

**TITLE 178  
PROCEDURAL RULE  
WEST VIRGINIA RACING COMMISSION**

**SERIES 9  
REIMBURSEMENT OF CAPITAL REINVESTMENT PROJECTS**

**§ 178-9-1. General.**

1.1. Scope. -- This rule specifies the procedures for the disbursement of funds by the Racing Commission to thoroughbred and greyhound racetracks for expenditure upon capital improvements as authorized in West Virginia Code §§ 19-23-13c(b)(3)(A), (B) and (C) and 19-23-13c(c).

1.2. Authority. -- W. Va. Code § 19-23-6(3).

1.3. Filing Date. --

1.4. Effective Date. --

**§ 178-9-2. Definitions.**

2.1. "Capital improvement" means amounts paid or incurred to add to the value, or substantially prolong the useful life, of property owned by a racetrack or to adapt such property to a new or different use, as defined by the Internal Revenue Code, 26 U.S.C. § 263.

2.2. "Commission" means the West Virginia Racing Commission.

2.3. "Director of Audit" means the person employed by the West Virginia Racing Commission in accordance with West Virginia Code § 19-23-5(b), 178 W. Va. C.S.R. 1, § 5.4., and 178 W. Va. C.S.R. 2, § 4.4.

2.4. "Executive Director" means the person employed by the West Virginia Racing Commission in accordance with West Virginia Code § 19-23-5(a).

2.5. "Racetrack" means a thoroughbred or greyhound racetrack licensed by the West Virginia Racing Commission to conduct horse or dog racing for a purse where the pari-mutuel system of wagering is permitted.

**§ 178-9-3. Segregation of Funds.**

3.1. The Racing Commission shall maintain a segregated accounting of the funds available to each racetrack for capital improvements.

3.2. The balance of each segregated fund shall be reported to the Commission and to each of the racetracks by the Director of Audit at least once per calendar quarter.

**§ 178-9-4. Request for Reimbursement of Funds.**

4.1. A racetrack seeking reimbursement for funds expended upon a capital improvement shall make a written request to the Director of Audit which shall contain:

4.1.a. a detailed description of the capital improvement and its purpose;

4.1.b. a detailed description of how the capital improvement provides for the betterment of racing;

4.1.c. a detailed description of how the capital improvement benefits those engaged in racing activities;

4.1.d. an estimate of the capital improvement cost;

4.1.e. copies of the bids solicited by the racetrack from potential vendors; and,

4.1.f. a deduction for the salvage value received from any old asset.

4.2. Upon receipt of a written request from a racetrack seeking reimbursement for funds expended upon a capital improvement, the Director of Audit shall:

4.2.a. Include the reimbursement request information in the reports provided for in subsection 3.2. of this rule.

4.2.b. Submit the application to the Commission for approval, denial, or other action deemed appropriate by the Commission.

4.2.c. Provide notice to the racetrack that the request has been approved, denied, or otherwise acted upon by the Commission.

4.3. Any increase in the anticipated cost of a capital improvement project shall be submitted to and approved by the Commission.

**§ 178-9-5. Use of Funds.**

5.1. A racetrack may submit invoices for partial reimbursements as a capital improvement project progresses or may submit invoices for full reimbursement at the conclusion of a project.

5.2. Invoices, cancelled checks and other supporting documentation submitted in connection with a partial or full reimbursement request shall be provided by the racetrack for review by the Director of Audit. The Director of Audit shall instruct an employee of the Commission stationed at the racetrack to perform a site visit to ensure that the status of the capital improvement project supports the request.

5.3. Thereafter, the Director of Audit shall perform a site visit or desk review, whichever is appropriate, to ensure that the request submitted for reimbursement has been completed and that it is in conformance with the request approved by the Commission.

5.4. Thereafter, the Director of Audit shall obtain the approval of the Executive Director to process the request for payment out of the racetrack's segregated capital improvement account.

5.5. A request for partial or full reimbursement that includes the final ten percent of the amount of funds approved by the Commission shall not be reimbursed to the racetrack until a project-end audit has been completed. The audit shall be performed by an employee of the Commission, or an entity or person selected by the Commission.

5.6. Upon completion of a capital improvement project, the racetrack shall submit a letter certifying completion to the Director of Audit.