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RH/CL

P.L. 2021, CHAPTER 193, *approved August 5, 2021*
Assembly, No. 4909 (*First Reprint*)

1 **AN ACT** concerning the placement of wagers on horse races, and
2 supplementing chapter 5 of Title 5 of the Revised Statutes and
3 amending P.L.2002, c.89.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) This act shall be known and may be cited as
9 the “Fixed Odds Wagering Act.”

10
11 2. (New section) The Legislature finds and declares that:

12 a. The horse racing industry is economically important to this
13 State, and the general welfare of the people of the State will be
14 promoted by the advancement of horse racing and related projects
15 and facilities in the State.

16 b. It is the intent of the Legislature, by authorizing fixed odds
17 wagering, to promote the economic future of the horse racing
18 industry in this State, to foster the potential for increased
19 commerce, employment, and recreational opportunities in this State
20 and to preserve the State's open spaces.

21 c. It is the further intent of the Legislature that fixed odds
22 wagers may be taken in person, by direct telephone call, or by
23 communication through other electronic media from residents of
24 this State on horse races conducted within and outside of this State.

25 d. It is the further intent of the Legislature to permit persons
26 located in New Jersey who are not residents or account holders to
27 wager on fixed odds at racetracks in person or by electronic means.

28 e. The Legislature has determined that the Division of Gaming
29 Enforcement, in consultation with the New Jersey Racing
30 Commission, is best suited to oversee, license, and regulate fixed
31 odds wagering in the State.

32
33 3. (New section) As used in this act:

34 ¹“Advance deposit wagering” means a form of horse racing
35 wagering in which account holders must fund their account before
36 being permitted to place bets and refers to a fixed odds wagering
37 licensee.¹

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted June 21, 2021.

1 "Authority" means the New Jersey Sports and Exposition
2 Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

3 "Division" means the New Jersey Division of Gaming
4 Enforcement in the New Jersey Department of Law and Public
5 Safety created by section 55 of P.L.1977, c.110 (C.5:12-55).

6 "Fixed odds wagering" means a form of horse racing wagering
7 against odds offered by a bookmaker in which account holders may
8 lock in their odds when the bet is first placed and no fluctuation in
9 potential payout may occur.

10 "Fixed odds wagering account" means the account established
11 with the fixed odds wagering licensee by a person participating in
12 fixed odds wagering.

13 "Fixed odds wagering licensee" means the authority, provided
14 that the division has granted its approval for the authority or a
15 racetrack permit holder to establish fixed odds wagering as
16 provided for in this act, P.L. , c. (pending before the Legislature
17 as this bill).

18 "Fixed odds wagering system" means a system through which
19 fixed odds wagers are processed.

20 ¹"Internet sports pool operator" means an entity that is licensed
21 as a casino service industry enterprise pursuant to section 92 of
22 P.L.1977, c.110 (C.5:12-92) and that holds a permit issued by the
23 division to operate an online sports pool.¹

24 "Operating board" means the board established to negotiate,
25 manage, and oversee any agreements made for the purposes of
26 operating an account wagering system, off-track wagering facility,
27 exchange wagering system, or fixed odds wagering system.

28 "Participation agreement" means the written contract entered into
29 pursuant to this act, P.L. , c. (pending before the Legislature as
30 this bill), that shall set forth the manner in which the fixed odds
31 wagering system shall be managed, operated, and capitalized, as
32 well as how expenses and revenues shall be allocated and
33 distributed by and among the authority and the other eligible
34 participants subject to the agreement, including standardbred and
35 thoroughbred permit holders in this State.

36 "Permit holder" means the holder of an annual permit to conduct
37 a horse race meeting issued by the commission.
38

39 4. (New section) Notwithstanding any law, rule, or regulation
40 to the contrary, fixed odds wagering by residents of this State on the
41 results of horse races conducted in this State or jurisdictions outside
42 of this State shall be lawful provided that:

43 a. fixed odds wagering shall only be conducted by the fixed
44 odds wagering licensee pursuant to a valid fixed odds wagering
45 license issued by the division as provided for in this act;

46 b. fixed odds wagering shall be conducted pursuant to and in
47 compliance with the provisions of the Interstate Horse Racing Act
48 of 1978, 15 U.S.C. ss.3001 - 3007, as amended, this act, any related

1 intrastate contracts, and rules and regulations promulgated by the
2 division pursuant to this act;

3 c. in addition to the provisions of the Interstate Horse Racing
4 Act of 1978, 15 U.S.C. ss.3001 – 3007, fixed odds wagering
5 conducted on in-State races shall require a written agreement with
6 the Standardbred Breeders and Owners Association of New Jersey
7 and the New Jersey Thoroughbred Horsemen's Association for such
8 wagering on the associations' respective breeds;

9 d. the division has approved a contract or agreement, if any,
10 with a person or entity to conduct or operate fixed odds wagering
11 and to act as the agent for the authority or racetrack permit holder in
12 all fixed odds wagering matters approved by the division, pursuant
13 to section 5 of this act, P.L. , c. (C.)(pending before the
14 Legislature as this bill), including but not limited to the portion of
15 fixed odds revenues payable to such person or entity conducting or
16 operating fixed odds wagering;

17 e. fixed odds wagers are submitted to and accepted by the fixed
18 odds wagering licensee in person, by direct telephone call, or by
19 communication through other electronic media, as appropriate; and

20 f. fixed odds wagers are placed through the fixed odds
21 wagering system authorized in accordance with the provisions of
22 this act, P.L. , c. (C.)(pending before the Legislature as this
23 bill), and in accordance with division rules, regulations, and
24 conditions established therefor.

25

26 5. (New section) a. The division is hereby authorized to issue
27 a license to the authority, or to the racetrack permit holder, to
28 establish fixed odds wagering in accordance with the provisions of
29 this act, P.L. , c. (C.)(pending before the Legislature as this
30 bill). The licensing process shall include the filing by the authority
31 of a fixed odds wagering license application developed by the
32 division. The division may issue more than one license to the
33 authority for the purpose of establishing additional fixed odds
34 wagering systems. The division may issue an individual license to
35 a racetrack permit holder if the authority and racetrack permit
36 holder have mutually agreed to a transfer of licensing, pursuant to
37 the provisions of section 6 of P.L. , c. (C.) (pending before the
38 Legislature as this bill). Each new wagering system shall require a
39 license. All provisions of law concerning such license and the fixed
40 odds wagering system shall apply to each license and each system
41 established. Any reference in law to the license, the assignee, or the
42 fixed odds wagering system shall refer to all licenses, assignees,
43 and systems. A license issued pursuant to this act shall be valid for
44 a term of one year.

45 Any participation agreement shall include an agreement by the
46 operator to pay a proportional share of the available net project
47 revenues determined by the operating board to the standardbred or
48 thoroughbred permit holder, as the case may be, and a re-

1 negotiation mechanism to adjust a proportional share following the
2 addition or removal of an operator.

3 b. At the time of filing an application for licensure under this
4 section, the authority shall submit to the division a nonrefundable
5 filing fee in an amount established by regulation by the division,
6 and a certification in a form prescribed by the division which
7 specifies, but is not limited to, information about the operation of
8 the system and the authority's participation therein.

9 c. Within 14 days of receipt of a completed application,
10 certification and applicable fees, the division's director shall
11 determine whether the same is in due form and meets the
12 requirements of law and regulations in all respects. No later than 60
13 days following the receipt of the application, the division shall
14 make a final determination on the application. The division shall
15 approve the application if it determines that the authority has
16 demonstrated by clear and convincing evidence that wagers placed
17 through the proposed fixed odds wagering system will be accurately
18 processed and that there will be sufficient safeguards to maintain
19 the integrity of the horse racing industry in this State.

20 d. The division's determination shall be submitted to the
21 Attorney General for review and approval. The determination of the
22 division shall be deemed approved by the Attorney General if
23 affirmatively approved or not disapproved by the Attorney General
24 within 14 days of the date of submission. The decision of the
25 Attorney General shall be deemed a final decision. Upon approval
26 by the Attorney General, the division shall issue to the authority a
27 license to establish the system. The fixed odds wagering license
28 shall be valid for a term of one year, and shall be subject to renewal
29 annually, unless a different timeframe is otherwise prescribed by
30 regulation of the division.

31 e. With the approval of the division, the authority or racetrack
32 permit holder may enter into a contract or agreement with a person
33 or entity to conduct or operate the system and to act as the agent of
34 the authority in all fixed odds wagering matters approved by the
35 division. The fixed odds wagering license may not be transferred or
36 assigned to a successor in interest without the approval of the
37 division and the Attorney General, which approval may not be
38 unreasonably withheld.

39
40 6. (New section) The authority may transfer the operation and
41 control of a fixed odds wagering operation to an individual
42 racetrack permit holder if both the authority and racetrack permit
43 holder mutually agree to such transfer. The division and the
44 Attorney General shall approve the transfer following the written
45 agreement of the authority and racetrack permit holder. The
46 division and the Attorney General shall review the agreement and
47 determine if the racetrack permit holder has the appropriate
48 apparatus to operate as a licensee of a fixed odds wagering system.

1 If the transfer is not approved by the division and the Attorney
2 General, the authority shall remain the fixed odds wagering
3 licensee. Any agreement between the authority and a racetrack
4 permit holder that does not receive approval from the division and
5 Attorney General for a transfer may not be re-submitted for review
6 until one year following the prior determination by the division and
7 the Attorney General.

8

9 7. (New section) a. The division, in consultation with the New
10 Jersey Racing Commission, shall have full power to prescribe rules,
11 regulations, and conditions under which fixed odds wagering may
12 be conducted in this State, consistent with this act, including the
13 manner in which fixed odds wagers may be accepted, the
14 requirements for any person to participate in fixed odds wagering,
15 and the reasonable approval of any and all agreements made
16 pursuant to subsection c. of section 4 of this act, P.L. ,
17 c. (C.)(pending before the Legislature as this bill).

18 b. The division shall have full power to prescribe rules,
19 regulations, and conditions under which the fixed odds wagering
20 license is issued or renewed in this State, including requiring an
21 annual audit of a fixed odds wagering licensee's books and records
22 pertaining to fixed odds wagering, requiring all hub facilities,
23 servers, and technicians related to a fixed odds wagering operation
24 by a licensee in this State be located in this State, and to revoke,
25 suspend, or refuse to renew the license if in the opinion of the
26 division the revocation of, suspension of, or refusal to renew such
27 license is in the public interest; provided, however, that such rules,
28 regulations, and conditions shall be uniform in their application.

29 c. The division shall have no right or power to determine who
30 shall be officers, directors, or employees of any fixed odds
31 wagering licensee, or the salaries thereof; provided, however, that
32 the division may compel the discharge of any official or employee
33 of the fixed odds wagering licensee or the fixed odds wagering
34 system who: (1) fails or refuses for any reason to comply with the
35 rules or regulations of the division; (2) fails or refuses for any
36 reason to comply with any of the provisions of this act; (3) fails to
37 establish by clear and convincing evidence in the opinion of the
38 division good character, honesty, competency, and integrity; or (4)
39 has been convicted of a crime involving fraud, dishonesty, or moral
40 turpitude.

41 d. Notwithstanding the provisions of the "Administrative
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 90
43 days of the effective date of P.L. , c. (pending before the
44 Legislature as this bill), the director of the division shall adopt,
45 immediately upon filing proper notice with the Office of
46 Administrative Law, such temporary rules and regulations
47 necessary to effectuate the purposes of this act. The rules and
48 regulations so adopted shall be effective for a period not to exceed

1 18 months from the date of the filing. The rules and regulations
2 shall thereafter be amended, adopted, or readopted by the director in
3 accordance with the requirements of the "Administrative Procedure
4 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

5
6 8. (New section) a. A person within this State shall not be
7 permitted to open a fixed odds wagering account, or place a fixed
8 odds wager through the fixed odds wagering system, except in
9 accordance with federal law and this act, and through the fixed odds
10 wagering licensee, and no entity, other than the fixed odds wagering
11 licensee, shall accept a fixed odds wager from a person within this
12 State. A person may not place a fixed odds wager unless the person
13 has established a fixed odds wagering account with the fixed odds
14 wagering licensee and is physically present in New Jersey at the
15 time of placing the account wager, except that persons physically
16 present at a racetrack or off-track wagering facility may place a
17 wager through a teller at a window without opening a fixed odds
18 wagering account. To establish a fixed odds wagering account, a
19 person shall be physically present in New Jersey at the time of
20 establishing the wagering account, at least 18 years of age, except
21 that any person on the self-exclusion list established pursuant to
22 section 1 of P.L.2002, c.89 (C.5:5-65.1) shall be prohibited from
23 establishing a fixed odds wagering account. A resident of this State
24 who has established an account with a fixed odds wagering licensee
25 may place a fixed odds wager through the licensee while physically
26 present in New Jersey, or while physically present in another
27 jurisdiction if placing such a wager is not inconsistent with the law
28 of that jurisdiction or with federal law. The division shall develop
29 protocols to accurately determine a person's location within the
30 State to effectuate the provisions of this subsection.

31 b. The fixed odds wagering account shall be in the name of a
32 natural person and may not be in the name of any beneficiary,
33 custodian, joint trust, corporation, partnership, or other organization
34 or entity.

35 c. A fixed odds wagering account may be established in
36 person, by mail, telephone, or other electronic media, by a person
37 completing an application form approved by the division. The form
38 shall include the address of the principal residence of the
39 prospective fixed odds wagering account holder and a statement
40 that a false statement made in regard to an application may subject
41 the applicant to prosecution. The fixed odds wagering licensee
42 shall verify the identification, residence, and age of the fixed odds
43 wagering account holder using methods and technologies approved
44 by the division.

45 d. The prospective fixed odds wagering account holder shall
46 submit the completed application in person, by mail, telephone, or
47 other electronic media, including the Internet and wireless devices,
48 to the fixed odds wagering licensee or such other person or entity as

1 may be approved by the division. The fixed odds wagering licensee
2 may accept or reject an application after receipt and review of the
3 application and certification, or other proof, of age and residency
4 for compliance with this act.

5 e. Any prospective fixed odds wagering account holder who
6 provides false or misleading information on the application is
7 subject to rejection of the application or cancellation of the fixed
8 odds wagering account by the fixed odds wagering licensee without
9 notice.

10 f. The fixed odds wagering licensee shall have the right to
11 suspend or close any fixed odds wagering account at its discretion.

12 g. Any person not in good standing with the division shall not
13 be entitled to maintain a fixed odds wagering account.

14 h. The address provided by the applicant in the application
15 shall be deemed the proper address for the purposes of mailing
16 checks, fixed odds wagering account withdrawals, notices, and
17 other materials.

18 i. A fixed odds wagering account shall not be assignable or
19 otherwise transferable.

20 j. The fixed odds wagering licensee may at any time declare
21 the fixed odds wagering system closed for receiving any wagers on
22 any race or closed for all fixed odds wagering.

23

24 9. (New section) a. Credits to a fixed odds wagering account
25 shall be made as follows:

26 (1) The fixed odds wagering account holder's deposits to the
27 fixed odds wagering account shall be submitted by the fixed odds
28 wagering account holder to the fixed odds wagering licensee and
29 shall be in the form of one of the following:

30 (a) cash given to the fixed odds wagering licensee;

31 (b) check, money order, negotiable order of withdrawal, or wire
32 or electronic transfer, payable and remitted to the fixed odds
33 wagering licensee; or

34 (c) charges made to a fixed odds wagering account holder's
35 debit or credit card upon the fixed odds wagering account holder's
36 direct and personal instruction, which instruction may be given by
37 telephone communication or other electronic means to the fixed
38 odds wagering licensee or its agent by the fixed odds wagering
39 account holder if the use of the card has been approved by the fixed
40 odds wagering licensee.

41 (2) Credit for winnings from wagers placed with funds in a fixed
42 odds wagering account shall be posted to the fixed odds wagering
43 account by the fixed odds wagering licensee.

44 (3) The fixed odds wagering licensee shall have the right to
45 refuse for any reason all or part of any fixed odds wager or deposit
46 to the fixed odds wagering account.

47 (4) Funds deposited in the fixed odds wagering account shall not
48 bear interest to the fixed odds wagering account holder.

1 b. Debits to a fixed odds wagering account shall be made as
2 follows:

3 (1) Upon receipt by the fixed odds wagering licensee of a fixed
4 odds wager properly placed pursuant to section 10 of this act,
5 P.L. , c. (C.)(pending before the Legislature as this bill), the
6 fixed odds wagering licensee shall determine whether there are
7 sufficient funds in the fixed odds wagering account holder's fixed
8 odds wagering account to cover the total liability resulting from the
9 fixed odds wager, taking into consideration other fixed odds wagers
10 made by the fixed odds wagering account holder in the same
11 market, and any additional applicable transaction or other fees due
12 to the fixed odds wagering licensee under the division's rules and
13 regulations, and deduct such amounts from the fixed odds wagering
14 account holder's fixed odds wagering account.

15 (2) The fixed odds wagering licensee may authorize a
16 withdrawal from a fixed odds wagering account when the fixed
17 odds wagering account holder submits to the fixed odds wagering
18 licensee, the fixed odds wagering licensee's agent, or such other
19 entity as may be approved by the division, his or her fixed odds
20 wagering account number and proper means of identification
21 pursuant to procedures approved by the division. Fixed odds
22 wagering account holders may request a withdrawal in person, by
23 mail, by telephone, or by other electronic means. If there are
24 sufficient funds in the fixed odds wagering account to cover the
25 withdrawal, after taking into consideration any existing fixed odds
26 wagers made by the fixed odds wagering account holder, the fixed
27 odds wagering licensee shall make payment within three business
28 days of receipt of the fixed odds wagering account holder's
29 withdrawal request. Notwithstanding the foregoing, the fixed odds
30 wagering licensee may decline or delay fulfilling a withdrawal
31 request if the fixed odds wagering licensee reasonably suspects: (a)
32 fraud; (b) that the fixed odds wagering account holder was
33 ineligible to make one or more of the fixed odds wagers made from
34 the fixed odds wagering account; or (c) any other conditions which
35 the division may prescribe or approve. At the discretion of the
36 fixed odds wagering licensee, withdrawals may be payable in cash,
37 by a check sent to the fixed odds wagering account holder's verified
38 residence address, by wire transfer, or by other electronic transfer.
39 Withdrawals shall be made payable only to the holder of the fixed
40 odds wagering account and in no more than the amount of the
41 requested withdrawal.

42
43 10. (New section) a. The fixed odds wagering licensee may
44 accept fixed odds wagers from anyone physically present in New
45 Jersey who holds a valid account with a fixed odds wagering
46 licensee or residents of New Jersey who hold a valid account and
47 who are physically present in another jurisdiction where placing
48 such a wager is not inconsistent with the law of that jurisdiction or

1 with federal law, only in accordance with this act, federal law, and
2 as follows:

3 (1) A wager to back or lay a particular outcome in a given
4 market, specifying the price of the wager, shall be placed directly
5 with the fixed odds wagering licensee by the holder of the fixed
6 odds wagering account.

7 (2) The fixed odds wagering account holder placing the wager
8 shall provide the fixed odds wagering licensee with the correct
9 personal identification number of the holder of the fixed odds
10 wagering account.

11 (3) A fixed odds wagering licensee may not accept a fixed odds
12 wager, or series of fixed odds wagers, when the results of which
13 would create a liability for the fixed odds wagering account holder
14 in excess of funds on deposit in the fixed odds wagering account of
15 that holder.

16 (4) Only the holder of a fixed odds wagering account shall place
17 a wager. Unless otherwise approved by the division, no person,
18 corporation, or other entity shall directly or indirectly act as an
19 intermediary, transmitter, or agent in the placing of wagers for a
20 holder of an fixed odds wagering account; provided, however, that
21 the use of credit or debit cards specifically approved by the fixed
22 odds wagering licensee or the use of checks, money orders, or
23 negotiable orders of withdrawal or the use of telephonic, computer,
24 or electronic means by the fixed odds wagering account holder to
25 place such wagers shall not be prohibited.

26 (5) The fixed odds wagering account holder may place a wager
27 in person, by direct telephone call or by communication through
28 other electronic media.

29 b. A fixed odds wager may also be placed at a racetrack or off-
30 track wagering facility in person without opening a fixed odds
31 wagering account through a teller who shall issue a tote ticket for
32 the wager which may then be cashed by the teller.

33

34 11. (New section) Subject to the approval of the division, the
35 fixed odds wagering licensee shall be permitted to collect fixed
36 odds revenues in the manner and amounts determined by the fixed
37 odds wagering licensee, including but not limited to assessing a
38 surcharge on any person's net winnings.

39

40 12. (New section) Notwithstanding any other law, rule, or
41 regulation to the contrary, the division shall require each fixed odds
42 wagering licensee to:

43 a. pay such portions of the fixed odds wagering licensee's fixed
44 odds revenues as may be required pursuant to section 4 of this act,
45 P.L. , c. (C.)(pending before the Legislature as this bill);

46 b. pay to overnight purses to standardbred and thoroughbred
47 permit holders for wagering on races for the permit holder's
48 respective breed in this State 50 percent of fixed odds revenues

1 retained by the fixed odds wagering licensee after the payments
2 required pursuant to subsection a. of this section are made, and after
3 deducting all reasonable and necessary expenses incurred by the
4 licensee in administering, marketing, and operating the fixed odds
5 wagering system; and

6 c. reach a business agreement with all standardbred and
7 thoroughbred permit holders within this State as it pertains to
8 wagering on the permit holder's respective breed, within one year
9 from the date when the fixed odds wagering system becomes
10 operational, for the distribution of the net fixed odds wagering
11 revenues remaining after the payments are made pursuant to
12 subsections a. and b. of this section and after the payment of
13 operating expenses, subject to approval by the division; provided
14 that, if an agreement is not reached within that time frame, the
15 division shall distribute the fixed odds wagering revenues among
16 the fixed odds wagering licensees and the standardbred and
17 thoroughbred permit holders in this State based on wagering on the
18 permit holder's respective breed.

19

20 13. (New section) ¹a. ¹Of the monies distributed to overnight
21 purses pursuant to subsection b. of section 12 of this act, P.L. ,
22 c. (C.)(pending before the Legislature as this bill) ¹on in-State
23 racetracks¹, all ¹~~monies~~ ¹monies¹ derived
24 from fixed odds wagering on thoroughbred races shall be paid to
25 overnight purses for thoroughbred races and all monies derived
26 from fixed odds wagering on standardbred races shall be paid to
27 overnight purses for standardbred races.

28 ¹b. Of the monies distributed to overnight purses pursuant to
29 subsection b. of section 12 of this act, P.L. , c. (C.)(pending
30 before the Legislature as this bill), on out-of-State and international
31 racetracks:

32 (1) all monies derived from fixed odds wagering at Monmouth
33 Racetrack, including at off-track wagering facilities operated by
34 Monmouth Racetrack and in regards to advance deposit wagering,
35 on thoroughbred races shall be paid to overnight purses for
36 thoroughbred races and all monies derived from fixed odds
37 wagering on standardbred races shall be paid to overnight purses for
38 standardbred races;

39 (2) all monies derived from fixed odds wagering at
40 Meadowlands Racetrack and Freehold Raceway, including at off-
41 track wagering facilities operated by Meadowlands Racetrack and
42 Freehold Raceway and in regards to advance deposit wagering, on
43 thoroughbred races and standardbred races shall be paid to
44 overnight purses, in the following manner: 65 percent shall be paid
45 to overnight purses for thoroughbred races and 35 percent shall be
46 paid to overnight purses for standardbred races; and

47 (3) notwithstanding paragraphs (1) and (2) of this subsection, all
48 monies derived from fixed odds wagering by any internet sports

1 pool operator or casino operator on thoroughbred races shall be paid
2 to overnight purses for thoroughbred races and all monies derived
3 from fixed odds wagering by any internet sports pool operator or
4 casino operator on standardbred races shall be paid to overnight
5 purses for standardbred races.

6 c.¹ The formula for allocating overnight purse monies from
7 fixed odds wagering to overnight purses set forth in this section
8 may only be modified by the mutual agreement of the Standardbred
9 Breeders and Owners Association of New Jersey and the New
10 Jersey Thoroughbred Horsemen's Association. Nothing contained
11 in this section shall be construed as a precedent for establishing the
12 division of overnight purse amounts between standardbred races
13 and thoroughbred races.

14 d.¹ Notwithstanding the foregoing, the sum derived from fixed
15 odds wagering on standardbred races pursuant to subsection b. of
16 section 12 of P.L. , c. (C.)(pending before the Legislature as
17 this bill) may be distributed as provided by a contractual agreement
18 authorized under section 11 of P.L.2013, c.266 (C.5:5-188).
19 Notwithstanding the foregoing, the sum derived from fixed odds
20 wagering on thoroughbred races pursuant to subsection b. of section
21 12 of P.L. , c. (C.)(pending before the Legislature as this
22 bill) may be distributed as provided by a contractual agreement
23 authorized under section 12 of P.L.2013, c.266 (C.5:5-189).

24
25 14. (New section) All amounts remaining in fixed odds
26 wagering accounts inactive or dormant for such period and under
27 such conditions as established by regulation shall be distributed in
28 accordance with the division's rules and regulations.

29
30 15. (New section) All persons engaged in conducting wagering-
31 related activities through the fixed odds wagering system, whether
32 employed directly by the fixed odds wagering licensee or by a
33 person or entity conducting or operating the system pursuant to a
34 contract or agreement with the fixed odds wagering licensee, shall
35 be licensed or registered in accordance with such regulations as
36 may be promulgated by the division hereunder. All other
37 employees of the system shall be licensed or registered in
38 accordance with regulations of the division. The division shall have
39 full power to prescribe rules, regulations, and conditions under
40 which all such licenses are issued, or registrations made, in this
41 State and to revoke or refuse to issue a license, or revoke or refuse
42 to accept a registration, if in the opinion of the division the
43 revocation or refusal is in the public interest, provided, however,
44 that such rules, regulations, and conditions shall be uniform in their
45 application, and further provided that no fee shall be in excess of
46 \$50 for each license so granted or registration accepted.

1 16. (New section) The provisions of this act shall be deemed to
2 be severable, and if any phrase, clause, sentence, or provision of
3 this act is declared to be unconstitutional or the applicability thereof
4 to any person is held invalid, the remainder of this act shall not
5 thereby be deemed to be unconstitutional or invalid.

6
7 17. (New section) The division shall promulgate rules and
8 regulations pursuant to the "Administrative Procedure Act,"
9 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
10 this act, P.L. , c. (pending before the Legislature as this bill).

11
12 18. Section 1 of P.L.2002, c.89 (C.5:5-65.1) is amended to read
13 as follows:

14 1. a. The commission shall provide by regulation for the
15 establishment of a list of persons who voluntarily seek to be
16 excluded from entry into permitted racetracks and licensed off-track
17 wagering facilities located in this State and from opening or
18 maintaining a wagering account with the account wagering system
19 **[or]** , with the exchange wagering system, or with the fixed odds
20 wagering system established in this State. A person may request
21 placement on the self-exclusion list by acknowledging in a manner
22 to be established by the commission that the person is a problem
23 gambler and by agreeing that, during a period of voluntary
24 exclusion, the person may not collect winnings or recover losses
25 resulting from wagering at a racetrack or off-track wagering facility
26 or from account wagering **[or]** , exchange wagering, or fixed odds
27 wagering.

28 b. The commission shall promulgate regulations to: (1)
29 establish procedures for placements on, and removals from, the list
30 of self-excluded persons; (2) establish procedures for the transmittal
31 to the permitted racetracks, licensed off-track wagering facilities,
32 the account wagering system, **[and]** the exchange wagering
33 licensee, and the fixed odds wagering licensee of identifying
34 information concerning persons on the self-exclusion list; and (3)
35 require permitted racetracks, licensed off-track wagering facilities,
36 the account wagering system, **[and]** the exchange wagering
37 licensee, and the fixed odds wagering licensee to establish
38 procedures designed, at a minimum, to remove persons on the self-
39 exclusion list from targeted mailings or other forms of advertising
40 or promotions and deny such persons access to credit,
41 complimentaries, check cashing privileges, club programs, and
42 other similar benefits.

43 c. The commission, a permitted racetrack, a licensed off-track
44 wagering facility, the account wagering system, the exchange
45 wagering licensee, the fixed odds wagering licensee, or an
46 employee thereof shall not be liable to a person on the self-
47 exclusion list or to another party in a judicial proceeding for harm,
48 monetary or otherwise, which may arise as a result of:

1 (1) the failure of a permitted racetrack, licensed off-track
2 wagering facility or the account wagering system or the exchange
3 wagering licensee or the fixed odds wagering licensee to withhold
4 wagering privileges from, or restore wagering privileges to, a
5 person on the self-exclusion list; or

6 (2) permitting a person on the self-exclusion list to engage in
7 wagering activity at a permitted racetrack or licensed off-track
8 wagering facility, or through the account wagering system, or
9 through the exchange wagering system, or through the fixed odds
10 wagering system.

11 d. Notwithstanding the provisions of section 8 of P.L.1940,
12 c.17 (C.5:5-28), the commission's self-exclusion list shall be
13 privileged and confidential and shall not be accessible to the public
14 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and
15 supplemented.

16 e. The commission, a permitted racetrack, a licensed off-track
17 wagering facility, the account wagering system, the exchange
18 wagering licensee, the fixed odds wagering licensee, or an
19 employee thereof shall not be liable to a person on the self-
20 exclusion list or to another party in a judicial proceeding for harm,
21 monetary or otherwise, which may arise as a result of disclosure or
22 publication, other than a willfully unlawful disclosure or
23 publication, of the identity of a self-excluded person.

24 (cf: P.L.2011, c.15, s.19)

25
26 19. Section 2 of P.L.2002, c.89 (C.5:5-65.2) is amended to read
27 as follows:

28 2. a. A person on the self-exclusion list established pursuant to
29 section 1 of P.L.2002, c.89 (C.5:5-65.1), shall not collect, in any
30 manner or proceeding, winnings or recover losses arising as a result
31 of wagering activity at a permitted racetrack or licensed off-track
32 wagering facility, or through the account wagering system, **[or]**
33 through the exchange wagering system, or through the fixed odds
34 wagering system.

35 b. Money or a thing of value which has been obtained by, or is
36 owed to, a person on the self-exclusion list from a permitted
37 racetrack, licensed off-track wagering facility or account wagering
38 system **[or]** , exchange wagering system, or fixed odds wagering
39 system as a result of wagers made by that person shall be subject to
40 forfeiture by order of the executive director of the commission,
41 following notice to the person on the self-exclusion list and
42 opportunity to be heard.

43 Money or a thing of value forfeited shall be deposited into the
44 State General Fund for appropriation by the Legislature to the
45 Department of Human Services to provide funds for compulsive
46 gambling treatment and prevention programs in the State.

47 c. In a proceeding brought by the commission against a live
48 racing permit holder, the off-track wagering licensee, the account

1 wagering licensee, **[or]** the exchange wagering licensee, or the
2 fixed odds wagering licensee for a willful violation of the
3 commission's self-exclusion regulations, the commission may order
4 in addition to a permit or license suspension, a fine not to exceed
5 \$5,000 per wagering incident, the forfeiture of money or a thing of
6 value obtained by the permit holder, off-track wagering licensee,
7 account wagering licensee, **[or]** exchange wagering licensee, or
8 fixed odds wagering licensee from a person on the self-exclusion
9 list and other remedial conditions the commission deems
10 appropriate. Money or a thing of value so forfeited shall be
11 disposed of in the same manner as money or a thing of value
12 forfeited pursuant to subsection b. of this section.

13 (cf: P.L.2011, c.15, s.20)

14

15 20. This act shall take effect immediately.

16

17

18

19

20 _____
21 Authorizes fixed odds wagering on horse races through fixed
odds wagering system.

CHAPTER 193
(CORRECTED COPY)

AN ACT concerning the placement of wagers on horse races, and supplementing chapter 5 of Title 5 of the Revised Statutes and amending P.L.2002, c.89.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.5:5-190 Short title.

1. This act shall be known and may be cited as the “Fixed Odds Wagering Act.”

C.5:5-191 Findings, declarations.

2. The Legislature finds and declares that:

- a. The horse racing industry is economically important to this State, and the general welfare of the people of the State will be promoted by the advancement of horse racing and related projects and facilities in the State.

- b. It is the intent of the Legislature, by authorizing fixed odds wagering, to promote the economic future of the horse racing industry in this State, to foster the potential for increased commerce, employment, and recreational opportunities in this State and to preserve the State's open spaces.

- c. It is the further intent of the Legislature that fixed odds wagers may be taken in person, by direct telephone call, or by communication through other electronic media from residents of this State on horse races conducted within and outside of this State.

- d. It is the further intent of the Legislature to permit persons located in New Jersey who are not residents or account holders to wager on fixed odds at racetracks in person or by electronic means.

- e. The Legislature has determined that the Division of Gaming Enforcement, in consultation with the New Jersey Racing Commission, is best suited to oversee, license, and regulate fixed odds wagering in the State.

C.5:5-192 Definitions.

3. As used in this act:

“Advance deposit wagering” means a form of horse racing wagering in which account holders must fund their account before being permitted to place bets and refers to a fixed odds wagering licensee.

“Authority” means the New Jersey Sports and Exposition Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

“Division” means the New Jersey Division of Gaming Enforcement in the New Jersey Department of Law and Public Safety created by section 55 of P.L.1977, c.110 (C.5:12-55).

“Fixed odds wagering” means a form of horse racing wagering against odds offered by a bookmaker in which account holders may lock in their odds when the bet is first placed and no fluctuation in potential payout may occur.

“Fixed odds wagering account” means the account established with the fixed odds wagering licensee by a person participating in fixed odds wagering.

“Fixed odds wagering licensee” means the authority, provided that the division has granted its approval for the authority or a racetrack permit holder to establish fixed odds wagering as provided for in this act, P.L.2021, c.193.

“Fixed odds wagering system” means a system through which fixed odds wagers are processed.

“Internet sports pool operator” means an entity that is licensed as a casino service industry enterprise pursuant to section 92 of P.L.1977, c.110 (C.5:12-92) and that holds a permit issued by the division to operate an online sports pool.

“Operating board” means the board established to negotiate, manage, and oversee any agreements made for the purposes of operating an account wagering system, off-track wagering facility, exchange wagering system, or fixed odds wagering system.

"Participation agreement" means the written contract entered into pursuant to this act, P.L.2021, c.193, that shall set forth the manner in which the fixed odds wagering system shall be managed, operated, and capitalized, as well as how expenses and revenues shall be allocated and distributed by and among the authority and the other eligible participants subject to the agreement, including standardbred and thoroughbred permit holders in this State.

"Permit holder" means the holder of an annual permit to conduct a horse race meeting issued by the commission.

C.5:5-193 Certain fixed odds wagering lawful.

4. Notwithstanding any law, rule, or regulation to the contrary, fixed odds wagering by residents of this State on the results of horse races conducted in this State or jurisdictions outside of this State shall be lawful provided that:

a. fixed odds wagering shall only be conducted by the fixed odds wagering licensee pursuant to a valid fixed odds wagering license issued by the division as provided for in this act;

b. fixed odds wagering shall be conducted pursuant to and in compliance with the provisions of the Interstate Horse Racing Act of 1978, 15 U.S.C. ss.3001 - 3007, as amended, this act, any related intrastate contracts, and rules and regulations promulgated by the division pursuant to this act;

c. in addition to the provisions of the Interstate Horse Racing Act of 1978, 15 U.S.C. ss.3001 – 3007, fixed odds wagering conducted on in-State races shall require a written agreement with the Standardbred Breeders and Owners Association of New Jersey and the New Jersey Thoroughbred Horsemen's Association for such wagering on the associations' respective breeds;

d. the division has approved a contract or agreement, if any, with a person or entity to conduct or operate fixed odds wagering and to act as the agent for the authority or racetrack permit holder in all fixed odds wagering matters approved by the division, pursuant to section 5 of this act, P.L.2021, c.193 (C.5:5-194), including but not limited to the portion of fixed odds revenues payable to such person or entity conducting or operating fixed odds wagering;

e. fixed odds wagers are submitted to and accepted by the fixed odds wagering licensee in person, by direct telephone call, or by communication through other electronic media, as appropriate; and

f. fixed odds wagers are placed through the fixed odds wagering system authorized in accordance with the provisions of this act, P.L.2021, c.192 (C.5:5-190 et al.), and in accordance with division rules, regulations, and conditions established therefor.

C.5:5-194 Issuance of license to establish fixed odds wagering.

5. a. The division is hereby authorized to issue a license to the authority, or to the racetrack permit holder, to establish fixed odds wagering in accordance with the provisions of this act, P.L.2021, c.193 (C.5:5-190 et al.). The licensing process shall include the filing

by the authority of a fixed odds wagering license application developed by the division. The division may issue more than one license to the authority for the purpose of establishing additional fixed odds wagering systems. The division may issue an individual license to a racetrack permit holder if the authority and racetrack permit holder have mutually agreed to a transfer of licensing, pursuant to the provisions of section 6 of P.L.2021, c.193 (C.5:5-195). Each new wagering system shall require a license. All provisions of law concerning such license and the fixed odds wagering system shall apply to each license and each system established. Any reference in law to the license, the assignee, or the fixed odds wagering system shall refer to all licenses, assignees, and systems. A license issued pursuant to this act shall be valid for a term of one year.

Any participation agreement shall include an agreement by the operator to pay a proportional share of the available net project revenues determined by the operating board to the standardbred or thoroughbred permit holder, as the case may be, and a re-negotiation mechanism to adjust a proportional share following the addition or removal of an operator.

b. At the time of filing an application for licensure under this section, the authority shall submit to the division a nonrefundable filing fee in an amount established by regulation by the division, and a certification in a form prescribed by the division which specifies, but is not limited to, information about the operation of the system and the authority's participation therein.

c. Within 14 days of receipt of a completed application, certification and applicable fees, the division's director shall determine whether the same is in due form and meets the requirements of law and regulations in all respects. No later than 60 days following the receipt of the application, the division shall make a final determination on the application. The division shall approve the application if it determines that the authority has demonstrated by clear and convincing evidence that wagers placed through the proposed fixed odds wagering system will be accurately processed and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State.

d. The division's determination shall be submitted to the Attorney General for review and approval. The determination of the division shall be deemed approved by the Attorney General if affirmatively approved or not disapproved by the Attorney General within 14 days of the date of submission. The decision of the Attorney General shall be deemed a final decision. Upon approval by the Attorney General, the division shall issue to the authority a license to establish the system. The fixed odds wagering license shall be valid for a term of one year, and shall be subject to renewal annually, unless a different timeframe is otherwise prescribed by regulation of the division.

e. With the approval of the division, the authority or racetrack permit holder may enter into a contract or agreement with a person or entity to conduct or operate the system and to act as the agent of the authority in all fixed odds wagering matters approved by the division. The fixed odds wagering license may not be transferred or assigned to a successor in interest without the approval of the division and the Attorney General, which approval may not be unreasonably withheld.

C.5:5-195 Transfer to individual racetrack permit holder.

6. The authority may transfer the operation and control of a fixed odds wagering operation to an individual racetrack permit holder if both the authority and racetrack permit holder mutually agree to such transfer. The division and the Attorney General shall approve the transfer following the written agreement of the authority and racetrack permit holder. The division and the Attorney General shall review the agreement and determine if the

racetrack permit holder has the appropriate apparatus to operate as a licensee of a fixed odds wagering system. If the transfer is not approved by the division and the Attorney General, the authority shall remain the fixed odds wagering licensee. Any agreement between the authority and a racetrack permit holder that does not receive approval from the division and Attorney General for a transfer may not be re-submitted for review until one year following the prior determination by the division and the Attorney General.

C.5:5-196 Rules, regulations, conditions.

7. a. The division, in consultation with the New Jersey Racing Commission, shall have full power to prescribe rules, regulations, and conditions under which fixed odds wagering may be conducted in this State, consistent with this act, including the manner in which fixed odds wagers may be accepted, the requirements for any person to participate in fixed odds wagering, and the reasonable approval of any and all agreements made pursuant to subsection c. of section 4 of this act, P.L.2021, c.193 (C.5:5-193).

b. The division shall have full power to prescribe rules, regulations, and conditions under which the fixed odds wagering license is issued or renewed in this State, including requiring an annual audit of a fixed odds wagering licensee's books and records pertaining to fixed odds wagering, requiring all hub facilities, servers, and technicians related to a fixed odds wagering operation by a licensee in this State be located in this State, and to revoke, suspend, or refuse to renew the license if in the opinion of the division the revocation of, suspension of, or refusal to renew such license is in the public interest; provided, however, that such rules, regulations, and conditions shall be uniform in their application.

c. The division shall have no right or power to determine who shall be officers, directors, or employees of any fixed odds wagering licensee, or the salaries thereof; provided, however, that the division may compel the discharge of any official or employee of the fixed odds wagering licensee or the fixed odds wagering system who: (1) fails or refuses for any reason to comply with the rules or regulations of the division; (2) fails or refuses for any reason to comply with any of the provisions of this act; (3) fails to establish by clear and convincing evidence in the opinion of the division good character, honesty, competency, and integrity; or (4) has been convicted of a crime involving fraud, dishonesty, or moral turpitude.

d. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 90 days of the effective date of P.L.2021, c.193, the director of the division shall adopt, immediately upon filing proper notice with the Office of Administrative Law, such temporary rules and regulations necessary to effectuate the purposes of this act. The rules and regulations so adopted shall be effective for a period not to exceed 18 months from the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted by the director in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.5:5-197 Procedure for opening a fixed odds wagering account, wagering.

8. a. A person within this State shall not be permitted to open a fixed odds wagering account, or place a fixed odds wager through the fixed odds wagering system, except in accordance with federal law and this act, and through the fixed odds wagering licensee, and no entity, other than the fixed odds wagering licensee, shall accept a fixed odds wager from a person within this State. A person may not place a fixed odds wager unless the person has established a fixed odds wagering account with the fixed odds wagering licensee and is physically present in New Jersey at the time of placing the account wager, except that

persons physically present at a racetrack or off-track wagering facility may place a wager through a teller at a window without opening a fixed odds wagering account. To establish a fixed odds wagering account, a person shall be physically present in New Jersey at the time of establishing the wagering account, at least 18 years of age, except that any person on the self-exclusion list established pursuant to section 1 of P.L.2002, c.89 (C.5:5-65.1) shall be prohibited from establishing a fixed odds wagering account. A resident of this State who has established an account with a fixed odds wagering licensee may place a fixed odds wager through the licensee while physically present in New Jersey, or while physically present in another jurisdiction if placing such a wager is not inconsistent with the law of that jurisdiction or with federal law. The division shall develop protocols to accurately determine a person's location within the State to effectuate the provisions of this subsection.

b. The fixed odds wagering account shall be in the name of a natural person and may not be in the name of any beneficiary, custodian, joint trust, corporation, partnership, or other organization or entity.

c. A fixed odds wagering account may be established in person, by mail, telephone, or other electronic media, by a person completing an application form approved by the division. The form shall include the address of the principal residence of the prospective fixed odds wagering account holder and a statement that a false statement made in regard to an application may subject the applicant to prosecution. The fixed odds wagering licensee shall verify the identification, residence, and age of the fixed odds wagering account holder using methods and technologies approved by the division.

d. The prospective fixed odds wagering account holder shall submit the completed application in person, by mail, telephone, or other electronic media, including the Internet and wireless devices, to the fixed odds wagering licensee or such other person or entity as may be approved by the division. The fixed odds wagering licensee may accept or reject an application after receipt and review of the application and certification, or other proof, of age and residency for compliance with this act.

e. Any prospective fixed odds wagering account holder who provides false or misleading information on the application is subject to rejection of the application or cancellation of the fixed odds wagering account by the fixed odds wagering licensee without notice.

f. The fixed odds wagering licensee shall have the right to suspend or close any fixed odds wagering account at its discretion.

g. Any person not in good standing with the division shall not be entitled to maintain a fixed odds wagering account.

h. The address provided by the applicant in the application shall be deemed the proper address for the purposes of mailing checks, fixed odds wagering account withdrawals, notices, and other materials.

i. A fixed odds wagering account shall not be assignable or otherwise transferable.

j. The fixed odds wagering licensee may at any time declare the fixed odds wagering system closed for receiving any wagers on any race or closed for all fixed odds wagering.

C.5:5-198 Credits made to fixed odds wagering account.

9. a. Credits to a fixed odds wagering account shall be made as follows:

(1) The fixed odds wagering account holder's deposits to the fixed odds wagering account shall be submitted by the fixed odds wagering account holder to the fixed odds wagering licensee and shall be in the form of one of the following:

(a) cash given to the fixed odds wagering licensee;

(b) check, money order, negotiable order of withdrawal, or wire or electronic transfer, payable and remitted to the fixed odds wagering licensee; or

(c) charges made to a fixed odds wagering account holder's debit or credit card upon the fixed odds wagering account holder's direct and personal instruction, which instruction may be given by telephone communication or other electronic means to the fixed odds wagering licensee or its agent by the fixed odds wagering account holder if the use of the card has been approved by the fixed odds wagering licensee.

(2) Credit for winnings from wagers placed with funds in a fixed odds wagering account shall be posted to the fixed odds wagering account by the fixed odds wagering licensee.

(3) The fixed odds wagering licensee shall have the right to refuse for any reason all or part of any fixed odds wager or deposit to the fixed odds wagering account.

(4) Funds deposited in the fixed odds wagering account shall not bear interest to the fixed odds wagering account holder.

b. Debits to a fixed odds wagering account shall be made as follows:

(1) Upon receipt by the fixed odds wagering licensee of a fixed odds wager properly placed pursuant to section 10 of this act, P.L.2021, c.193 (C.5:5-199), the fixed odds wagering licensee shall determine whether there are sufficient funds in the fixed odds wagering account holder's fixed odds wagering account to cover the total liability resulting from the fixed odds wager, taking into consideration other fixed odds wagers made by the fixed odds wagering account holder in the same market, and any additional applicable transaction or other fees due to the fixed odds wagering licensee under the division's rules and regulations, and deduct such amounts from the fixed odds wagering account holder's fixed odds wagering account.

(2) The fixed odds wagering licensee may authorize a withdrawal from a fixed odds wagering account when the fixed odds wagering account holder submits to the fixed odds wagering licensee, the fixed odds wagering licensee's agent, or such other entity as may be approved by the division, his or her fixed odds wagering account number and proper means of identification pursuant to procedures approved by the division. Fixed odds wagering account holders may request a withdrawal in person, by mail, by telephone, or by other electronic means. If there are sufficient funds in the fixed odds wagering account to cover the withdrawal, after taking into consideration any existing fixed odds wagers made by the fixed odds wagering account holder, the fixed odds wagering licensee shall make payment within three business days of receipt of the fixed odds wagering account holder's withdrawal request. Notwithstanding the foregoing, the fixed odds wagering licensee may decline or delay fulfilling a withdrawal request if the fixed odds wagering licensee reasonably suspects: (a) fraud; (b) that the fixed odds wagering account holder was ineligible to make one or more of the fixed odds wagers made from the fixed odds wagering account; or (c) any other conditions which the division may prescribe or approve. At the discretion of the fixed odds wagering licensee, withdrawals may be payable in cash, by a check sent to the fixed odds wagering account holder's verified residence address, by wire transfer, or by other electronic transfer. Withdrawals shall be made payable only to the holder of the fixed odds wagering account and in no more than the amount of the requested withdrawal.

C.5:5-199 Acceptance of wagers.

10. a. The fixed odds wagering licensee may accept fixed odds wagers from anyone physically present in New Jersey who holds a valid account with a fixed odds wagering licensee or residents of New Jersey who hold a valid account and who are physically present

in another jurisdiction where placing such a wager is not inconsistent with the law of that jurisdiction or with federal law, only in accordance with this act, federal law, and as follows:

(1) A wager to back or lay a particular outcome in a given market, specifying the price of the wager, shall be placed directly with the fixed odds wagering licensee by the holder of the fixed odds wagering account.

(2) The fixed odds wagering account holder placing the wager shall provide the fixed odds wagering licensee with the correct personal identification number of the holder of the fixed odds wagering account.

(3) A fixed odds wagering licensee may not accept a fixed odds wager, or series of fixed odds wagers, when the results of which would create a liability for the fixed odds wagering account holder in excess of funds on deposit in the fixed odds wagering account of that holder.

(4) Only the holder of a fixed odds wagering account shall place a wager. Unless otherwise approved by the division, no person, corporation, or other entity shall directly or indirectly act as an intermediary, transmitter, or agent in the placing of wagers for a holder of an fixed odds wagering account; provided, however, that the use of credit or debit cards specifically approved by the fixed odds wagering licensee or the use of checks, money orders, or negotiable orders of withdrawal or the use of telephonic, computer, or electronic means by the fixed odds wagering account holder to place such wagers shall not be prohibited.

(5) The fixed odds wagering account holder may place a wager in person, by direct telephone call or by communication through other electronic media.

b. A fixed odds wager may also be placed at a racetrack or off-track wagering facility in person without opening a fixed odds wagering account through a teller who shall issue a tote ticket for the wager which may then be cashed by the teller.

C.5:5-200 Collection of fixed odds revenues.

11. Subject to the approval of the division, the fixed odds wagering licensee shall be permitted to collect fixed odds revenues in the manner and amounts determined by the fixed odds wagering licensee, including but not limited to assessing a surcharge on any person's net winnings.

C.5:5-201 Requirements for fixed odds wagering licensee.

12. Notwithstanding any other law, rule, or regulation to the contrary, the division shall require each fixed odds wagering licensee to:

a. pay such portions of the fixed odds wagering licensee's fixed odds revenues as may be required pursuant to section 4 of this act, P.L.2021, c.193 (C.5:5-193);

b. pay to overnight purses to standardbred and thoroughbred permit holders for wagering on races for the permit holder's respective breed in this State 50 percent of fixed odds revenues retained by the fixed odds wagering licensee after the payments required pursuant to subsection a. of this section are made, and after deducting all reasonable and necessary expenses incurred by the licensee in administering, marketing, and operating the fixed odds wagering system; and

c. reach a business agreement with all standardbred and thoroughbred permit holders within this State as it pertains to wagering on the permit holder's respective breed, within one year from the date when the fixed odds wagering system becomes operational, for the distribution of the net fixed odds wagering revenues remaining after the payments are made pursuant to subsections a. and b. of this section and after the payment of operating expenses,

subject to approval by the division; provided that, if an agreement is not reached within that time frame, the division shall distribute the fixed odds wagering revenues among the fixed odds wagering licensees and the standardbred and thoroughbred permit holders in this State based on wagering on the permit holder's respective breed.

C.5:5-202 Distribution of monies.

13. a. Of the monies distributed to overnight purses pursuant to subsection b. of section 12 of this act, P.L.2021, c.193 (C.5:5-201) on in-State races at the respective racetracks, all monies derived from fixed odds wagering on thoroughbred races shall be paid to overnight purses for thoroughbred races and all monies derived from fixed odds wagering on standardbred races shall be paid to overnight purses for standardbred races.

b. Of the monies distributed to overnight purses pursuant to subsection b. of section 12 of this act, P.P.L.2021, c.193 (C.5:5-201), on out-of-State and international races:

(1) all monies derived from fixed odds wagering at Monmouth Racetrack, including at off-track wagering facilities operated by Monmouth Racetrack and in regards to advance deposit wagering, on thoroughbred races shall be paid to overnight purses for thoroughbred races and all monies derived from fixed odds wagering on standardbred races shall be paid to overnight purses for standardbred races;

(2) all monies derived from fixed odds wagering at Meadowlands Racetrack and Freehold Raceway, including at off-track wagering facilities operated by Meadowlands Racetrack and Freehold Raceway and in regards to advance deposit wagering, on thoroughbred races and standardbred races shall be paid to overnight purses, in the following manner: 65 percent shall be paid to overnight purses for thoroughbred races and 35 percent shall be paid to overnight purses for standardbred races; and

(3) notwithstanding paragraphs (1) and (2) of this subsection, all monies derived from fixed odds wagering by any internet sports pool operator or casino operator on thoroughbred races shall be paid to overnight purses for thoroughbred races and all monies derived from fixed odds wagering by any internet sports pool operator or casino operator on standardbred races shall be paid to overnight purses for standardbred races.

c. The formula for allocating overnight purse monies from fixed odds wagering to overnight purses set forth in this section may only be modified by the mutual agreement of the Standardbred Breeders and Owners Association of New Jersey and the New Jersey Thoroughbred Horsemen's Association. Nothing contained in this section shall be construed as a precedent for establishing the division of overnight purse amounts between standardbred races and thoroughbred races.

d. Notwithstanding the foregoing, the sum derived from fixed odds wagering on standardbred races pursuant to subsection b. of section 12 of P.L.2021, c.193 (C.5:5-201) may be distributed as provided by a contractual agreement authorized under section 11 of P.L.2013, c.266 (C.5:5-188). Notwithstanding the foregoing, the sum derived from fixed odds wagering on thoroughbred races pursuant to subsection b. of section 12 of P.L.2021, c.193 (C.5:5-201) may be distributed as provided by a contractual agreement authorized under section 12 of P.L.2013, c.266 (C.5:5-189).

C.5:5-203 Distribution of amounts remaining in inactive, dormant accounts.

14. All amounts remaining in fixed odds wagering accounts inactive or dormant for such period and under such conditions as established by regulation shall be distributed in accordance with the division's rules and regulations.

C.5:5-204 Licensure, registration required.

15. All persons engaged in conducting wagering-related activities through the fixed odds wagering system, whether employed directly by the fixed odds wagering licensee or by a person or entity conducting or operating the system pursuant to a contract or agreement with the fixed odds wagering licensee, shall be licensed or registered in accordance with such regulations as may be promulgated by the division hereunder. All other employees of the system shall be licensed or registered in accordance with regulations of the division. The division shall have full power to prescribe rules, regulations, and conditions under which all such licenses are issued, or registrations made, in this State and to revoke or refuse to issue a license, or revoke or refuse to accept a registration, if in the opinion of the division the revocation or refusal is in the public interest, provided, however, that such rules, regulations, and conditions shall be uniform in their application, and further provided that no fee shall be in excess of \$50 for each license so granted or registration accepted.

C.5:5-205 Severability.

16. The provisions of this act shall be deemed to be severable, and if any phrase, clause, sentence, or provision of this act is declared to be unconstitutional or the applicability thereof to any person is held invalid, the remainder of this act shall not thereby be deemed to be unconstitutional or invalid.

C.5:5-206 Rules, regulations.

17. The division shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act, P.L.2021, c.193.

18. Section 1 of P.L.2002, c.89 (C.5:5-65.1) is amended to read as follows:

C.5:5-65.1 List of persons voluntarily excluded from certain racetracks, wagering.

1. a. The commission shall provide by regulation for the establishment of a list of persons who voluntarily seek to be excluded from entry into permitted racetracks and licensed off-track wagering facilities located in this State and from opening or maintaining a wagering account with the account wagering system, with the exchange wagering system, or with the fixed odds wagering system established in this State. A person may request placement on the self-exclusion list by acknowledging in a manner to be established by the commission that the person is a problem gambler and by agreeing that, during a period of voluntary exclusion, the person may not collect winnings or recover losses resulting from wagering at a racetrack or off-track wagering facility or from account wagering, exchange wagering, or fixed odds wagering.

b. The commission shall promulgate regulations to: (1) establish procedures for placements on, and removals from, the list of self-excluded persons; (2) establish procedures for the transmittal to the permitted racetracks, licensed off-track wagering facilities, the account wagering system, the exchange wagering licensee, and the fixed odds wagering licensee of identifying information concerning persons on the self-exclusion list; and (3) require permitted racetracks, licensed off-track wagering facilities, the account wagering system, the exchange wagering licensee, and the fixed odds wagering licensee to establish procedures designed, at a minimum, to remove persons on the self-exclusion list from targeted mailings or other forms of advertising or promotions and deny such persons access

to credit, complimentaries, check cashing privileges, club programs, and other similar benefits.

c. The commission, a permitted racetrack, a licensed off-track wagering facility, the account wagering system, the exchange wagering licensee, the fixed odds wagering licensee, or an employee thereof shall not be liable to a person on the self-exclusion list or to another party in a judicial proceeding for harm, monetary or otherwise, which may arise as a result of:

(1) the failure of a permitted racetrack, licensed off-track wagering facility or the account wagering system or the exchange wagering licensee or the fixed odds wagering licensee to withhold wagering privileges from, or restore wagering privileges to, a person on the self-exclusion list; or

(2) permitting a person on the self-exclusion list to engage in wagering activity at a permitted racetrack or licensed off-track wagering facility, or through the account wagering system, or through the exchange wagering system, or through the fixed odds wagering system.

d. Notwithstanding the provisions of section 8 of P.L.1940, c.17 (C.5:5-28), the commission's self-exclusion list shall be privileged and confidential and shall not be accessible to the public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented.

e. The commission, a permitted racetrack, a licensed off-track wagering facility, the account wagering system, the exchange wagering licensee, the fixed odds wagering licensee, or an employee thereof shall not be liable to a person on the self-exclusion list or to another party in a judicial proceeding for harm, monetary or otherwise, which may arise as a result of disclosure or publication, other than a willfully unlawful disclosure or publication, of the identity of a self-excluded person.

19. Section 2 of P.L.2002, c.89 (C.5:5-65.2) is amended to read as follows:

C.5:5-65.2 Regulations applicable to persons on self-exclusion list; enforcement; sanctions.

2. a. A person on the self-exclusion list established pursuant to section 1 of P.L.2002, c.89 (C.5:5-65.1), shall not collect, in any manner or proceeding, winnings or recover losses arising as a result of wagering activity at a permitted racetrack or licensed off-track wagering facility, or through the account wagering system, through the exchange wagering system, or through the fixed odds wagering system.

b. Money or a thing of value which has been obtained by, or is owed to, a person on the self-exclusion list from a permitted racetrack, licensed off-track wagering facility or account wagering system, exchange wagering system, or fixed odds wagering system as a result of wagers made by that person shall be subject to forfeiture by order of the executive director of the commission, following notice to the person on the self-exclusion list and opportunity to be heard.

Money or a thing of value forfeited shall be deposited into the State General Fund for appropriation by the Legislature to the Department of Human Services to provide funds for compulsive gambling treatment and prevention programs in the State.

c. In a proceeding brought by the commission against a live racing permit holder, the off-track wagering licensee, the account wagering licensee, the exchange wagering licensee, or the fixed odds wagering licensee for a willful violation of the commission's self-exclusion regulations, the commission may order in addition to a permit or license suspension, a fine not to exceed \$5,000 per wagering incident, the forfeiture of money or a thing of value

obtained by the permit holder, off-track wagering licensee, account wagering licensee, exchange wagering licensee, or fixed odds wagering licensee from a person on the self-exclusion list and other remedial conditions the commission deems appropriate. Money or a thing of value so forfeited shall be disposed of in the same manner as money or a thing of value forfeited pursuant to subsection b. of this section.

20. This act shall take effect immediately.

Approved August 5, 2021.

ASSEMBLY, No. 4909

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED NOVEMBER 5, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

Authorizes fixed odds wagering on horse races through fixed odds wagering system.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the placement of wagers on horse races, and
2 supplementing chapter 5 of Title 5 of the Revised Statutes and
3 amending P.L.2002, c.89.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) This act shall be known and may be cited as
9 the "Fixed Odds Wagering Act."

10

11 2. (New section) The Legislature finds and declares that:

12 a. The horse racing industry is economically important to this
13 State, and the general welfare of the people of the State will be
14 promoted by the advancement of horse racing and related projects
15 and facilities in the State.

16 b. It is the intent of the Legislature, by authorizing fixed odds
17 wagering, to promote the economic future of the horse racing
18 industry in this State, to foster the potential for increased
19 commerce, employment, and recreational opportunities in this State
20 and to preserve the State's open spaces.

21 c. It is the further intent of the Legislature that fixed odds
22 wagers may be taken in person, by direct telephone call, or by
23 communication through other electronic media from residents of
24 this State on horse races conducted within and outside of this State.

25 d. It is the further intent of the Legislature to permit persons
26 located in New Jersey who are not residents or account holders to
27 wager on fixed odds at racetracks in person or by electronic means.

28 e. The Legislature has determined that the Division of Gaming
29 Enforcement, in consultation with the New Jersey Racing
30 Commission, is best suited to oversee, license, and regulate fixed
31 odds wagering in the State.

32

33 3. (New section) As used in this act:

34 "Authority" means the New Jersey Sports and Exposition
35 Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

36 "Division" means the New Jersey Division of Gaming
37 Enforcement in the New Jersey Department of Law and Public
38 Safety created by section 55 of P.L.1977, c.110 (C.5:12-55).

39 "Fixed odds wagering" means a form of horse racing wagering
40 against odds offered by a bookmaker in which account holders may
41 lock in their odds when the bet is first placed and no fluctuation in
42 potential payout may occur.

43 "Fixed odds wagering account" means the account established
44 with the fixed odds wagering licensee by a person participating in
45 fixed odds wagering.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Fixed odds wagering licensee" means the authority, provided
2 that the division has granted its approval for the authority or a
3 racetrack permit holder to establish fixed odds wagering as
4 provided for in this act, P.L. , c. (pending before the Legislature
5 as this bill).

6 "Fixed odds wagering system" means a system through which
7 fixed odds wagers are processed.

8 "Operating board" means the board established to negotiate,
9 manage, and oversee any agreements made for the purposes of
10 operating an account wagering system, off-track wagering facility,
11 exchange wagering system, or fixed odds wagering system.

12 "Participation agreement" means the written contract entered into
13 pursuant to this act, P.L. , c. (pending before the Legislature as
14 this bill), that shall set forth the manner in which the fixed odds
15 wagering system shall be managed, operated, and capitalized, as
16 well as how expenses and revenues shall be allocated and
17 distributed by and among the authority and the other eligible
18 participants subject to the agreement, including standardbred and
19 thoroughbred permit holders in this State.

20 "Permit holder" means the holder of an annual permit to conduct
21 a horse race meeting issued by the commission.
22

23 4. (New section) Notwithstanding any law, rule, or regulation
24 to the contrary, fixed odds wagering by residents of this State on the
25 results of horse races conducted in this State or jurisdictions outside
26 of this State shall be lawful provided that:

27 a. fixed odds wagering shall only be conducted by the fixed
28 odds wagering licensee pursuant to a valid fixed odds wagering
29 license issued by the division as provided for in this act;

30 b. fixed odds wagering shall be conducted pursuant to and in
31 compliance with the provisions of the Interstate Horse Racing Act
32 of 1978, 15 U.S.C. ss.3001 - 3007, as amended, this act, any related
33 intrastate contracts, and rules and regulations promulgated by the
34 division pursuant to this act;

35 c. in addition to the provisions of the Interstate Horse Racing
36 Act of 1978, 15 U.S.C. ss.3001 – 3007, fixed odds wagering
37 conducted on in-State races shall require a written agreement with
38 the Standardbred Breeders and Owners Association of New Jersey
39 and the New Jersey Thoroughbred Horsemen's Association for such
40 wagering on the associations' respective breeds;

41 d. the division has approved a contract or agreement, if any,
42 with a person or entity to conduct or operate fixed odds wagering
43 and to act as the agent for the authority or racetrack permit holder in
44 all fixed odds wagering matters approved by the division, pursuant
45 to section 5 of this act, P.L. , c. (C.)(pending before the
46 Legislature as this bill), including but not limited to the portion of
47 fixed odds revenues payable to such person or entity conducting or
48 operating fixed odds wagering;

1 e. fixed odds wagers are submitted to and accepted by the fixed
2 odds wagering licensee in person, by direct telephone call, or by
3 communication through other electronic media, as appropriate; and

4 f. fixed odds wagers are placed through the fixed odds
5 wagering system authorized in accordance with the provisions of
6 this act, P.L. , c. (C.)(pending before the Legislature as this
7 bill), and in accordance with division rules, regulations, and
8 conditions established therefor.

9
10 5. (New section) a. The division is hereby authorized to issue
11 a license to the authority, or to the racetrack permit holder, to
12 establish fixed odds wagering in accordance with the provisions of
13 this act, P.L. , c. (C.)(pending before the Legislature as this
14 bill). The licensing process shall include the filing by the authority
15 of a fixed odds wagering license application developed by the
16 division. The division may issue more than one license to the
17 authority for the purpose of establishing additional fixed odds
18 wagering systems. The division may issue an individual license to
19 a racetrack permit holder if the authority and racetrack permit
20 holder have mutually agreed to a transfer of licensing, pursuant to
21 the provisions of section 6 of P.L. , c. (C.) (pending before the
22 Legislature as this bill). Each new wagering system shall require a
23 license. All provisions of law concerning such license and the fixed
24 odds wagering system shall apply to each license and each system
25 established. Any reference in law to the license, the assignee, or the
26 fixed odds wagering system shall refer to all licenses, assignees,
27 and systems. A license issued pursuant to this act shall be valid for
28 a term of one year.

29 Any participation agreement shall include an agreement by the
30 operator to pay a proportional share of the available net project
31 revenues determined by the operating board to the standardbred or
32 thoroughbred permit holder, as the case may be, and a re-
33 negotiation mechanism to adjust a proportional share following the
34 addition or removal of an operator.

35 b. At the time of filing an application for licensure under this
36 section, the authority shall submit to the division a nonrefundable
37 filing fee in an amount established by regulation by the division,
38 and a certification in a form prescribed by the division which
39 specifies, but is not limited to, information about the operation of
40 the system and the authority's participation therein.

41 c. Within 14 days of receipt of a completed application,
42 certification and applicable fees, the division's director shall
43 determine whether the same is in due form and meets the
44 requirements of law and regulations in all respects. No later than 60
45 days following the receipt of the application, the division shall
46 make a final determination on the application. The division shall
47 approve the application if it determines that the authority has
48 demonstrated by clear and convincing evidence that wagers placed

1 through the proposed fixed odds wagering system will be accurately
2 processed and that there will be sufficient safeguards to maintain
3 the integrity of the horse racing industry in this State.

4 d. The division's determination shall be submitted to the
5 Attorney General for review and approval. The determination of the
6 division shall be deemed approved by the Attorney General if
7 affirmatively approved or not disapproved by the Attorney General
8 within 14 days of the date of submission. The decision of the
9 Attorney General shall be deemed a final decision. Upon approval
10 by the Attorney General, the division shall issue to the authority a
11 license to establish the system. The fixed odds wagering license
12 shall be valid for a term of one year, and shall be subject to renewal
13 annually, unless a different timeframe is otherwise prescribed by
14 regulation of the division.

15 e. With the approval of the division, the authority or racetrack
16 permit holder may enter into a contract or agreement with a person
17 or entity to conduct or operate the system and to act as the agent of
18 the authority in all fixed odds wagering matters approved by the
19 division. The fixed odds wagering license may not be transferred or
20 assigned to a successor in interest without the approval of the
21 division and the Attorney General, which approval may not be
22 unreasonably withheld.

23
24 6. (New section) The authority may transfer the operation and
25 control of a fixed odds wagering operation to an individual
26 racetrack permit holder if both the authority and racetrack permit
27 holder mutually agree to such transfer. The division and the
28 Attorney General shall approve the transfer following the written
29 agreement of the authority and racetrack permit holder. The
30 division and the Attorney General shall review the agreement and
31 determine if the racetrack permit holder has the appropriate
32 apparatus to operate as a licensee of a fixed odds wagering system.
33 If the transfer is not approved by the division and the Attorney
34 General, the authority shall remain the fixed odds wagering
35 licensee. Any agreement between the authority and a racetrack
36 permit holder that does not receive approval from the division and
37 Attorney General for a transfer may not be re-submitted for review
38 until one year following the prior determination by the division and
39 the Attorney General.

40
41 7. (New section) a. The division, in consultation with the New
42 Jersey Racing Commission, shall have full power to prescribe rules,
43 regulations, and conditions under which fixed odds wagering may
44 be conducted in this State, consistent with this act, including the
45 manner in which fixed odds wagers may be accepted, the
46 requirements for any person to participate in fixed odds wagering,
47 and the reasonable approval of any and all agreements made

1 pursuant to subsection c. of section 4 of this act, P.L. ,
2 c. (C.)(pending before the Legislature as this bill).

3 b. The division shall have full power to prescribe rules,
4 regulations, and conditions under which the fixed odds wagering
5 license is issued or renewed in this State, including requiring an
6 annual audit of a fixed odds wagering licensee's books and records
7 pertaining to fixed odds wagering, requiring all hub facilities,
8 servers, and technicians related to a fixed odds wagering operation
9 by a licensee in this State be located in this State, and to revoke,
10 suspend, or refuse to renew the license if in the opinion of the
11 division the revocation of, suspension of, or refusal to renew such
12 license is in the public interest; provided, however, that such rules,
13 regulations, and conditions shall be uniform in their application.

14 c. The division shall have no right or power to determine who
15 shall be officers, directors, or employees of any fixed odds
16 wagering licensee, or the salaries thereof; provided, however, that
17 the division may compel the discharge of any official or employee
18 of the fixed odds wagering licensee or the fixed odds wagering
19 system who: (1) fails or refuses for any reason to comply with the
20 rules or regulations of the division; (2) fails or refuses for any
21 reason to comply with any of the provisions of this act; (3) fails to
22 establish by clear and convincing evidence in the opinion of the
23 division good character, honesty, competency, and integrity; or (4)
24 has been convicted of a crime involving fraud, dishonesty, or moral
25 turpitude.

26 d. Notwithstanding the provisions of the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 90
28 days of the effective date of P.L. , c. (pending before the
29 Legislature as this bill), the director of the division shall adopt,
30 immediately upon filing proper notice with the Office of
31 Administrative Law, such temporary rules and regulations
32 necessary to effectuate the purposes of this act. The rules and
33 regulations so adopted shall be effective for a period not to exceed
34 18 months from the date of the filing. The rules and regulations
35 shall thereafter be amended, adopted, or readopted by the director in
36 accordance with the requirements of the "Administrative Procedure
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

38
39 8. (New section) a. A person within this State shall not be
40 permitted to open a fixed odds wagering account, or place a fixed
41 odds wager through the fixed odds wagering system, except in
42 accordance with federal law and this act, and through the fixed odds
43 wagering licensee, and no entity, other than the fixed odds wagering
44 licensee, shall accept a fixed odds wager from a person within this
45 State. A person may not place a fixed odds wager unless the person
46 has established a fixed odds wagering account with the fixed odds
47 wagering licensee and is physically present in New Jersey at the
48 time of placing the account wager, except that persons physically

1 present at a racetrack or off-track wagering facility may place a
2 wager through a teller at a window without opening a fixed odds
3 wagering account. To establish a fixed odds wagering account, a
4 person shall be physically present in New Jersey at the time of
5 establishing the wagering account, at least 18 years of age, except
6 that any person on the self-exclusion list established pursuant to
7 section 1 of P.L.2002, c.89 (C.5:5-65.1) shall be prohibited from
8 establishing a fixed odds wagering account. A resident of this State
9 who has established an account with a fixed odds wagering licensee
10 may place a fixed odds wager through the licensee while physically
11 present in New Jersey, or while physically present in another
12 jurisdiction if placing such a wager is not inconsistent with the law
13 of that jurisdiction or with federal law. The division shall develop
14 protocols to accurately determine a person's location within the
15 State to effectuate the provisions of this subsection.

16 b. The fixed odds wagering account shall be in the name of a
17 natural person and may not be in the name of any beneficiary,
18 custodian, joint trust, corporation, partnership, or other organization
19 or entity.

20 c. A fixed odds wagering account may be established in
21 person, by mail, telephone, or other electronic media, by a person
22 completing an application form approved by the division. The form
23 shall include the address of the principal residence of the
24 prospective fixed odds wagering account holder and a statement
25 that a false statement made in regard to an application may subject
26 the applicant to prosecution. The fixed odds wagering licensee
27 shall verify the identification, residence, and age of the fixed odds
28 wagering account holder using methods and technologies approved
29 by the division.

30 d. The prospective fixed odds wagering account holder shall
31 submit the completed application in person, by mail, telephone, or
32 other electronic media, including the Internet and wireless devices,
33 to the fixed odds wagering licensee or such other person or entity as
34 may be approved by the division. The fixed odds wagering licensee
35 may accept or reject an application after receipt and review of the
36 application and certification, or other proof, of age and residency
37 for compliance with this act.

38 e. Any prospective fixed odds wagering account holder who
39 provides false or misleading information on the application is
40 subject to rejection of the application or cancellation of the fixed
41 odds wagering account by the fixed odds wagering licensee without
42 notice.

43 f. The fixed odds wagering licensee shall have the right to
44 suspend or close any fixed odds wagering account at its discretion.

45 g. Any person not in good standing with the division shall not
46 be entitled to maintain a fixed odds wagering account.

47 h. The address provided by the applicant in the application
48 shall be deemed the proper address for the purposes of mailing

1 checks, fixed odds wagering account withdrawals, notices, and
2 other materials.

3 i. A fixed odds wagering account shall not be assignable or
4 otherwise transferable.

5 j. The fixed odds wagering licensee may at any time declare
6 the fixed odds wagering system closed for receiving any wagers on
7 any race or closed for all fixed odds wagering.

8

9 9. (New section) a. Credits to a fixed odds wagering account
10 shall be made as follows:

11 (1) The fixed odds wagering account holder's deposits to the
12 fixed odds wagering account shall be submitted by the fixed odds
13 wagering account holder to the fixed odds wagering licensee and
14 shall be in the form of one of the following:

15 (a) cash given to the fixed odds wagering licensee;

16 (b) check, money order, negotiable order of withdrawal, or wire
17 or electronic transfer, payable and remitted to the fixed odds
18 wagering licensee; or

19 (c) charges made to a fixed odds wagering account holder's
20 debit or credit card upon the fixed odds wagering account holder's
21 direct and personal instruction, which instruction may be given by
22 telephone communication or other electronic means to the fixed
23 odds wagering licensee or its agent by the fixed odds wagering
24 account holder if the use of the card has been approved by the fixed
25 odds wagering licensee.

26 (2) Credit for winnings from wagers placed with funds in a fixed
27 odds wagering account shall be posted to the fixed odds wagering
28 account by the fixed odds wagering licensee.

29 (3) The fixed odds wagering licensee shall have the right to
30 refuse for any reason all or part of any fixed odds wager or deposit
31 to the fixed odds wagering account.

32 (4) Funds deposited in the fixed odds wagering account shall not
33 bear interest to the fixed odds wagering account holder.

34 b. Debits to a fixed odds wagering account shall be made as
35 follows:

36 (1) Upon receipt by the fixed odds wagering licensee of a fixed
37 odds wager properly placed pursuant to section 10 of this act,
38 P.L. , c. (C.)(pending before the Legislature as this bill), the
39 fixed odds wagering licensee shall determine whether there are
40 sufficient funds in the fixed odds wagering account holder's fixed
41 odds wagering account to cover the total liability resulting from the
42 fixed odds wager, taking into consideration other fixed odds wagers
43 made by the fixed odds wagering account holder in the same
44 market, and any additional applicable transaction or other fees due
45 to the fixed odds wagering licensee under the division's rules and
46 regulations, and deduct such amounts from the fixed odds wagering
47 account holder's fixed odds wagering account.

1 (2) The fixed odds wagering licensee may authorize a
2 withdrawal from a fixed odds wagering account when the fixed
3 odds wagering account holder submits to the fixed odds wagering
4 licensee, the fixed odds wagering licensee's agent, or such other
5 entity as may be approved by the division, his or her fixed odds
6 wagering account number and proper means of identification
7 pursuant to procedures approved by the division. Fixed odds
8 wagering account holders may request a withdrawal in person, by
9 mail, by telephone, or by other electronic means. If there are
10 sufficient funds in the fixed odds wagering account to cover the
11 withdrawal, after taking into consideration any existing fixed odds
12 wagers made by the fixed odds wagering account holder, the fixed
13 odds wagering licensee shall make payment within three business
14 days of receipt of the fixed odds wagering account holder's
15 withdrawal request. Notwithstanding the foregoing, the fixed odds
16 wagering licensee may decline or delay fulfilling a withdrawal
17 request if the fixed odds wagering licensee reasonably suspects: (a)
18 fraud; (b) that the fixed odds wagering account holder was
19 ineligible to make one or more of the fixed odds wagers made from
20 the fixed odds wagering account; or (c) any other conditions which
21 the division may prescribe or approve. At the discretion of the
22 fixed odds wagering licensee, withdrawals may be payable in cash,
23 by a check sent to the fixed odds wagering account holder's verified
24 residence address, by wire transfer, or by other electronic transfer.
25 Withdrawals shall be made payable only to the holder of the fixed
26 odds wagering account and in no more than the amount of the
27 requested withdrawal.

28

29 10. (New section) a. The fixed odds wagering licensee may
30 accept fixed odds wagers from anyone physically present in New
31 Jersey who holds a valid account with a fixed odds wagering
32 licensee or residents of New Jersey who hold a valid account and
33 who are physically present in another jurisdiction where placing
34 such a wager is not inconsistent with the law of that jurisdiction or
35 with federal law, only in accordance with this act, federal law, and
36 as follows:

37 (1) A wager to back or lay a particular outcome in a given
38 market, specifying the price of the wager, shall be placed directly
39 with the fixed odds wagering licensee by the holder of the fixed
40 odds wagering account.

41 (2) The fixed odds wagering account holder placing the wager
42 shall provide the fixed odds wagering licensee with the correct
43 personal identification number of the holder of the fixed odds
44 wagering account.

45 (3) A fixed odds wagering licensee may not accept a fixed odds
46 wager, or series of fixed odds wagers, when the results of which
47 would create a liability for the fixed odds wagering account holder

1 in excess of funds on deposit in the fixed odds wagering account of
2 that holder.

3 (4) Only the holder of a fixed odds wagering account shall place
4 a wager. Unless otherwise approved by the division, no person,
5 corporation, or other entity shall directly or indirectly act as an
6 intermediary, transmitter, or agent in the placing of wagers for a
7 holder of an fixed odds wagering account; provided, however, that
8 the use of credit or debit cards specifically approved by the fixed
9 odds wagering licensee or the use of checks, money orders, or
10 negotiable orders of withdrawal or the use of telephonic, computer,
11 or electronic means by the fixed odds wagering account holder to
12 place such wagers shall not be prohibited.

13 (5) The fixed odds wagering account holder may place a wager
14 in person, by direct telephone call or by communication through
15 other electronic media.

16 b. A fixed odds wager may also be placed at a racetrack or off-
17 track wagering facility in person without opening a fixed odds
18 wagering account through a teller who shall issue a tote ticket for
19 the wager which may then be cashed by the teller.

20

21 11. (New section) Subject to the approval of the division, the
22 fixed odds wagering licensee shall be permitted to collect fixed
23 odds revenues in the manner and amounts determined by the fixed
24 odds wagering licensee, including but not limited to assessing a
25 surcharge on any person's net winnings.

26

27 12. (New section) Notwithstanding any other law, rule, or
28 regulation to the contrary, the division shall require each fixed odds
29 wagering licensee to:

30 a. pay such portions of the fixed odds wagering licensee's fixed
31 odds revenues as may be required pursuant to section 4 of this act,
32 P.L. , c. (C.)(pending before the Legislature as this bill);

33 b. pay to overnight purses to standardbred and thoroughbred
34 permit holders for wagering on races for the permit holder's
35 respective breed in this State 50 percent of fixed odds revenues
36 retained by the fixed odds wagering licensee after the payments
37 required pursuant to subsection a. of this section are made, and after
38 deducting all reasonable and necessary expenses incurred by the
39 licensee in administering, marketing, and operating the fixed odds
40 wagering system; and

41 c. reach a business agreement with all standardbred and
42 thoroughbred permit holders within this State as it pertains to
43 wagering on the permit holder's respective breed, within one year
44 from the date when the fixed odds wagering system becomes
45 operational, for the distribution of the net fixed odds wagering
46 revenues remaining after the payments are made pursuant to
47 subsections a. and b. of this section and after the payment of
48 operating expenses, subject to approval by the division; provided

1 that, if an agreement is not reached within that time frame, the
2 division shall distribute the fixed odds wagering revenues among
3 the fixed odds wagering licensees and the standardbred and
4 thoroughbred permit holders in this State based on wagering on the
5 permit holder's respective breed.

6
7 13. (New section) Of the monies distributed to overnight purses
8 pursuant to subsection b. of section 12 of this act, P.L. ,
9 c. (C.)(pending before the Legislature as this bill), all moneys
10 derived from fixed odds wagering on thoroughbred races shall be
11 paid to overnight purses for thoroughbred races and all monies
12 derived from fixed odds wagering on standardbred races shall be
13 paid to overnight purses for standardbred races. The formula for
14 allocating overnight purse monies from fixed odds wagering to
15 overnight purses set forth in this section may only be modified by
16 the mutual agreement of the Standardbred Breeders and Owners
17 Association of New Jersey and the New Jersey Thoroughbred
18 Horsemen's Association. Nothing contained in this section shall be
19 construed as a precedent for establishing the division of overnight
20 purse amounts between standardbred races and thoroughbred races.

21 Notwithstanding the foregoing, the sum derived from fixed odds
22 wagering on standardbred races pursuant to subsection b. of section
23 12 of P.L. , c. (C.)(pending before the Legislature as this bill)
24 may be distributed as provided by a contractual agreement
25 authorized under section 11 of P.L.2013, c.266 (C.5:5-188).
26 Notwithstanding the foregoing, the sum derived from fixed odds
27 wagering on thoroughbred races pursuant to subsection b. of section
28 12 of P.L. , c. (C.)(pending before the Legislature as this
29 bill) may be distributed as provided by a contractual agreement
30 authorized under section 12 of P.L.2013, c.266 (C.5:5-189).

31
32 14. (New section) All amounts remaining in fixed odds
33 wagering accounts inactive or dormant for such period and under
34 such conditions as established by regulation shall be distributed in
35 accordance with the division's rules and regulations.

36
37 15. (New section) All persons engaged in conducting wagering-
38 related activities through the fixed odds wagering system, whether
39 employed directly by the fixed odds wagering licensee or by a
40 person or entity conducting or operating the system pursuant to a
41 contract or agreement with the fixed odds wagering licensee, shall
42 be licensed or registered in accordance with such regulations as
43 may be promulgated by the division hereunder. All other
44 employees of the system shall be licensed or registered in
45 accordance with regulations of the division. The division shall have
46 full power to prescribe rules, regulations, and conditions under
47 which all such licenses are issued, or registrations made, in this
48 State and to revoke or refuse to issue a license, or revoke or refuse

1 to accept a registration, if in the opinion of the division the
2 revocation or refusal is in the public interest, provided, however,
3 that such rules, regulations, and conditions shall be uniform in their
4 application, and further provided that no fee shall be in excess of
5 \$50 for each license so granted or registration accepted.

6
7 16. (New section) The provisions of this act shall be deemed to
8 be severable, and if any phrase, clause, sentence, or provision of
9 this act is declared to be unconstitutional or the applicability thereof
10 to any person is held invalid, the remainder of this act shall not
11 thereby be deemed to be unconstitutional or invalid.

12
13 17. (New section) The division shall promulgate rules and
14 regulations pursuant to the "Administrative Procedure Act,"
15 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
16 this act, P.L. , c. (pending before the Legislature as this bill).

17
18 18. Section 1 of P.L.2002, c.89 (C.5:5-65.1) is amended to read
19 as follows:

20 1. a. The commission shall provide by regulation for the
21 establishment of a list of persons who voluntarily seek to be
22 excluded from entry into permitted racetracks and licensed off-track
23 wagering facilities located in this State and from opening or
24 maintaining a wagering account with the account wagering system
25 **[or]** , with the exchange wagering system, or with the fixed odds
26 wagering system established in this State. A person may request
27 placement on the self-exclusion list by acknowledging in a manner
28 to be established by the commission that the person is a problem
29 gambler and by agreeing that, during a period of voluntary
30 exclusion, the person may not collect winnings or recover losses
31 resulting from wagering at a racetrack or off-track wagering facility
32 or from account wagering **[or]** , exchange wagering, or fixed odds
33 wagering.

34 b. The commission shall promulgate regulations to: (1)
35 establish procedures for placements on, and removals from, the list
36 of self-excluded persons; (2) establish procedures for the transmittal
37 to the permitted racetracks, licensed off-track wagering facilities,
38 the account wagering system, **[and]** the exchange wagering
39 licensee, and the fixed odds wagering licensee of identifying
40 information concerning persons on the self-exclusion list; and (3)
41 require permitted racetracks, licensed off-track wagering facilities,
42 the account wagering system, **[and]** the exchange wagering
43 licensee, and the fixed odds wagering licensee to establish
44 procedures designed, at a minimum, to remove persons on the self-
45 exclusion list from targeted mailings or other forms of advertising
46 or promotions and deny such persons access to credit,
47 complimentaries, check cashing privileges, club programs, and
48 other similar benefits.

1 c. The commission, a permitted racetrack, a licensed off-track
2 wagering facility, the account wagering system, the exchange
3 wagering licensee, the fixed odds wagering licensee, or an
4 employee thereof shall not be liable to a person on the self-
5 exclusion list or to another party in a judicial proceeding for harm,
6 monetary or otherwise, which may arise as a result of:

7 (1) the failure of a permitted racetrack, licensed off-track
8 wagering facility or the account wagering system or the exchange
9 wagering licensee or the fixed odds wagering licensee to withhold
10 wagering privileges from, or restore wagering privileges to, a
11 person on the self-exclusion list; or

12 (2) permitting a person on the self-exclusion list to engage in
13 wagering activity at a permitted racetrack or licensed off-track
14 wagering facility, or through the account wagering system, or
15 through the exchange wagering system, or through the fixed odds
16 wagering system.

17 d. Notwithstanding the provisions of section 8 of P.L.1940,
18 c.17 (C.5:5-28), the commission's self-exclusion list shall be
19 privileged and confidential and shall not be accessible to the public
20 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and
21 supplemented.

22 e. The commission, a permitted racetrack, a licensed off-track
23 wagering facility, the account wagering system, the exchange
24 wagering licensee, the fixed odds wagering licensee, or an
25 employee thereof shall not be liable to a person on the self-
26 exclusion list or to another party in a judicial proceeding for harm,
27 monetary or otherwise, which may arise as a result of disclosure or
28 publication, other than a willfully unlawful disclosure or
29 publication, of the identity of a self-excluded person.

30 (cf: P.L.2011, c.15, s.19)

31

32 19. Section 2 of P.L.2002, c.89 (C.5:5-65.2) is amended to read
33 as follows:

34 2. a. A person on the self-exclusion list established pursuant to
35 section 1 of P.L.2002, c.89 (C.5:5-65.1), shall not collect, in any
36 manner or proceeding, winnings or recover losses arising as a result
37 of wagering activity at a permitted racetrack or licensed off-track
38 wagering facility, or through the account wagering system, **[or]**
39 through the exchange wagering system, or through the fixed odds
40 wagering system.

41 b. Money or a thing of value which has been obtained by, or is
42 owed to, a person on the self-exclusion list from a permitted
43 racetrack, licensed off-track wagering facility or account wagering
44 system **[or]** , exchange wagering system, or fixed odds wagering
45 system as a result of wagers made by that person shall be subject to
46 forfeiture by order of the executive director of the commission,
47 following notice to the person on the self-exclusion list and
48 opportunity to be heard.

1 Money or a thing of value forfeited shall be deposited into the
2 State General Fund for appropriation by the Legislature to the
3 Department of Human Services to provide funds for compulsive
4 gambling treatment and prevention programs in the State.

5 c. In a proceeding brought by the commission against a live
6 racing permit holder, the off-track wagering licensee, the account
7 wagering licensee, **[or]** the exchange wagering licensee, or the
8 fixed odds wagering licensee for a willful violation of the
9 commission's self-exclusion regulations, the commission may order
10 in addition to a permit or license suspension, a fine not to exceed
11 \$5,000 per wagering incident, the forfeiture of money or a thing of
12 value obtained by the permit holder, off-track wagering licensee,
13 account wagering licensee, **[or]** exchange wagering licensee, or
14 fixed odds wagering licensee from a person on the self-exclusion
15 list and other remedial conditions the commission deems
16 appropriate. Money or a thing of value so forfeited shall be
17 disposed of in the same manner as money or a thing of value
18 forfeited pursuant to subsection b. of this section.

19 (cf: P.L.2011, c.15, s.20)

20
21 20. This act shall take effect immediately.

22 23 24 STATEMENT

25
26 This bill authorizes fixed odds wagering on horse races and
27 provides that the New Jersey Division of Gaming Enforcement may
28 issue a license to the New Jersey Sports and Exposition Authority to
29 establish a system. Under the bill, fixed odds wagering may be
30 conducted through a fixed odds wagering system by fixed odds
31 wagering account holders.

32 Under the bill, "fixed odds wagering" is defined as a form of
33 horse racing wagering against odds offered by a bookmaker in
34 which account holders may lock in their odds when the bet is first
35 placed and no fluctuation in potential payout may occur. Once the
36 outcome of the race or races is determined, funds would be
37 transferred from the fixed odds wagering licensee to the bettor or
38 bettors that won wagers, and applicable transaction or other fees
39 would be levied by the fixed odds wagering licensee for use and
40 distribution as provided by the division's rules and regulations.

41 The bill authorizes the division to consider an application by the
42 authority to establish the system. The division is to issue the
43 license if it determines that the authority has demonstrated, by clear
44 and convincing evidence, that wagers placed through the proposed
45 system will be accurately processed, and that the fixed odds
46 wagering system would contain sufficient safeguards to maintain
47 the integrity of the horse racing industry in this State. The issuance
48 of the license is subject to the approval of the New Jersey Attorney

1 General. The bill further provides that the authority may enter into
2 a contract or agreement with a person or entity to conduct or
3 operate the system, and may transfer the license to a successor in
4 interest upon approval of the division and the Attorney General.

5 The bill also prescribes certain conditions for the establishment
6 of the system, including, but not limited to, the requirement for: (a)
7 a fixed odds wagering account holder to be at least 18 years of age,
8 and physically present in this State; (b) necessary documentation to
9 be submitted by an applicant for a fixed odds wagering account in
10 order to open the fixed odds wagering account and place wagers
11 through the fixed odds wagering system; (c) the types of credits and
12 debits that may be made to a fixed odds wagering account by the
13 authority and the fixed odds wagering account holder; and (d) the
14 manner in which wagers may be placed, in person, by direct
15 telephone call, or by communication through other electronic
16 media.

17 The bill further provides that the division would promulgate the
18 necessary rules and regulations with respect to fixed odds wagering,
19 including, but not limited to, the manner in which fixed odds
20 wagers may be accepted; the requirements for any person to
21 participate in fixed odds wagering; conditions under which the fixed
22 odds wagering license is issued or renewed in this State;
23 performance of an annual audit of the fixed odds wagering
24 licensee's books and records pertaining to fixed odds wagering; and
25 the licensing of employees engaged in conducting wagering related
26 activities. The division will have 90 days from the effective date of
27 the bill to promulgate the rules and regulations.

ASSEMBLY TOURISM, GAMING AND THE ARTS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4909

STATE OF NEW JERSEY

DATED: MAY 18, 2021

The Assembly Tourism, Gaming and the Arts Committee reports favorably Assembly Bill No. 4909.

This bill authorizes fixed odds wagering on horse races and provides that the New Jersey Division of Gaming Enforcement may issue a license to the New Jersey Sports and Exposition Authority to establish a system. Under the bill, fixed odds wagering may be conducted through a fixed odds wagering system by fixed odds wagering account holders.

Under the bill, “fixed odds wagering” is defined as a form of horse racing wagering against odds offered by a bookmaker in which account holders may lock in their odds when the bet is first placed and no fluctuation in potential payout may occur. Once the outcome of the race or races is determined, funds would be transferred from the fixed odds wagering licensee to the bettor or bettors that won wagers, and applicable transaction or other fees would be levied by the fixed odds wagering licensee for use and distribution as provided by the division’s rules and regulations.

The bill authorizes the division to consider an application by the authority to establish the system. The division is to issue the license if it determines that the authority has demonstrated, by clear and convincing evidence, that wagers placed through the proposed system will be accurately processed, and that the fixed odds wagering system would contain sufficient safeguards to maintain the integrity of the horse racing industry in this State. The issuance of the license is subject to the approval of the New Jersey Attorney General. The bill further provides that the authority may enter into a contract or agreement with a person or entity to conduct or operate the system, and may transfer the license to a successor in interest upon approval of the division and the Attorney General.

The bill also prescribes certain conditions for the establishment of the system, including, but not limited to, the requirement for: (a) a fixed odds wagering account holder to be at least 18 years of age, and physically present in this State; (b) necessary documentation to be submitted by an applicant for a fixed odds wagering account in order to open the fixed odds wagering account and place wagers through the fixed odds wagering system; (c) the types of credits and

debits that may be made to a fixed odds wagering account by the authority and the fixed odds wagering account holder; and (d) the manner in which wagers may be placed, in person, by direct telephone call, or by communication through other electronic media.

The bill further provides that the division would promulgate the necessary rules and regulations with respect to fixed odds wagering, including, but not limited to, the manner in which fixed odds wagers may be accepted; the requirements for any person to participate in fixed odds wagering; conditions under which the fixed odds wagering license is issued or renewed in this State; performance of an annual audit of the fixed odds wagering licensee's books and records pertaining to fixed odds wagering; and the licensing of employees engaged in conducting wagering related activities. The division will have 90 days from the effective date of the bill to promulgate the rules and regulations.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4909

STATE OF NEW JERSEY

DATED: MAY 18, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 4909.

This bill authorizes fixed odds wagering on horse races and provides that the New Jersey Division of Gaming Enforcement may issue a license to the New Jersey Sports and Exposition Authority to establish a system. Under the bill, fixed odds wagering may be conducted through a fixed odds wagering system by fixed odds wagering account holders.

Under the bill, “fixed odds wagering” is defined as a form of horse racing wagering against odds offered by a bookmaker in which account holders may lock in their odds when the bet is first placed and no fluctuation in potential payout may occur. Once the outcome of the race or races is determined, funds would be transferred from the fixed odds wagering licensee to the bettor or bettors that won wagers, and applicable transaction or other fees would be levied by the fixed odds wagering licensee for use and distribution as provided by the division’s rules and regulations.

The bill authorizes the division to consider an application by the authority to establish the system. The division is to issue the license if it determines that the authority has demonstrated, by clear and convincing evidence, that wagers placed through the proposed system will be accurately processed, and that the fixed odds wagering system would contain sufficient safeguards to maintain the integrity of the horse racing industry in this State. The issuance of the license is subject to the approval of the New Jersey Attorney General. The bill further provides that the authority may enter into a contract or agreement with a person or entity to conduct or operate the system, and may transfer the license to a successor in interest upon approval of the division and the Attorney General.

The bill also prescribes certain conditions for the establishment of the system, including, but not limited to, the requirement for: (a) a fixed odds wagering account holder to be at least 18 years of age, and physically present in this State; (b) necessary documentation to be submitted by an applicant for a fixed odds wagering account in order to open the fixed odds wagering account and place wagers through the fixed odds wagering system; (c) the types of credits and debits that may be made to a fixed odds wagering account by the authority and the fixed odds wagering account holder; and (d) the

manner in which wagers may be placed, in person, by direct telephone call, or by communication through other electronic media.

The bill further provides that the division would promulgate the necessary rules and regulations with respect to fixed odds wagering, including, but not limited to, the manner in which fixed odds wagers may be accepted; the requirements for any person to participate in fixed odds wagering; conditions under which the fixed odds wagering license is issued or renewed in this State; performance of an annual audit of the fixed odds wagering licensee's books and records pertaining to fixed odds wagering; and the licensing of employees engaged in conducting wagering related activities. The division will have 90 days from the effective date of the bill to promulgate the rules and regulations.

FISCAL IMPACT:

The Office of Legislative Services anticipates that the bill will increase annual State administrative expenditures by an indeterminate amount ascribable to the oversight and regulation of fixed odds wagering, including the licensing of operators and employees of fixed odds wagering systems. Furthermore, annual State revenue will rise by an indeterminate amount from application fees collected for one-year licenses for operators and employees of fixed odds wagering systems and the distribution of gamblers' dormant fixed odds wagering account balances as well as expired tickets. Depending on circumstances, the State share of dormant account and expired ticket distributions may be credited to the General Fund or the off-budget New Jersey Racing Industry Special Fund.

STATEMENT TO
ASSEMBLY, No. 4909

with Senate Floor Amendments
(Proposed by Senator GOPAL)

ADOPTED: JUNE 21, 2021

These Senate amendments:

define “advance deposit wagering” and “internet sports pool operator;”

clarify that of the monies distributed to overnight purses on in-State races at the respective racetracks, all monies derived from fixed odds wagering on thoroughbred races will be paid to overnight purses for thoroughbred races and all monies derived from fixed odds wagering on standardbred races will be paid to overnight purses for standardbred races; and

clarify that of the monies distributed to overnight purses on out-of-State and international races:

(1) all monies derived from fixed odds wagering at Monmouth Racetrack, including at off-track wagering facilities operated by Monmouth Racetrack and in regards to advance deposit wagering, on thoroughbred races will be paid to overnight purses for thoroughbred races and all monies derived from fixed odds wagering on standardbred races will be paid to overnight purses for standardbred races;

(2) all monies derived from fixed odds wagering at Meadowlands Racetrack and Freehold Raceway, including at off-track wagering facilities operated by Meadowlands Racetrack and Freehold Raceway and in regards to advance deposit wagering, on thoroughbred races and standardbred races will be paid to overnight purses, in the following manner: 65 percent will be paid to overnight purses for thoroughbred races and 35 percent will be paid to overnight purses for standardbred races; and

(3) all monies derived from fixed odds wagering by any internet sports pool operator or casino operator on thoroughbred races will be paid to overnight purses for thoroughbred races and all monies derived from fixed odds wagering by any internet sports pool operator or casino operator on standardbred races will be paid to overnight purses for standardbred races.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4909
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: MAY 24, 2021

SUMMARY

- Synopsis:** Authorizes fixed odds wagering on horse races through fixed odds wagering system.
- Type of Impact:** State expenditure and revenue increases.
- Agencies Affected:** Division of Gaming Enforcement and the New Jersey Racing Commission in the Department of Law and Public Safety; New Jersey Sports and Exposition Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services anticipates that the bill will increase annual State administrative expenditures by an indeterminate amount ascribable to the oversight and regulation of fixed odds wagering, including the licensing of operators and employees of fixed odds wagering systems.
- Furthermore, annual State revenue will rise by an indeterminate amount from application fees collected for one-year licenses for operators and employees of fixed odds wagering systems and the distribution of gamblers' dormant fixed odds wagering account balances as well as expired tickets.
- Depending on circumstances, the State share of dormant account and expired ticket distributions may be credited to the General Fund or the off-budget New Jersey Racing Industry Special Fund.
- The New Jersey Sports and Exposition Authority will incur costs to develop and operate the fixed odds wagering system in accordance with the rules and regulations established by the division or to contract for those services as approved by the division and the Attorney General.

BILL DESCRIPTION

This bill authorizes fixed odds wagering on horse races and provides that the New Jersey Division of Gaming Enforcement may issue a license to the New Jersey Sports and Exposition Authority to establish a system. Under the bill, fixed odds wagering may be conducted through a fixed odds wagering system by fixed odds wagering account holders.

Under the bill, “fixed odds wagering” is defined as a form of horse racing wagering against odds offered by a bookmaker in which account holders may lock in their odds when the bet is first placed and no fluctuation in potential payout may occur. Once the outcome of the race or races is determined, funds would be transferred from the fixed odds wagering licensee to the bettor or bettors that won wagers, and applicable transaction or other fees would be levied by the fixed odds wagering licensee for use and distribution as provided by the division’s rules and regulations.

The bill authorizes the division to consider an application by the authority to establish the system. The division is to issue the license if it determines that the authority has demonstrated, by clear and convincing evidence, that wagers placed through the proposed system will be accurately processed, and that the fixed odds wagering system would contain sufficient safeguards to maintain the integrity of the horse racing industry in this State. The issuance of the license is subject to the approval of the New Jersey Attorney General. The bill further provides that the authority may enter into a contract or agreement with a person or entity to conduct or operate the system, and may transfer the license to a successor in interest upon approval of the division and the Attorney General.

The bill also prescribes certain conditions for the establishment of the system, including, but not limited to, the requirement for: (a) a fixed odds wagering account holder to be at least 18 years of age, and physically present in this State; (b) necessary documentation to be submitted by an applicant for a fixed odds wagering account in order to open the fixed odds wagering account and place wagers through the fixed odds wagering system; (c) the types of credits and debits that may be made to a fixed odds wagering account by the authority and the fixed odds wagering account holder; and (d) the manner in which wagers may be placed, in person, by direct telephone call, or by communication through other electronic media.

The bill further provides that the division would promulgate the necessary rules and regulations with respect to fixed odds wagering, including, but not limited to, the manner in which fixed odds wagers may be accepted; the requirements for any person to participate in fixed odds wagering; conditions under which the fixed odds wagering license is issued or renewed in this State; performance of an annual audit of the fixed odds wagering licensee's books and records pertaining to fixed odds wagering; and the licensing of employees engaged in conducting wagering related activities. The division will have 90 days from the effective date of the bill to promulgate the rules and regulations.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the bill will increase annual State administrative expenditures by an indeterminate amount ascribable to the oversight and regulation of fixed odds wagering, including the

licensing of operators and employees of fixed odds wagering systems. Furthermore, annual State revenue will rise by an indeterminate amount from application fees collected for one-year licenses for operators and employees of fixed odds wagering systems and the distribution of gamblers' dormant fixed odds wagering account balances as well as expired tickets. Depending on circumstances, the State share of dormant account and expired ticket distributions may be credited to the General Fund or the off-budget New Jersey Racing Industry Special Fund. The New Jersey Sports and Exposition Authority will incur costs to develop and operate the fixed odds wagering system in accordance with the rules and regulations established by the division or to contract for those services as approved by the division and the Attorney General

Section: State Government

*Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3090

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 29, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

Senators Oroho and O'Scanlon

SYNOPSIS

Authorizes fixed odds wagering on horse races through fixed odds wagering system.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/9/2020)

1 AN ACT concerning the placement of wagers on horse races, and
2 supplementing chapter 5 of Title 5 of the Revised Statutes and
3 amending P.L.2002, c.89.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) This act shall be known and may be cited as
9 the "Fixed Odds Wagering Act."

10
11 2. (New section) The Legislature finds and declares that:

12 a. The horse racing industry is economically important to this
13 State, and the general welfare of the people of the State will be
14 promoted by the advancement of horse racing and related projects
15 and facilities in the State.

16 b. It is the intent of the Legislature, by authorizing fixed odds
17 wagering, to promote the economic future of the horse racing
18 industry in this State, to foster the potential for increased
19 commerce, employment, and recreational opportunities in this State
20 and to preserve the State's open spaces.

21 c. It is the further intent of the Legislature that fixed odds
22 wagers may be taken in person, by direct telephone call, or by
23 communication through other electronic media from residents of
24 this State on horse races conducted within and outside of this State.

25 d. It is the further intent of the Legislature to permit persons
26 located in New Jersey who are not residents or account holders to
27 wager on fixed odds at racetracks in person or by electronic means.

28 e. The Legislature has determined that the Division of Gaming
29 Enforcement, in consultation with the New Jersey Racing
30 Commission, is best suited to oversee, license, and regulate fixed
31 odds wagering in the State.

32
33 3. (New section) As used in this act:

34 "Authority" means the New Jersey Sports and Exposition
35 Authority created by section 4 of P.L.1971, c.137 (C.5:10-4).

36 "Division" means the New Jersey Division of Gaming
37 Enforcement in the New Jersey Department of Law and Public
38 Safety created by section 55 of P.L.1977, c.110 (C.5:12-55).

39 "Fixed odds wagering" means a form of horse racing wagering
40 against odds offered by a bookmaker in which account holders may
41 lock in their odds when the bet is first placed and no fluctuation in
42 potential payout may occur.

43 "Fixed odds wagering account" means the account established
44 with the fixed odds wagering licensee by a person participating in
45 fixed odds wagering.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Fixed odds wagering licensee" means the authority, provided
2 that the division has granted its approval for the authority or a
3 racetrack permit holder to establish fixed odds wagering as
4 provided for in this act, P.L. , c. (pending before the Legislature
5 as this bill).

6 "Fixed odds wagering system" means a system through which
7 fixed odds wagers are processed.

8 "Operating board" means the board established to negotiate,
9 manage, and oversee any agreements made for the purposes of
10 operating an account wagering system, off-track wagering facility,
11 exchange wagering system, or fixed odds wagering system.

12 "Participation agreement" means the written contract entered into
13 pursuant to this act, P.L. , c. (pending before the Legislature as
14 this bill), that shall set forth the manner in which the fixed odds
15 wagering system shall be managed, operated, and capitalized, as
16 well as how expenses and revenues shall be allocated and
17 distributed by and among the authority and the other eligible
18 participants subject to the agreement, including standardbred and
19 thoroughbred permit holders in this State.

20 "Permit holder" means the holder of an annual permit to conduct
21 a horse race meeting issued by the commission.
22

23 4. (New section) Notwithstanding any law, rule, or regulation
24 to the contrary, fixed odds wagering by residents of this State on the
25 results of horse races conducted in this State or jurisdictions outside
26 of this State shall be lawful provided that:

27 a. fixed odds wagering shall only be conducted by the fixed
28 odds wagering licensee pursuant to a valid fixed odds wagering
29 license issued by the division as provided for in this act;

30 b. fixed odds wagering shall be conducted pursuant to and in
31 compliance with the provisions of the Interstate Horse Racing Act
32 of 1978, 15 U.S.C. ss.3001 - 3007, as amended, this act, any related
33 intrastate contracts, and rules and regulations promulgated by the
34 division pursuant to this act;

35 c. in addition to the provisions of the Interstate Horse Racing
36 Act of 1978, 15 U.S.C. ss.3001 – 3007, fixed odds wagering
37 conducted on in-State races shall require a written agreement with
38 the Standardbred Breeders and Owners Association of New Jersey
39 and the New Jersey Thoroughbred Horsemen's Association for such
40 wagering on the associations' respective breeds;

41 d. the division has approved a contract or agreement, if any,
42 with a person or entity to conduct or operate fixed odds wagering
43 and to act as the agent for the authority or racetrack permit holder in
44 all fixed odds wagering matters approved by the division, pursuant
45 to section 5 of this act, P.L. , c. (C.)(pending before the
46 Legislature as this bill), including but not limited to the portion of
47 fixed odds revenues payable to such person or entity conducting or
48 operating fixed odds wagering;

1 e. fixed odds wagers are submitted to and accepted by the fixed
2 odds wagering licensee in person, by direct telephone call, or by
3 communication through other electronic media, as appropriate; and

4 f. fixed odds wagers are placed through the fixed odds
5 wagering system authorized in accordance with the provisions of
6 this act, P.L. , c. (C.)(pending before the Legislature as this
7 bill), and in accordance with division rules, regulations, and
8 conditions established therefor.

9
10 5. (New section) a. The division is hereby authorized to issue
11 a license to the authority, or to the racetrack permit holder, to
12 establish fixed odds wagering in accordance with the provisions of
13 this act, P.L. , c. (C.)(pending before the Legislature as this
14 bill). The licensing process shall include the filing by the authority
15 of a fixed odds wagering license application developed by the
16 division. The division may issue more than one license to the
17 authority for the purpose of establishing additional fixed odds
18 wagering systems. The division may issue an individual license to
19 a racetrack permit holder if the authority and racetrack permit
20 holder have mutually agreed to a transfer of licensing, pursuant to
21 the provisions of section 6 of P.L. , c. (C.)(pending before the
22 Legislature as this bill). Each new wagering system shall require a
23 license. All provisions of law concerning such license and the fixed
24 odds wagering system shall apply to each license and each system
25 established. Any reference in law to the license, the assignee, or the
26 fixed odds wagering system shall refer to all licenses, assignees,
27 and systems. A license issued pursuant to this act shall be valid for
28 a term of one year.

29 Any participation agreement shall include an agreement by the
30 operator to pay a proportional share of the available net project
31 revenues determined by the operating board to the standardbred or
32 thoroughbred permit holder, as the case may be, and a re-
33 negotiation mechanism to adjust a proportional share following the
34 addition or removal of an operator.

35 b. At the time of filing an application for licensure under this
36 section, the authority shall submit to the division a nonrefundable
37 filing fee in an amount established by regulation by the division,
38 and a certification in a form prescribed by the division which
39 specifies, but is not limited to, information about the operation of
40 the system and the authority's participation therein.

41 c. Within 14 days of receipt of a completed application,
42 certification and applicable fees, the division's director shall
43 determine whether the same is in due form and meets the
44 requirements of law and regulations in all respects. No later than 60
45 days following the receipt of the application, the division shall
46 make a final determination on the application. The division shall
47 approve the application if it determines that the authority has
48 demonstrated by clear and convincing evidence that wagers placed

1 through the proposed fixed odds wagering system will be accurately
2 processed and that there will be sufficient safeguards to maintain
3 the integrity of the horse racing industry in this State.

4 d. The division's determination shall be submitted to the
5 Attorney General for review and approval. The determination of the
6 division shall be deemed approved by the Attorney General if
7 affirmatively approved or not disapproved by the Attorney General
8 within 14 days of the date of submission. The decision of the
9 Attorney General shall be deemed a final decision. Upon approval
10 by the Attorney General, the division shall issue to the authority a
11 license to establish the system. The fixed odds wagering license
12 shall be valid for a term of one year, and shall be subject to renewal
13 annually, unless a different timeframe is otherwise prescribed by
14 regulation of the division.

15 e. With the approval of the division, the authority or racetrack
16 permit holder may enter into a contract or agreement with a person
17 or entity to conduct or operate the system and to act as the agent of
18 the authority in all fixed odds wagering matters approved by the
19 division. The fixed odds wagering license may not be transferred or
20 assigned to a successor in interest without the approval of the
21 division and the Attorney General, which approval may not be
22 unreasonably withheld.

23

24 6. (New section) The authority may transfer the operation and
25 control of a fixed odds wagering operation to an individual
26 racetrack permit holder if both the authority and racetrack permit
27 holder mutually agree to such transfer. The division and the
28 Attorney General shall approve the transfer following the written
29 agreement of the authority and racetrack permit holder. The
30 division and the Attorney General shall review the agreement and
31 determine if the racetrack permit holder has the appropriate
32 apparatus to operate as a licensee of a fixed odds wagering system.
33 If the transfer is not approved by the division and the Attorney
34 General, the authority shall remain the fixed odds wagering
35 licensee. Any agreement between the authority and a racetrack
36 permit holder that does not receive approval from the division and
37 Attorney General for a transfer may not be re-submitted for review
38 until one year following the prior determination by the division and
39 the Attorney General.

40

41 7. (New section) a. The division, in consultation with the New
42 Jersey Racing Commission, shall have full power to prescribe rules,
43 regulations, and conditions under which fixed odds wagering may
44 be conducted in this State, consistent with this act, including the
45 manner in which fixed odds wagers may be accepted, the
46 requirements for any person to participate in fixed odds wagering,
47 and the reasonable approval of any and all agreements made

1 pursuant to subsection c. of section 4 of this act, P.L. , c.
2 (C.)(pending before the Legislature as this bill).

3 b. The division shall have full power to prescribe rules,
4 regulations, and conditions under which the fixed odds wagering
5 license is issued or renewed in this State, including requiring an
6 annual audit of a fixed odds wagering licensee's books and records
7 pertaining to fixed odds wagering, requiring all hub facilities,
8 servers, and technicians related to a fixed odds wagering operation
9 by a licensee in this State be located in this State, and to revoke,
10 suspend, or refuse to renew the license if in the opinion of the
11 division the revocation of, suspension of, or refusal to renew such
12 license is in the public interest; provided, however, that such rules,
13 regulations, and conditions shall be uniform in their application.

14 c. The division shall have no right or power to determine who
15 shall be officers, directors, or employees of any fixed odds
16 wagering licensee, or the salaries thereof; provided, however, that
17 the division may compel the discharge of any official or employee
18 of the fixed odds wagering licensee or the fixed odds wagering
19 system who: (1) fails or refuses for any reason to comply with the
20 rules or regulations of the division; (2) fails or refuses for any
21 reason to comply with any of the provisions of this act; (3) fails to
22 establish by clear and convincing evidence in the opinion of the
23 division good character, honesty, competency, and integrity; or (4)
24 has been convicted of a crime involving fraud, dishonesty, or moral
25 turpitude.

26 d. Notwithstanding the provisions of the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 90
28 days of the effective date of P.L. , c. (pending before the
29 Legislature as this bill), the director of the division shall adopt,
30 immediately upon filing proper notice with the Office of
31 Administrative Law, such temporary rules and regulations
32 necessary to effectuate the purposes of this act. The rules and
33 regulations so adopted shall be effective for a period not to exceed
34 18 months from the date of the filing. The rules and regulations
35 shall thereafter be amended, adopted, or readopted by the director in
36 accordance with the requirements of the "Administrative Procedure
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

38

39 8. (New section) a. A person within this State shall not be
40 permitted to open a fixed odds wagering account, or place a fixed
41 odds wager through the fixed odds wagering system, except in
42 accordance with federal law and this act, and through the fixed odds
43 wagering licensee, and no entity, other than the fixed odds wagering
44 licensee, shall accept a fixed odds wager from a person within this
45 State. A person may not place a fixed odds wager unless the person
46 has established a fixed odds wagering account with the fixed odds
47 wagering licensee and is physically present in New Jersey at the
48 time of placing the account wager, except that persons physically

1 present at a racetrack or off-track wagering facility may place a
2 wager through a teller at a window without opening a fixed odds
3 wagering account. To establish a fixed odds wagering account, a
4 person shall be physically present in New Jersey at the time of
5 establishing the wagering account, at least 18 years of age, except
6 that any person on the self-exclusion list established pursuant to
7 section 1 of P.L.2002, c.89 (C.5:5-65.1) shall be prohibited from
8 establishing a fixed odds wagering account. A resident of this State
9 who has established an account with a fixed odds wagering licensee
10 may place a fixed odds wager through the licensee while physically
11 present in New Jersey, or while physically present in another
12 jurisdiction if placing such a wager is not inconsistent with the law
13 of that jurisdiction or with federal law. The division shall develop
14 protocols to accurately determine a person's location within the
15 State to effectuate the provisions of this subsection.

16 b. The fixed odds wagering account shall be in the name of a
17 natural person and may not be in the name of any beneficiary,
18 custodian, joint trust, corporation, partnership, or other organization
19 or entity.

20 c. A fixed odds wagering account may be established in
21 person, by mail, telephone, or other electronic media, by a person
22 completing an application form approved by the division. The form
23 shall include the address of the principal residence of the
24 prospective fixed odds wagering account holder and a statement
25 that a false statement made in regard to an application may subject
26 the applicant to prosecution. The fixed odds wagering licensee
27 shall verify the identification, residence, and age of the fixed odds
28 wagering account holder using methods and technologies approved
29 by the division.

30 d. The prospective fixed odds wagering account holder shall
31 submit the completed application in person, by mail, telephone, or
32 other electronic media, including the Internet and wireless devices,
33 to the fixed odds wagering licensee or such other person or entity as
34 may be approved by the division. The fixed odds wagering licensee
35 may accept or reject an application after receipt and review of the
36 application and certification, or other proof, of age and residency
37 for compliance with this act.

38 e. Any prospective fixed odds wagering account holder who
39 provides false or misleading information on the application is
40 subject to rejection of the application or cancellation of the fixed
41 odds wagering account by the fixed odds wagering licensee without
42 notice.

43 f. The fixed odds wagering licensee shall have the right to
44 suspend or close any fixed odds wagering account at its discretion.

45 g. Any person not in good standing with the division shall not
46 be entitled to maintain a fixed odds wagering account.

47 h. The address provided by the applicant in the application
48 shall be deemed the proper address for the purposes of mailing

1 checks, fixed odds wagering account withdrawals, notices, and
2 other materials.

3 i. A fixed odds wagering account shall not be assignable or
4 otherwise transferable.

5 j. The fixed odds wagering licensee may at any time declare
6 the fixed odds wagering system closed for receiving any wagers on
7 any race or closed for all fixed odds wagering.

8

9 9. (New section) a. Credits to a fixed odds wagering account
10 shall be made as follows:

11 (1) The fixed odds wagering account holder's deposits to the
12 fixed odds wagering account shall be submitted by the fixed odds
13 wagering account holder to the fixed odds wagering licensee and
14 shall be in the form of one of the following:

15 (a) cash given to the fixed odds wagering licensee;

16 (b) check, money order, negotiable order of withdrawal, or wire
17 or electronic transfer, payable and remitted to the fixed odds
18 wagering licensee; or

19 (c) charges made to a fixed odds wagering account holder's
20 debit or credit card upon the fixed odds wagering account holder's
21 direct and personal instruction, which instruction may be given by
22 telephone communication or other electronic means to the fixed
23 odds wagering licensee or its agent by the fixed odds wagering
24 account holder if the use of the card has been approved by the fixed
25 odds wagering licensee.

26 (2) Credit for winnings from wagers placed with funds in a fixed
27 odds wagering account shall be posted to the fixed odds wagering
28 account by the fixed odds wagering licensee.

29 (3) The fixed odds wagering licensee shall have the right to
30 refuse for any reason all or part of any fixed odds wager or deposit
31 to the fixed odds wagering account.

32 (4) Funds deposited in the fixed odds wagering account shall not
33 bear interest to the fixed odds wagering account holder.

34 b. Debits to a fixed odds wagering account shall be made as
35 follows:

36 (1) Upon receipt by the fixed odds wagering licensee of a fixed
37 odds wager properly placed pursuant to section 10 of this act,
38 P.L. , c. (C.)(pending before the Legislature as this bill), the
39 fixed odds wagering licensee shall determine whether there are
40 sufficient funds in the fixed odds wagering account holder's fixed
41 odds wagering account to cover the total liability resulting from the
42 fixed odds wager, taking into consideration other fixed odds wagers
43 made by the fixed odds wagering account holder in the same
44 market, and any additional applicable transaction or other fees due
45 to the fixed odds wagering licensee under the division's rules and
46 regulations, and deduct such amounts from the fixed odds wagering
47 account holder's fixed odds wagering account.

1 (2) The fixed odds wagering licensee may authorize a
2 withdrawal from a fixed odds wagering account when the fixed
3 odds wagering account holder submits to the fixed odds wagering
4 licensee, the fixed odds wagering licensee's agent, or such other
5 entity as may be approved by the division, his or her fixed odds
6 wagering account number and proper means of identification
7 pursuant to procedures approved by the division. Fixed odds
8 wagering account holders may request a withdrawal in person, by
9 mail, by telephone, or by other electronic means. If there are
10 sufficient funds in the fixed odds wagering account to cover the
11 withdrawal, after taking into consideration any existing fixed odds
12 wagers made by the fixed odds wagering account holder, the fixed
13 odds wagering licensee shall make payment within three business
14 days of receipt of the fixed odds wagering account holder's
15 withdrawal request. Notwithstanding the foregoing, the fixed odds
16 wagering licensee may decline or delay fulfilling a withdrawal
17 request if the fixed odds wagering licensee reasonably suspects: (a)
18 fraud; (b) that the fixed odds wagering account holder was
19 ineligible to make one or more of the fixed odds wagers made from
20 the fixed odds wagering account; or (c) any other conditions which
21 the division may prescribe or approve. At the discretion of the
22 fixed odds wagering licensee, withdrawals may be payable in cash,
23 by a check sent to the fixed odds wagering account holder's verified
24 residence address, by wire transfer, or by other electronic transfer.
25 Withdrawals shall be made payable only to the holder of the fixed
26 odds wagering account and in no more than the amount of the
27 requested withdrawal.

28

29 10. (New section) a. The fixed odds wagering licensee may
30 accept fixed odds wagers from anyone physically present in New
31 Jersey who holds a valid account with a fixed odds wagering
32 licensee or residents of New Jersey who hold a valid account and
33 who are physically present in another jurisdiction where placing
34 such a wager is not inconsistent with the law of that jurisdiction or
35 with federal law, only in accordance with this act, federal law, and
36 as follows:

37 (1) A wager to back or lay a particular outcome in a given
38 market, specifying the price of the wager, shall be placed directly
39 with the fixed odds wagering licensee by the holder of the fixed
40 odds wagering account.

41 (2) The fixed odds wagering account holder placing the wager
42 shall provide the fixed odds wagering licensee with the correct
43 personal identification number of the holder of the fixed odds
44 wagering account.

45 (3) A fixed odds wagering licensee may not accept a fixed odds
46 wager, or series of fixed odds wagers, when the results of which
47 would create a liability for the fixed odds wagering account holder

1 in excess of funds on deposit in the fixed odds wagering account of
2 that holder.

3 (4) Only the holder of a fixed odds wagering account shall place
4 a wager. Unless otherwise approved by the division, no person,
5 corporation, or other entity shall directly or indirectly act as an
6 intermediary, transmitter, or agent in the placing of wagers for a
7 holder of an fixed odds wagering account; provided, however, that
8 the use of credit or debit cards specifically approved by the fixed
9 odds wagering licensee or the use of checks, money orders, or
10 negotiable orders of withdrawal or the use of telephonic, computer,
11 or electronic means by the fixed odds wagering account holder to
12 place such wagers shall not be prohibited.

13 (5) The fixed odds wagering account holder may place a wager
14 in person, by direct telephone call or by communication through
15 other electronic media.

16 b. A fixed odds wager may also be placed at a racetrack or off-
17 track wagering facility in person without opening a fixed odds
18 wagering account through a teller who shall issue a tote ticket for
19 the wager which may then be cashed by the teller.

20

21 11. (New section) Subject to the approval of the division, the
22 fixed odds wagering licensee shall be permitted to collect fixed
23 odds revenues in the manner and amounts determined by the fixed
24 odds wagering licensee, including but not limited to assessing a
25 surcharge on any person's net winnings.

26

27 12. (New section) Notwithstanding any other law, rule, or
28 regulation to the contrary, the division shall require each fixed odds
29 wagering licensee to:

30 a. pay such portions of the fixed odds wagering licensee's fixed
31 odds revenues as may be required pursuant to subsections b. and c.
32 of section 4 of this act, P.L. , c. (C.)(pending before the
33 Legislature as this bill);

34 b. pay to overnight purses to standardbred and thoroughbred
35 permit holders for wagering on races for the permit holder's
36 respective breed in this State 50 percent of fixed odds revenues
37 retained by the fixed odds wagering licensee after the payments
38 required pursuant to subsection a. of this section are made, and after
39 deducting all reasonable and necessary expenses incurred by the
40 licensee in administering, marketing, and operating the fixed odds
41 wagering system; and

42 c. reach a business agreement with all standardbred and
43 thoroughbred permit holders within this State as it pertains to
44 wagering on the permit holder's respective breed, within one year
45 from the date when the fixed odds wagering system becomes
46 operational, for the distribution of the net fixed odds wagering
47 revenues remaining after the payments are made pursuant to
48 subsections a. and b. of this section and after the payment of

1 operating expenses, subject to approval by the division; provided
2 that, if an agreement is not reached within that time frame, the
3 division shall distribute the fixed odds wagering revenues among
4 the fixed odds wagering licensees and the standardbred and
5 thoroughbred permit holders in this State based on wagering on the
6 permit holder's respective breed.

7
8 13. (New section) Of the monies distributed to overnight purses
9 pursuant to subsection b. of section 12 of this act, P.L. , c.
10 (C.)(pending before the Legislature as this bill), all moneys
11 derived from fixed odds wagering on thoroughbred races shall be
12 paid to overnight purses for thoroughbred races and all monies
13 derived from fixed odds wagering on standardbred races shall be
14 paid to overnight purses for standardbred races. The formula for
15 allocating overnight purse monies from fixed odds wagering to
16 overnight purses set forth in this section may only be modified by
17 the mutual agreement of the Standardbred Breeders and Owners
18 Association of New Jersey and the New Jersey Thoroughbred
19 Horsemen's Association. Nothing contained in this section shall be
20 construed as a precedent for establishing the division of overnight
21 purse amounts between standardbred races and thoroughbred races.

22 Notwithstanding the foregoing, the sum derived from fixed odds
23 wagering on standardbred races pursuant to subsection b. of section
24 12 of P.L. , c. (C.)(pending before the Legislature as this bill)
25 may be distributed as provided by a contractual agreement
26 authorized under section 11 of P.L.2013, c.266 (C.5:5-188).
27 Notwithstanding the foregoing, the sum derived from fixed odds
28 wagering on thoroughbred races pursuant to subsection b. of section
29 12 of P.L. , c. (C.)(pending before the Legislature as this
30 bill) may be distributed as provided by a contractual agreement
31 authorized under section 12 of P.L.2013, c.266 (C.5:5-189).

32
33 14. (New section) All amounts remaining in fixed odds
34 wagering accounts inactive or dormant for such period and under
35 such conditions as established by regulation shall be distributed in
36 accordance with the division's rules and regulations.

37
38 15. (New section) All persons engaged in conducting wagering-
39 related activities through the fixed odds wagering system, whether
40 employed directly by the fixed odds wagering licensee or by a
41 person or entity conducting or operating the system pursuant to a
42 contract or agreement with the fixed odds wagering licensee, shall
43 be licensed or registered in accordance with such regulations as
44 may be promulgated by the division hereunder. All other
45 employees of the system shall be licensed or registered in
46 accordance with regulations of the division. The division shall have
47 full power to prescribe rules, regulations, and conditions under
48 which all such licenses are issued, or registrations made, in this

1 State and to revoke or refuse to issue a license, or revoke or refuse
2 to accept a registration, if in the opinion of the division the
3 revocation or refusal is in the public interest, provided, however,
4 that such rules, regulations, and conditions shall be uniform in their
5 application, and further provided that no fee shall be in excess of
6 \$50 for each license so granted or registration accepted.

7
8 16. (New section) The provisions of this act shall be deemed to
9 be severable, and if any phrase, clause, sentence, or provision of
10 this act is declared to be unconstitutional or the applicability thereof
11 to any person is held invalid, the remainder of this act shall not
12 thereby be deemed to be unconstitutional or invalid.

13
14 17. (New section) The division shall promulgate rules and
15 regulations pursuant to the "Administrative Procedure Act,"
16 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
17 this act, P.L. , c. (pending before the Legislature as this bill).

18
19 18. Section 1 of P.L.2002, c.89 (C.5:5-65.1) is amended to read
20 as follows:

21 1. a. The commission shall provide by regulation for the
22 establishment of a list of persons who voluntarily seek to be
23 excluded from entry into permitted racetracks and licensed off-track
24 wagering facilities located in this State and from opening or
25 maintaining a wagering account with the account wagering system
26 **【or】** , with the exchange wagering system, or with the fixed odds
27 wagering system established in this State. A person may request
28 placement on the self-exclusion list by acknowledging in a manner
29 to be established by the commission that the person is a problem
30 gambler and by agreeing that, during a period of voluntary
31 exclusion, the person may not collect winnings or recover losses
32 resulting from wagering at a racetrack or off-track wagering facility
33 or from account wagering **【or】** , exchange wagering, or fixed odds
34 wagering.

35 b. The commission shall promulgate regulations to: (1)
36 establish procedures for placements on, and removals from, the list
37 of self-excluded persons; (2) establish procedures for the transmittal
38 to the permitted racetracks, licensed off-track wagering facilities,
39 the account wagering system, **【and】** the exchange wagering
40 licensee, and the fixed odds wagering licensee of identifying
41 information concerning persons on the self-exclusion list; and (3)
42 require permitted racetracks, licensed off-track wagering facilities,
43 the account wagering system, **【and】** the exchange wagering
44 licensee, and the fixed odds wagering licensee to establish
45 procedures designed, at a minimum, to remove persons on the self-
46 exclusion list from targeted mailings or other forms of advertising
47 or promotions and deny such persons access to credit,

1 complimentary, check cashing privileges, club programs, and
2 other similar benefits.

3 c. The commission, a permitted racetrack, a licensed off-track
4 wagering facility, the account wagering system, the exchange
5 wagering licensee, the fixed odds wagering licensee, or an
6 employee thereof shall not be liable to a person on the self-
7 exclusion list or to another party in a judicial proceeding for harm,
8 monetary or otherwise, which may arise as a result of:

9 (1) the failure of a permitted racetrack, licensed off-track
10 wagering facility or the account wagering system or the exchange
11 wagering licensee or the fixed odds wagering licensee to withhold
12 wagering privileges from, or restore wagering privileges to, a
13 person on the self-exclusion list; or

14 (2) permitting a person on the self-exclusion list to engage in
15 wagering activity at a permitted racetrack or licensed off-track
16 wagering facility, or through the account wagering system, or
17 through the exchange wagering system, or through the fixed odds
18 wagering system.

19 d. Notwithstanding the provisions of section 8 of P.L.1940,
20 c.17 (C.5:5-28), the commission's self-exclusion list shall be
21 privileged and confidential and shall not be accessible to the public
22 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and
23 supplemented.

24 e. The commission, a permitted racetrack, a licensed off-track
25 wagering facility, the account wagering system, the exchange
26 wagering licensee, the fixed odds wagering licensee, or an
27 employee thereof shall not be liable to a person on the self-
28 exclusion list or to another party in a judicial proceeding for harm,
29 monetary or otherwise, which may arise as a result of disclosure or
30 publication, other than a willfully unlawful disclosure or
31 publication, of the identity of a self-excluded person.

32 (cf: P.L.2011, c.15, s.19)

33

34 19. Section 2 of P.L.2002, c.89 (C.5:5-65.2) is amended to read
35 as follows:

36 2. a. A person on the self-exclusion list established pursuant to
37 section 1 of P.L.2002, c.89 (C.5:5-65.1), shall not collect, in any
38 manner or proceeding, winnings or recover losses arising as a result
39 of wagering activity at a permitted racetrack or licensed off-track
40 wagering facility, or through the account wagering system, **[or]**
41 through the exchange wagering system, or through the fixed odds
42 wagering system.

43 b. Money or a thing of value which has been obtained by, or is
44 owed to, a person on the self-exclusion list from a permitted
45 racetrack, licensed off-track wagering facility or account wagering
46 system **[or]** , exchange wagering system, or fixed odds wagering
47 system as a result of wagers made by that person shall be subject to
48 forfeiture by order of the executive director of the commission,

1 following notice to the person on the self-exclusion list and
2 opportunity to be heard.

3 Money or a thing of value forfeited shall be deposited into the
4 State General Fund for appropriation by the Legislature to the
5 Department of Human Services to provide funds for compulsive
6 gambling treatment and prevention programs in the State.

7 c. In a proceeding brought by the commission against a live
8 racing permit holder, the off-track wagering licensee, the account
9 wagering licensee, **[or]** the exchange wagering licensee, or the
10 fixed odds wagering licensee for a willful violation of the
11 commission's self-exclusion regulations, the commission may order
12 in addition to a permit or license suspension, a fine not to exceed
13 \$5,000 per wagering incident, the forfeiture of money or a thing of
14 value obtained by the permit holder, off-track wagering licensee,
15 account wagering licensee, **[or]** exchange wagering licensee, or
16 fixed odds wagering licensee from a person on the self-exclusion
17 list and other remedial conditions the commission deems
18 appropriate. Money or a thing of value so forfeited shall be
19 disposed of in the same manner as money or a thing of value
20 forfeited pursuant to subsection b. of this section.

21 (cf: P.L.2011, c.15, s.20)

22

23 20. This act shall take effect immediately.

24

25

26

STATEMENT

27

28 This bill authorizes fixed odds wagering on horse races and
29 provides that the New Jersey Division of Gaming Enforcement may
30 issue a license to the New Jersey Sports and Exposition Authority to
31 establish a system. Under the bill, fixed odds wagering may be
32 conducted through a fixed odds wagering system by fixed odds
33 wagering account holders.

34 Under the bill, "fixed odds wagering" is defined as a form of
35 horse racing wagering against odds offered by a bookmaker in
36 which account holders may lock in their odds when the bet is first
37 placed and no fluctuation in potential payout may occur. Once the
38 outcome of the race or races is determined, funds would be
39 transferred from the fixed odds wagering licensee to the bettor or
40 bettors that won wagers, and applicable transaction or other fees
41 would be levied by the fixed odds wagering licensee for use and
42 distribution as provided by the division's rules and regulations.

43 The bill authorizes the division to consider an application by the
44 authority to establish the system. The division is to issue the
45 license if it determines that the authority has demonstrated, by clear
46 and convincing evidence, that wagers placed through the proposed
47 system will be accurately processed, and that the fixed odds
48 wagering system would contain sufficient safeguards to maintain

1 the integrity of the horse racing industry in this State. The issuance
2 of the license is subject to the approval of the New Jersey Attorney
3 General. The bill further provides that the authority may enter into
4 a contract or agreement with a person or entity to conduct or
5 operate the system, and may transfer the license to a successor in
6 interest upon approval of the division and the Attorney General.

7 The bill also prescribes certain conditions for the establishment
8 of the system, including, but not limited to, the requirement for: (a)
9 a fixed odds wagering account holder to be at least 18 years of age,
10 and physically present in this State; (b) necessary documentation to
11 be submitted by an applicant for a fixed odds wagering account in
12 order to open the fixed odds wagering account and place wagers
13 through the fixed odds wagering system; (c) the types of credits and
14 debits that may be made to a fixed odds wagering account by the
15 authority and the fixed odds wagering account holder; and (d) the
16 manner in which wagers may be placed, in person, by direct
17 telephone call, or by communication through other electronic
18 media.

19 The bill further provides that the division would promulgate the
20 necessary rules and regulations with respect to fixed odds wagering,
21 including, but not limited to, the manner in which fixed odds
22 wagers may be accepted; the requirements for any person to
23 participate in fixed odds wagering; conditions under which the fixed
24 odds wagering license is issued or renewed in this State;
25 performance of an annual audit of the fixed odds wagering
26 licensee's books and records pertaining to fixed odds wagering; and
27 the licensing of employees engaged in conducting wagering related
28 activities. The division will have 90 days from the effective date of
29 the bill to promulgate the rules and regulations.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3090

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3090, with committee amendments.

As amended, the bill authorizes fixed odds wagering on horse races through one or more fixed odds wagering systems.

This bill authorizes fixed odds wagering on horse races and provides that the New Jersey Division of Gaming Enforcement may issue a license to the New Jersey Sports and Exposition Authority to establish a system. Under the bill, fixed odds wagering may be conducted through a fixed odds wagering system by fixed odds wagering account holders.

The bill authorizes the division to consider an application by the authority to establish the system.

The bill provides that the authority may enter into a contract or agreement with a person or entity to conduct or operate the system, and may transfer the license to a successor in interest upon approval of the division and the Attorney General.

The bill also prescribes certain conditions for the establishment of the system, including, but not limited to, the requirement for: (a) a fixed odds wagering account holder to be at least 18 years of age, and physically present in this State; (b) necessary documentation to be submitted by an applicant for a fixed odds wagering account in order to open the fixed odds wagering account and place wagers through the fixed odds wagering system; (c) the types of credits and debits that may be made to a fixed odds wagering account by the authority and the fixed odds wagering account holder; and (d) the manner in which wagers may be placed, in person, by direct telephone call, or by communication through other electronic media.

The bill further provides that the division would promulgate the necessary rules and regulations with respect to fixed odds wagering, including, but not limited to, the manner in which fixed odds wagers may be accepted; the requirements for any person to participate in fixed odds wagering; conditions under which the fixed odds wagering license is issued or renewed in this State; performance of an annual audit of the fixed odds wagering licensee's books and records pertaining to fixed odds wagering; and the licensing of employees engaged in conducting wagering related activities.

As amended by the committee, this bill is identical to Assembly Bill No. 4909.

COMMITTEE AMENDMENTS:

The committee amendments correct a technical error in subsection a. of section 12 of the bill.

FISCAL IMPACT:

The Office of Legislative Services anticipates that the bill will increase annual State administrative expenditures by an indeterminate amount ascribable to the oversight and regulation of fixed odds wagering, including the licensing of operators and employees of fixed odds wagering systems. Furthermore, annual State revenue will rise by an indeterminate amount from application fees collected for one-year licenses for operators and employees of fixed odds wagering systems and the distribution of gamblers' dormant fixed odds wagering account balances as well as expired tickets. Depending on circumstances, the State share of dormant account and expired ticket distributions may be credited to the General Fund or the off-budget New Jersey Racing Industry Special Fund.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3090 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JUNE 24, 2021

SUMMARY

- Synopsis:** Authorizes fixed odds wagering on horse races through fixed odds wagering system.
- Type of Impact:** State expenditure and revenue increases.
- Agencies Affected:** Division of Gaming Enforcement and the New Jersey Racing Commission in the Department of Law and Public Safety; New Jersey Sports and Exposition Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) anticipates that the bill will increase annual State administrative expenditures by an indeterminate amount ascribable to the oversight and regulation of fixed odds wagering, including the licensing of operators and employees of fixed odds wagering systems.
- Furthermore, annual State revenue will rise by an indeterminate amount from application fees collected for one-year licenses for operators and employees of fixed odds wagering systems and the distribution of gamblers' dormant fixed odds wagering account balances as well as expired tickets.
- Depending on circumstances, the State share of dormant account and expired ticket distributions may be credited to the General Fund or the off-budget New Jersey Racing Industry Special Fund.
- The New Jersey Sports and Exposition Authority will incur costs to develop and operate the fixed odds wagering system in accordance with the rules and regulations established by the division or to contract for those services as approved by the division and the Attorney General.

BILL DESCRIPTION

This bill authorizes fixed odds wagering on horse races and provides that the New Jersey Division of Gaming Enforcement may issue a license to the New Jersey Sports and Exposition Authority to establish a system. Under the bill, fixed odds wagering may be conducted through a fixed odds wagering system by fixed odds wagering account holders.

Under the bill, “fixed odds wagering” is defined as a form of horse racing wagering against odds offered by a bookmaker in which account holders may lock in their odds when the bet is first placed and no fluctuation in potential payout may occur. Once the outcome of the race or races is determined, funds would be transferred from the fixed odds wagering licensee to the bettor or bettors that won wagers, and applicable transaction or other fees would be levied by the fixed odds wagering licensee for use and distribution as provided by the division’s rules and regulations.

The bill authorizes the division to consider an application by the authority to establish the system. The division is to issue the license if it determines that the authority has demonstrated, by clear and convincing evidence, that wagers placed through the proposed system will be accurately processed, and that the fixed odds wagering system would contain sufficient safeguards to maintain the integrity of the horse racing industry in this State. The issuance of the license is subject to the approval of the New Jersey Attorney General. The bill further provides that the authority may enter into a contract or agreement with a person or entity to conduct or operate the system, and may transfer the license to a successor in interest upon approval of the division and the Attorney General.

The bill also prescribes certain conditions for the establishment of the system, including, but not limited to, the requirement for: (a) a fixed odds wagering account holder to be at least 18 years of age, and physically present in this State; (b) necessary documentation to be submitted by an applicant for a fixed odds wagering account in order to open the fixed odds wagering account and place wagers through the fixed odds wagering system; (c) the types of credits and debits that may be made to a fixed odds wagering account by the authority and the fixed odds wagering account holder; and (d) the manner in which wagers may be placed, in person, by direct telephone call, or by communication through other electronic media.

The bill further provides that the division would promulgate the necessary rules and regulations with respect to fixed odds wagering, including, but not limited to, the manner in which fixed odds wagers may be accepted; the requirements for any person to participate in fixed odds wagering; conditions under which the fixed odds wagering license is issued or renewed in this State; performance of an annual audit of the fixed odds wagering licensee's books and records pertaining to fixed odds wagering; and the licensing of employees engaged in conducting wagering related activities. The division will have 90 days from the effective date of the bill to promulgate the rules and regulations.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates that the bill will increase annual State administrative expenditures by an indeterminate amount ascribable to the oversight and regulation of fixed odds wagering, including the licensing of operators and employees of fixed odds wagering systems. Furthermore, annual State revenue will rise by an indeterminate amount from application fees collected for one-year licenses for operators and employees of fixed odds wagering systems and the distribution of gamblers' dormant fixed odds wagering account balances as well as expired tickets. Depending on circumstances, the State share of dormant account and expired ticket distributions may be credited to the General Fund or the off-budget New Jersey Racing Industry Special Fund. The New Jersey Sports and Exposition Authority will incur costs to develop and operate the fixed odds wagering system in accordance with the rules and regulations established by the division or to contract for those services as approved by the division and the Attorney General

Section: State Government

*Analyst: Kimberly M. Clemmensen
Lead Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

08/5/2021

TRENTON - Today, Governor Murphy signed the following bills into law.

S-2798/A-4430 (Vitale, Ruiz/Conaway, Vainieri Huttler, McKnight) – Revises requirements for long-term care facilities to establish outbreak response plans

S-3049/A-5176 (Sweeney, Beach/Taliaferro, Mukherji, Space, Armato) – Establishes regional municipal court pilot program

A-4909/S-3090 (Dancer, Caputo/Gopal, Sarlo) – Authorizes fixed odds wagering on horse races through fixed odds wagering system

ACS for A-5570, 5571, 5579, and 5656/SCS for S-2208, 1460, and 1463 (Karabinchak, Swain, Stanley, Murphy/Diegnan, A.M. Bucco, Oroho, Cruz-Perez) – Requires certain actions by motor vehicle operators when overtaking or passing pedestrians, bicycles, or scooters