upon the filing of such entry, shall enter a judgment for the state against the party assessed in the amount shown on the entry.

From the date of the filing of the entry in the clerk's office, any unpaid portion of the assessment, including the interest, shall bear interest at the rate per annum prescribed in section 5703.47 of the Revised Code and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commission, and all laws applicable to sales on execution apply to sales made under the judgment.

If the judgment is entered against the collection and settlement agent, the commission may immediately proceed against the agent's bond and surety for the full amount of the judgment and



interest on it.

Any assessment, including interest on it, paid to or collected by the commission shall be deposited with the treasurer of state to the account of the commission, and the fee portion of such amount shall be distributed by the treasurer of state on order of the commission to the collection and settlement agent or to the permit holders and satellite facilities entitled to receive such fees, as the case may be under the circumstances.

(J) The commission may adopt rules for the implementation and administration of this section.

(K)(1) Notwithstanding any other provision of this section, after sixty days notification to the commission, a permit holder may take responsibility for handling any payments and distributions required of a collection and settlement agent under this section for any or all related permits under common ownership in lieu of making the required payments and distributions through the collection and settlement agent designated by the state racing commission under division (B) of this section.

(2) Any permit holder having responsibility for payments and distributions required under division (K)(1) of this section shall, on or before the tenth day of each month, file a report with the state racing commission showing the following:

(a) All payments and disbursements made by the permit holder to permit holders operating as simulcast hosts and the method of calculation of the share of each simulcast host;

(b) All payments and disbursements of required fees to tracks, racing associations, and state regulatory agencies located outside this state from which there were simulcasts of simulcast racing programs into the permit holder facilities;

(c) Such other information regarding the performance of the permit holder's duties under this section as the commission may request.

(3) A permit holder having responsibility for payments and distributions required under division (K)(1) of this section may utilize an authorized agent to make the required payments and distributions.