

FILED

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

By:

Branda M. Nichols

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING**

IN RE: PETITION FOR DECLARATORY
STATEMENT OF FLORIDA HORSEMEN'S CASE NO: DS 99-025
BENEVOLENT & PROTECTIVE
ASSOCIATION, INC.,
A Florida corporation, not-for-profit.

DECLARATORY STATEMENT

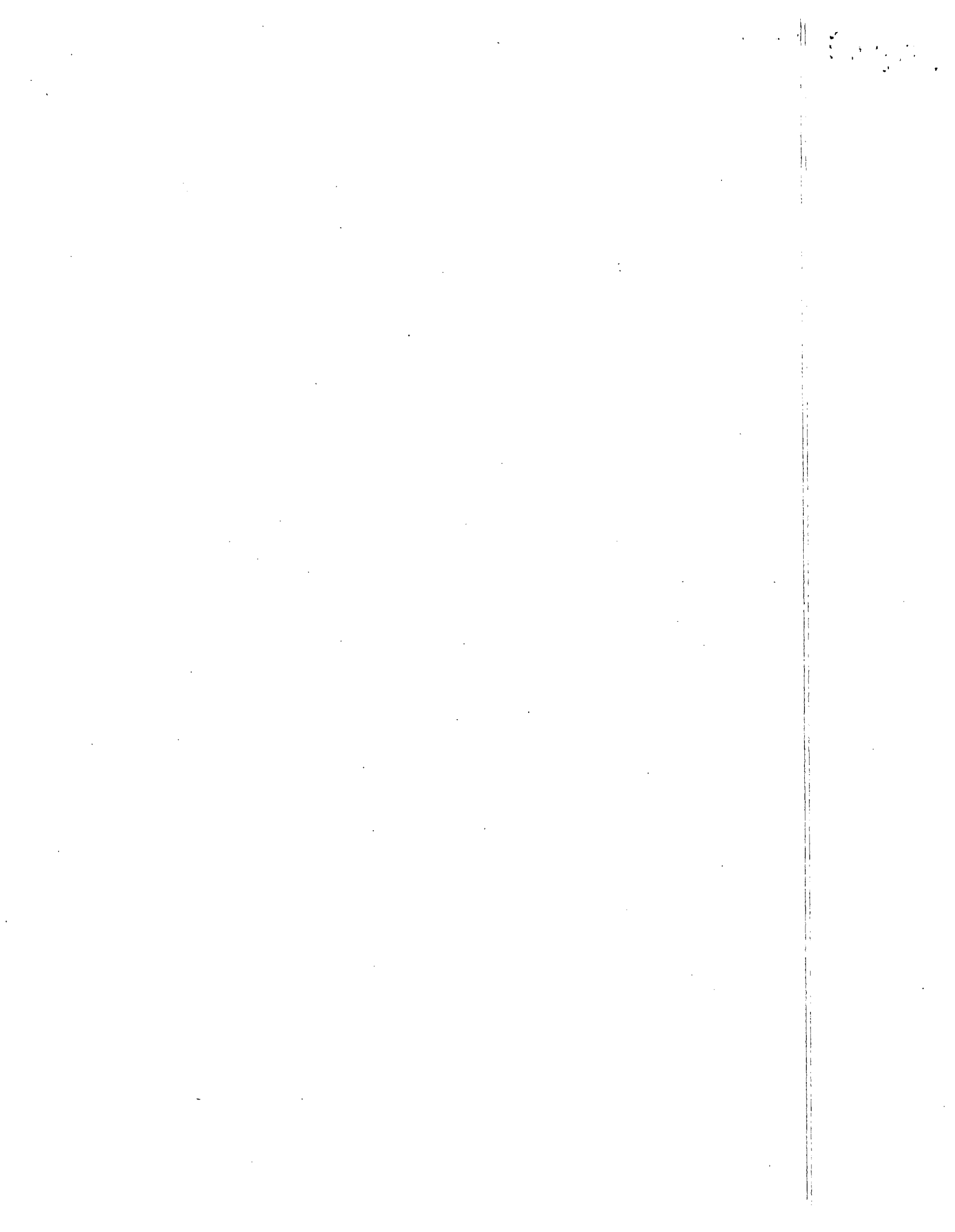
The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Division"), pursuant to section 120.565(3), Florida Statutes (1998 Supp.) and Florida Administrative Code Rule 28-105.003, renders this Declaratory Statement for the Petition for Declaratory Statement referenced above.

FINDINGS OF FACT

1. On December 22, 1999, the Florida Horsemen's Benevolent & Protective Association, Inc. ("FHBPA") filed a Petition for Declaratory Statement pursuant to section 120.565, Florida Statutes (1998 Supp.), and rule 28-105, Florida Administrative Code.

2. The FHBPA requested a declaratory statement on the following issue:

...(A) declaratory statement identifying how (Division) determines how a horsemen's group, such as Petitioner, is "the horsemen's group representing the majority of thoroughbred race horse owners and trainers in this state" within the meaning of Section 550.3551(6)(a), Florida Statute.



3. In addition, the FHBPA requested a declaratory statement be issued specifically stating and setting forth, in detail the Division's interpretation of sections 550.3551(10) and 550.6305(9)(c), Florida Statutes.

4. Petitioner, FHBPA, is a Florida not-for-profit corporation, whose principal office is located in Dade County, Florida, and whose address is 21001 N. W. 27th Avenue, Miami, Florida 33056.

5. FHBPA asserts in its Petition for Declaratory Statement that its purposes are to

Promote the sport of thoroughbred horse racing in the State of Florida; to foster, promote and otherwise encourage a healthier economic climate and a higher level of public acceptance of the thoroughbred horse industry in the State of Florida; to bring about a closer and more understanding relationship between Florida horsemen, Florida racing associations, the State of Florida, Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, and its departments and sub-divisions, and the public; to take part and advise with all officials and representatives, racing associations, the Division, and other racing organizations in the establishment of proper laws, rules and conditions that affect in any manner pari-mutuel wagering, awards, the interests of horsemen, their employees, and backstretch personnel; to represent the general interests of its members in any matters with any local, state or federal government and any agency thereof, including, but not limited to the State of Florida, Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering.

6. The FHBPA asserts that it has standing to bring this Petition for Declaratory Statement on three grounds. First, because section 550.3551(6)(a), Florida Statutes "impacts all members of the FHBPA, and because the FHBPA is the 'horsemen's group representing the majority of thoroughbred race horse owners and trainers in this state' as that term is used in section 550.3551(6)(a), Fla. Stat., its interests are substantially affected by interpretations of chapter 550, Florida Statutes and the rules and regulations of the Division of Pari-Mutuel Wagering promulgated thereunder."

7. Second, the FHBPA asserts that its membership roll consists of 4,600 owners and trainers of thoroughbred racehorses, each licensed by the Division and subject to regulation by

the Division pursuant to chapter 550, Florida Statutes. The number of licensed thoroughbred racehorse owners and trainers in the State of Florida fluctuates daily. The Division concedes, for the purposes of standing in this petition for declaratory statement, that FHBPA's membership roster currently constitutes a significant portion of the licensed thoroughbred racehorse owners and trainers in Florida.

8. Third, the FHBPA asserts that Calder Race Course, Inc., Tropical Park, Inc., Gulfstream Park Racing Association, Inc., and Hialeah, Inc., recognize FHBPA as the "sole representative of the interests of thoroughbred race horse owners and trainers in Florida, and is the horsemen's group or association referred to in various provisions of Ch. 550, Fla. Stat., including, but not limited to Sections 550.3551(6)(a) and (10), and 550.6305(9)(c), Fla. Stat."

9. The Division is that agency empowered by the legislature, pursuant to section 550.0251, Florida Statutes, to administer chapter 550, Florida Statutes, and regulate the pari-mutuel industry under chapter 550 and the rules adopted pursuant thereto.

CONCLUSIONS OF LAW

1. The Division has jurisdiction over this matter and the parties pursuant to chapters 120 and 550, Florida Statutes.
2. The FHBPA has standing to bring this Petition for Declaratory Statement.
3. It is well recognized that trade and professional associations have standing to represent the interests of their members. *Florida League of Cities, Inc. v. Department of Environmental Regulation*, 603 So. 2d 1363 (Fla. 1st DCA 1992), *Department of Professional Regulation, Board of Dentistry v. Florida Dental Hygienist Association, Inc.*, 612 So. 2d 646 (Fla. 1st DCA 1993). Petitioner as a horsemen's group in the State of Florida also has standing as

an entity having substantial interest seeking a declaratory statement for an interpretation of sections referencing “the horsemen’s group” or the “horsemen’s associations.” See, *Federation of Mobile Homeowner’s of Florida, Inc., v. Dept. of Business Regulation*, 479 So. 2d 252 (Fla. 2d DCA 1985).

4. Section 550.3551(6)(a), Florida Statutes (1998), provides in pertinent part:

...A thoroughbred permitholder may not conduct fewer than eight live races on any race day without the written approval of the Florida Thoroughbred Horse Breeder’s Association and the *horsemen’s group representing the majority of thoroughbred racehorse owners and trainers in the state.*

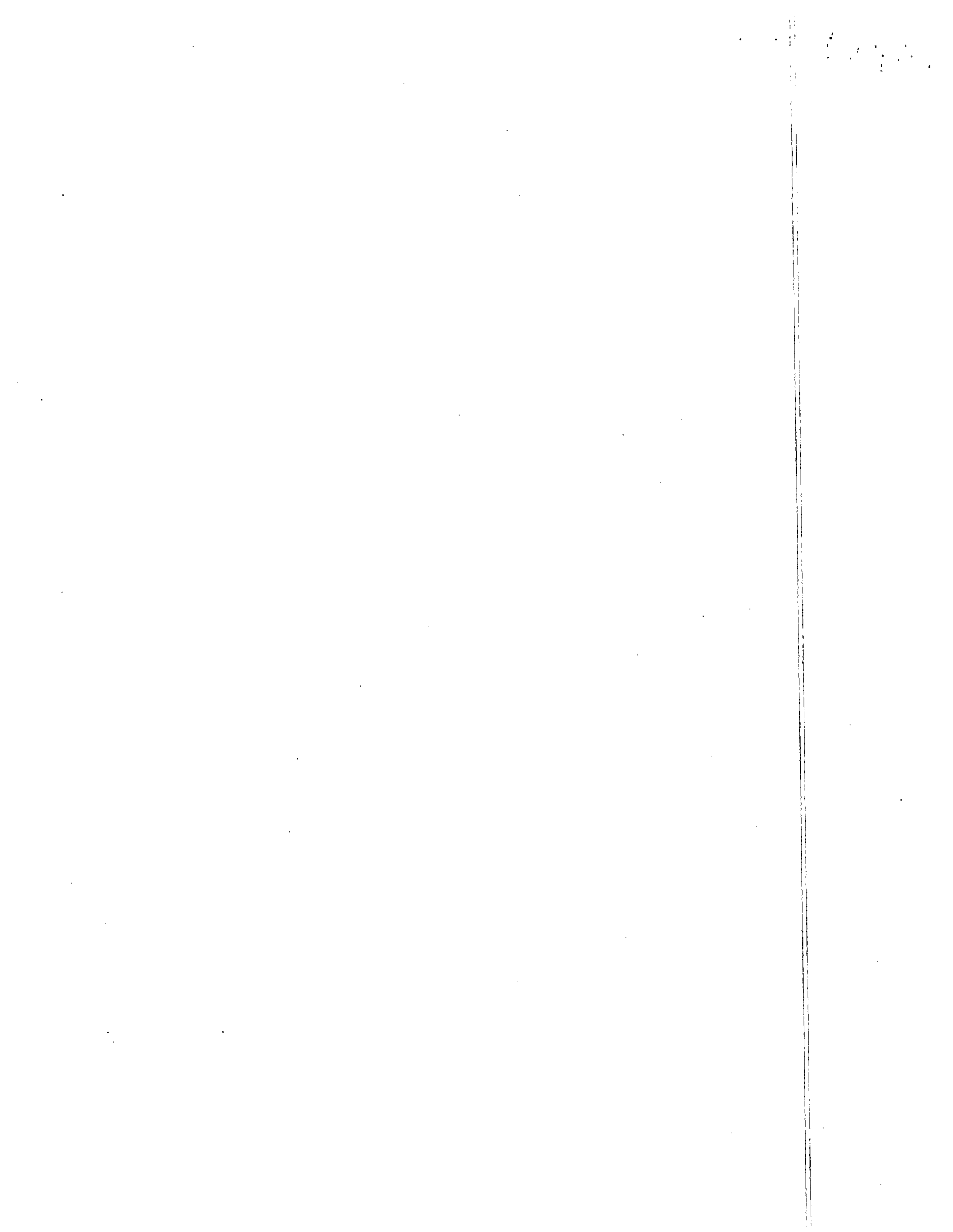
(Emphasis added.)

5. Statutory language will be given its plain and ordinary meaning, unless words are defined in the statute or by clear intent of the legislature. *Christo v. State, Dept. of Banking and Finance*, 318 So.2d 318, 321 (Fla. 1st DCA 1995), citing to *Green v. State*, 604 So. 2d 471 (Fla. 1992). Additionally, statutes should be construed to give each word effect. *Id.* at 321. Finally, a more specific statute covering a particular subject is controlling over a statutory provision covering the same subject in more general terms. *Id.* at 321.

6. Neither section 550.3551 nor chapter 550, Florida Statutes, identifies any specific “horsemen’s group representing the majority of thoroughbred racehorse owners and trainers in the state,” and neither “horsemen’s group” nor “majority” are terms defined by statute. Therefore, the Division must apply the principals of statutory construction to these terms.

7. The word “majority” is commonly understood to mean “a greater number or part of something,” Webster’s II New Riverside Dictionary, 1996.

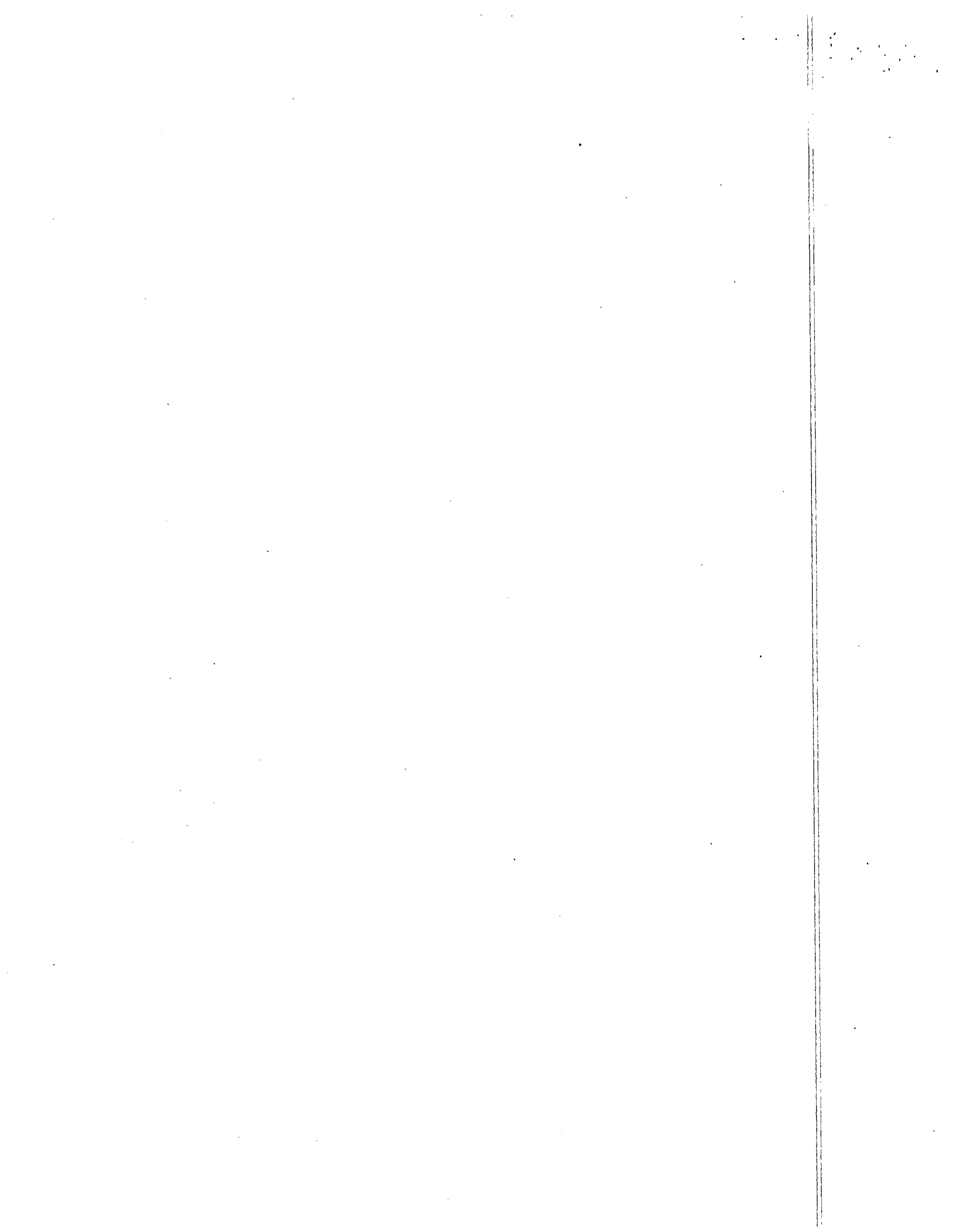
8. The Division believes that the Legislature intended section 550.3551(6)(a), Florida Statutes, to be the exclusive methodology to approving fewer than eight live races on any race day by a permitholder.



9. Recognizing that the state may impose penalties against the permitholder for violations of section 550.3551, Florida Statutes, the permitholder should make every reasonable means to verify that the horsemen's group represents the majority of licensees. It is a reasonable summation that to determine which (if more than one horsemen's group representing thoroughbred horserace owners and trainers exist) of the horsemen's groups represent the majority of the thoroughbred horserace owners and trainers, one must examine the membership roster of each association. Signed enrollment cards should substantiate membership rosters. The permitholder should also receive confirmation that the membership roster is comprised of licensed thoroughbred racehorse owners or trainers maintaining a "current" status in contrast to an "expired" status. The membership roster must then be compared to the total number of licensed thoroughbred racehorse owners and trainers in the state on that race day.

10. While section 550.2614 (2), Florida Statutes, may have provided a mandatory verification process for the horsemen's association to certify that it represented a majority of the owners and trainers of thoroughbred racehorses in the state, the Court in *Florida Horsemen Benevolent & Protective Association v. Rudder*, 738 So. 2d 449 (Fla. 1st DCA 1999) ruled all of section 550.2614, Florida Statutes, unconstitutional.

11. Nevertheless, said ruling does not prohibit the permitholder from seeking verification, independently from the statute, from the horsemen's groups. Such verification may be accomplished by several means, one which may include state verification of the number of current licensed thoroughbred racehorse owners and trainers, supplemented by an affidavit by the horsemen's association that it represents a majority of those licensees.



12. The Division believes that the methodology outlined above is consistent with the legislative intent that the permitholder seek approval of the majority represented for holding less than eight live races on any race day.

13. The FHBPA also sought the Division's interpretation of terms contained within section 550.3551(10), Florida Statutes. Section 550.3551(10), Florida Statutes, is the section through which the legislature granted the Division discretionary authority to promulgate rules.

Section 550.3551(10), Florida Statutes, states:

The division may adopt rules necessary to facilitate commingling of pari-mutuel pools, to ensure the proper calculation of payoffs in circumstances in which commingling of pari-mutuel pools, percentages are applicable and to regulate the distribution of net proceeds between the horse track and, in this state, the *horsemen's associations*.

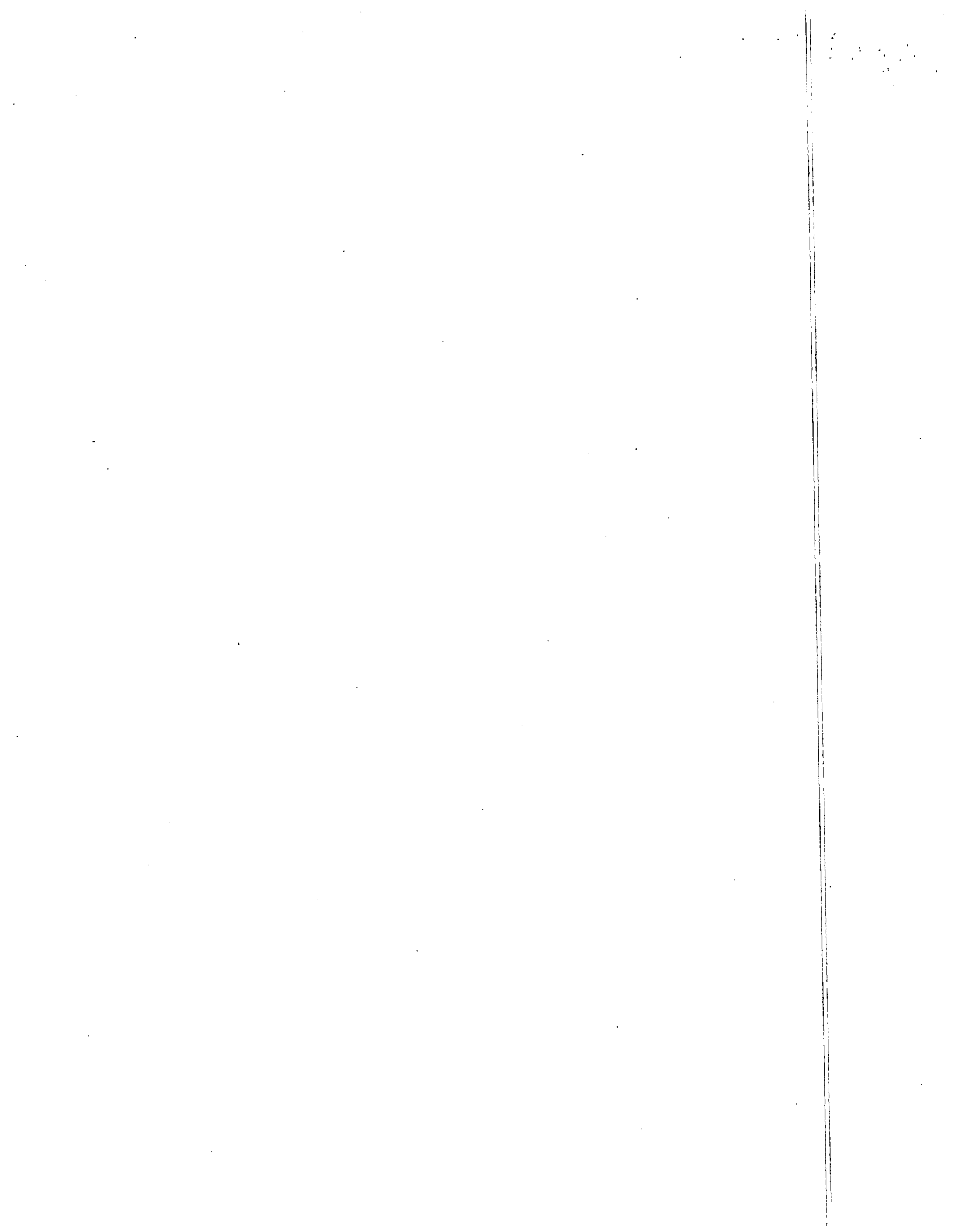
(Emphasis added.)

14. The Division elected not to promulgate rules pursuant to this section. In the absence of a rule defining these terms, *horsemen's associations* should be given their plain and ordinary meaning. In consideration thereof, *horsemen's associations* refers to any and all horsemen's associations.

15. Section 550.6305(9)(c), Florida Statutes, is the third statutory provision for which the FHBPA sought the Division's interpretation. Section 550.6305(9)(c), Florida Statutes, addresses the distribution of net proceeds to guest tracks on out-of-state horserace rebroadcasts from a host track permitholder. Section 550.6305(9)(c), Florida Statutes, states:

All guest tracks other than thoroughbred permitholders that are eligible to receive wagers on out-of-state horseraces rebroadcast from a host track racing under a thoroughbred horse permit shall be subject to the distribution of the net proceeds *as specified in paragraph (a)* unless the host and guest permitholders and the *recognized horsemen's group* agree to a different distribution of their respective portions of the proceeds by contract.

(Emphasis added.)



16. Section 550.6305(9)(c) nor chapter 550, Florida Statutes, specifically defines the terms *recognized horsemen's association*.

17. The word *recognized*, given its plain and ordinary meaning, is commonly understood to mean "to know to be something perceived or experienced before; to acknowledge the validity or reality of." Webster's II New Riverside Dictionary, 1996.

18. Section 550.6305(9)(a), Florida Statutes, states:

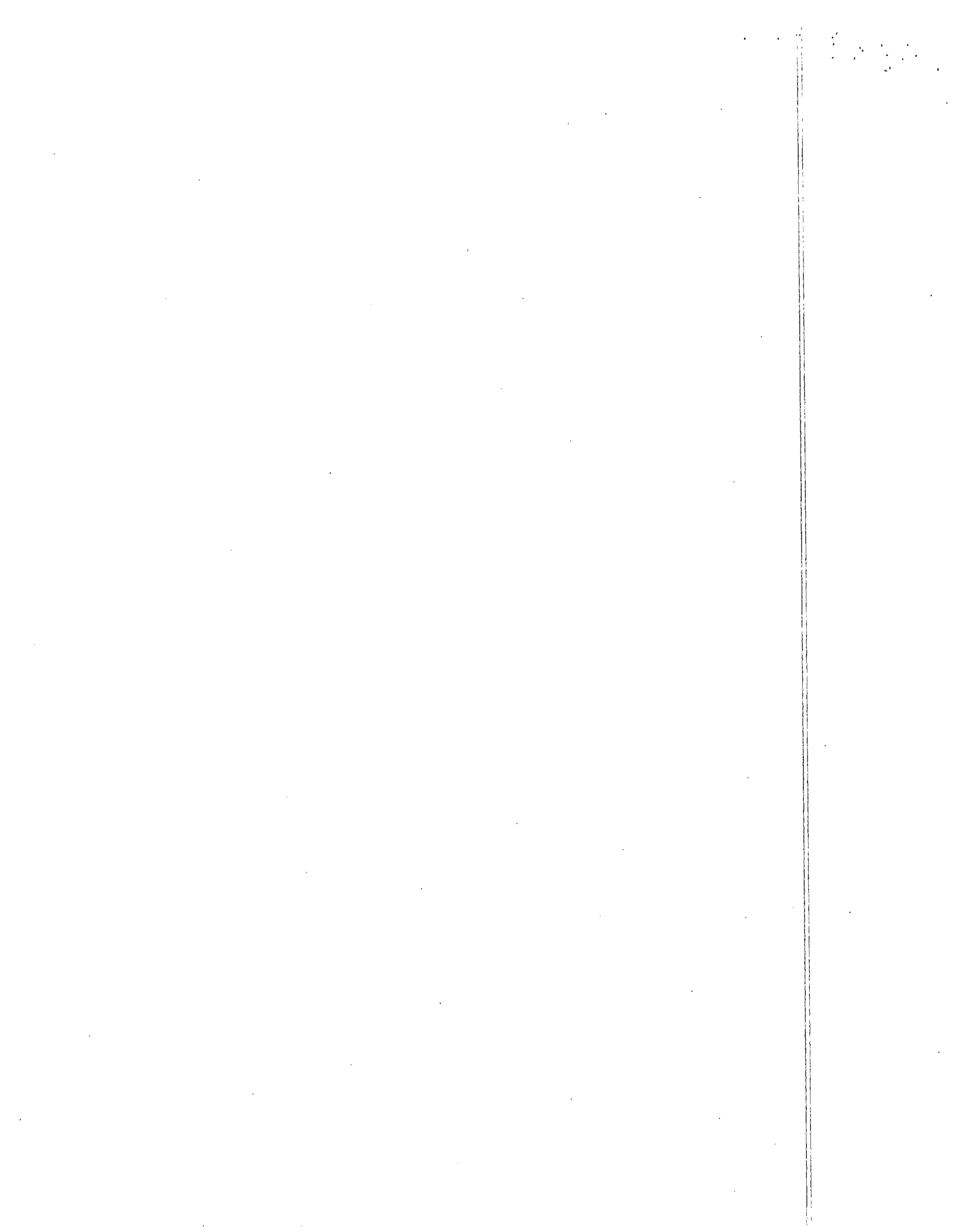
For purposes of this section, "net proceeds" means the amount of takeout remaining after the payment of state taxes, purses required pursuant to s. 550.0951(3)(c)1., the cost to the permitholder required to be paid to the out-of-state horse track, breeders' awards paid to the Florida Thoroughbred Breeders' Association and the Florida Standardbred Breeders and Owners Association, to be used as set forth in s. 550.625(2)(a) and (b), and the deduction of any amount retained pursuant to s. 550.615(11).

19. Section 550.6305(9)(a), Florida Statutes, list five categories that impact the definition of "net proceeds:"

(a) "[D]efinition of "net proceeds" means the amount of takeout remaining after payment of taxes." This category simply states that the permitholder shall pay taxes out of the net proceeds prior to calculating the net proceeds available for distribution. This category does not address and has no relationship to a contractual or statutory horsemen's group;

(b) "[P]urses required pursuant to section 550.0951(3)(c)1." Section 550.0951(3)(c)1., Florida Statutes, establishes the percentage of tax on the handle for intertrack wagering for the various host tracks and on rebroadcasts of simulcast horseraces. This category also has no relationship to any distribution of the net proceeds between the permitholder and any contractual or statutory horsemen's group;

(c) "[T]he cost to the permitholder required to be paid to the out-of-state horse track." This category simply addresses the costs the permitholder is required to pay the out-of-state horse track for the broadcast without reference to any contractual or statutory horsemen's group;

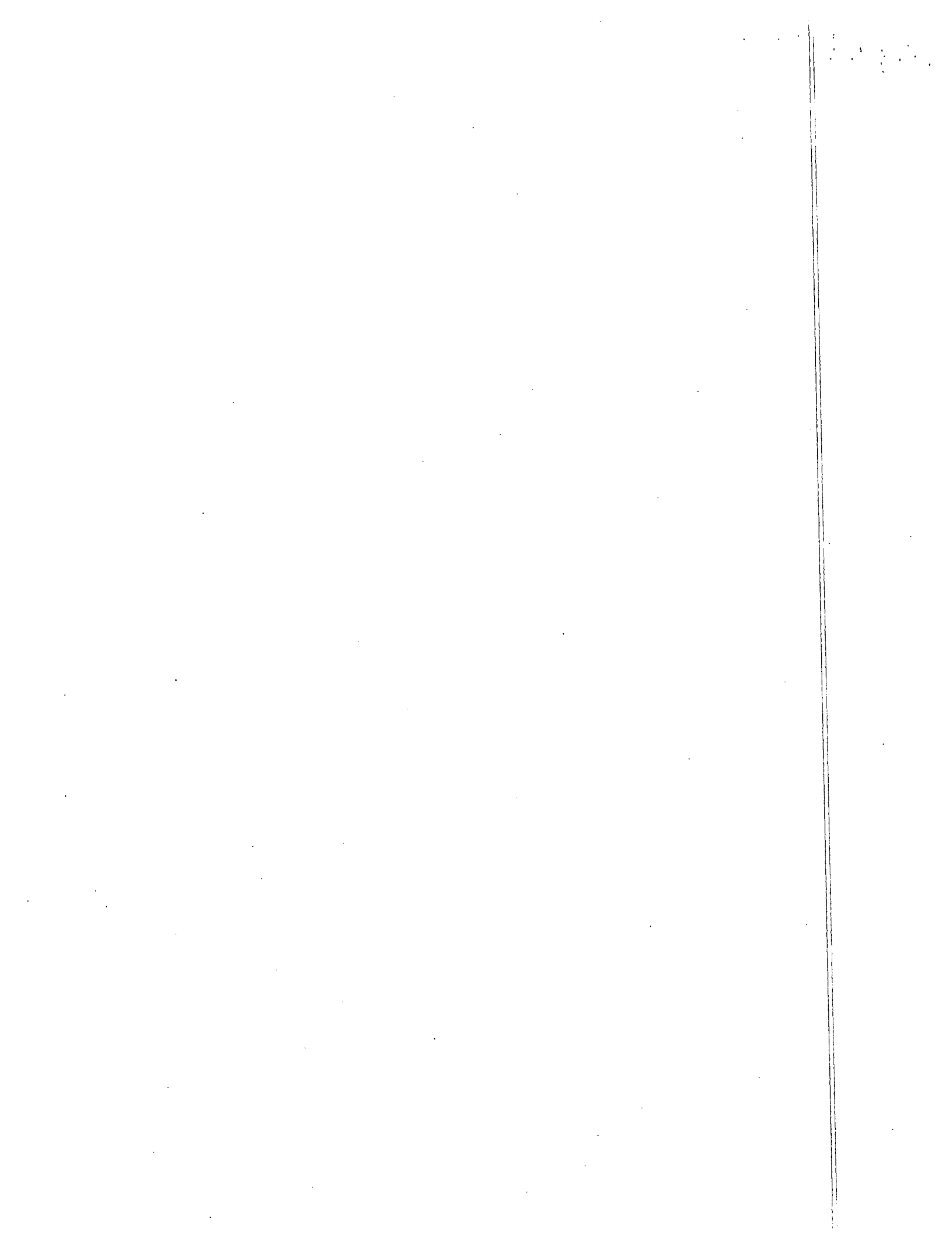


(d) “[B]reeders’ awards paid to the Florida Thoroughbred Breeders Association and the Florida Standardbred Breeders and Owners Association, to be used as set forth in section 550.625(2)(a) and (b).” Section 550.625(2)(a) and (b), Florida Statutes, establishes the award percentage payable to the Florida Thoroughbred Breeders’ Association, Inc. if the track is a thoroughbred track and the award percentage payable to the Florida Standardbred Breeders’s and Owners Association, Inc. and the purposes thereto; and

(e) “[T]he deduction of any amount retained pursuant to section 550.615(11).” Section 550.615(11), Florida Statutes, establishes the percentage of tax on the wagers which shall be retained by the host track as compensation for lost revenues and purses, and the percentage of the retained amount to be paid as purses at the host track for those three or more thoroughbred permitholders located within 25 miles of each other.

20. While section 550.6305(9)(c), Florida Statutes specifically refers to section 550.6305(9)(a), Florida Statutes, and section 550.6305(9)(a), Florida Statutes, refers to several other sections of chapter 550, all of the specified subsections must be read *in pari materia*. Hence, section 550.6305(9)(a) provides guidance as to the identity of the *recognized horsemen’s group* included in section 550.6305(9)(c), Florida Statutes.

21. Unlike other sections of chapter 550, Florida Statutes, addressed by this Declaratory Statement, section 550.6305(9)(a), Florida Statutes, identifies two specific horsemen’s groups for the payment of awards. Rather than using general phraseology such as *the horsemen’s group representing the majority of licensed thoroughbred racehorse owners and trainers* or *the horsemen’s associations*, section 550.6305(9)(a), Florida Statutes, clearly specifies, that for its purposes, and any sections referencing thereto, the legislature recognizes the

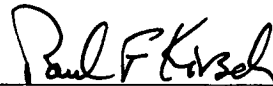


Florida Thoroughbred Breeders' Association and the Florida Standardbred Breeders and Owners Association as the horsemen's groups.

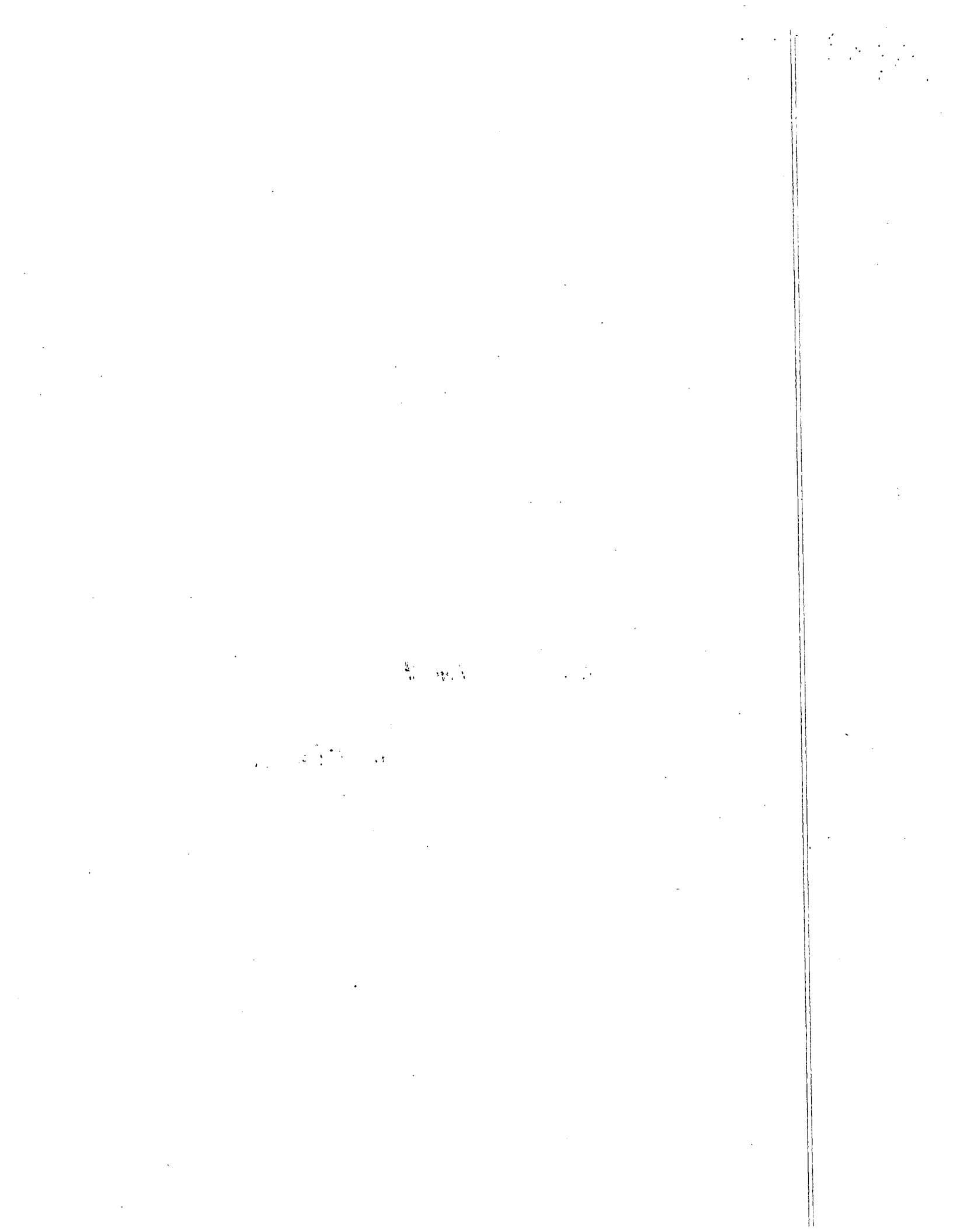
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that the Petition for Declaratory Statement is granted, and to the extent that that the terms and words used by the legislature are given their plain and ordinary meaning, section 550.3551(6)(a), Florida Statutes, sets forth the exclusive methodology for approving fewer than eight live races on any race day by permitholder; section 550.3551(10), Florida Statutes, refers to any and all horsemen's associations; and for the purposes of section 550.6305(9)(c) Florida Statutes, subsection (9)(c) read *in pari materia* with section 550.6305(9)(a), Florida Statutes, the Legislature recognizes Florida Thoroughbred Breeders' Association and the Florida Standardbred Breeders and Owners Association as the horsemen's groups.

DONE AND ORDERED this 22 day of MARCH, 2000.

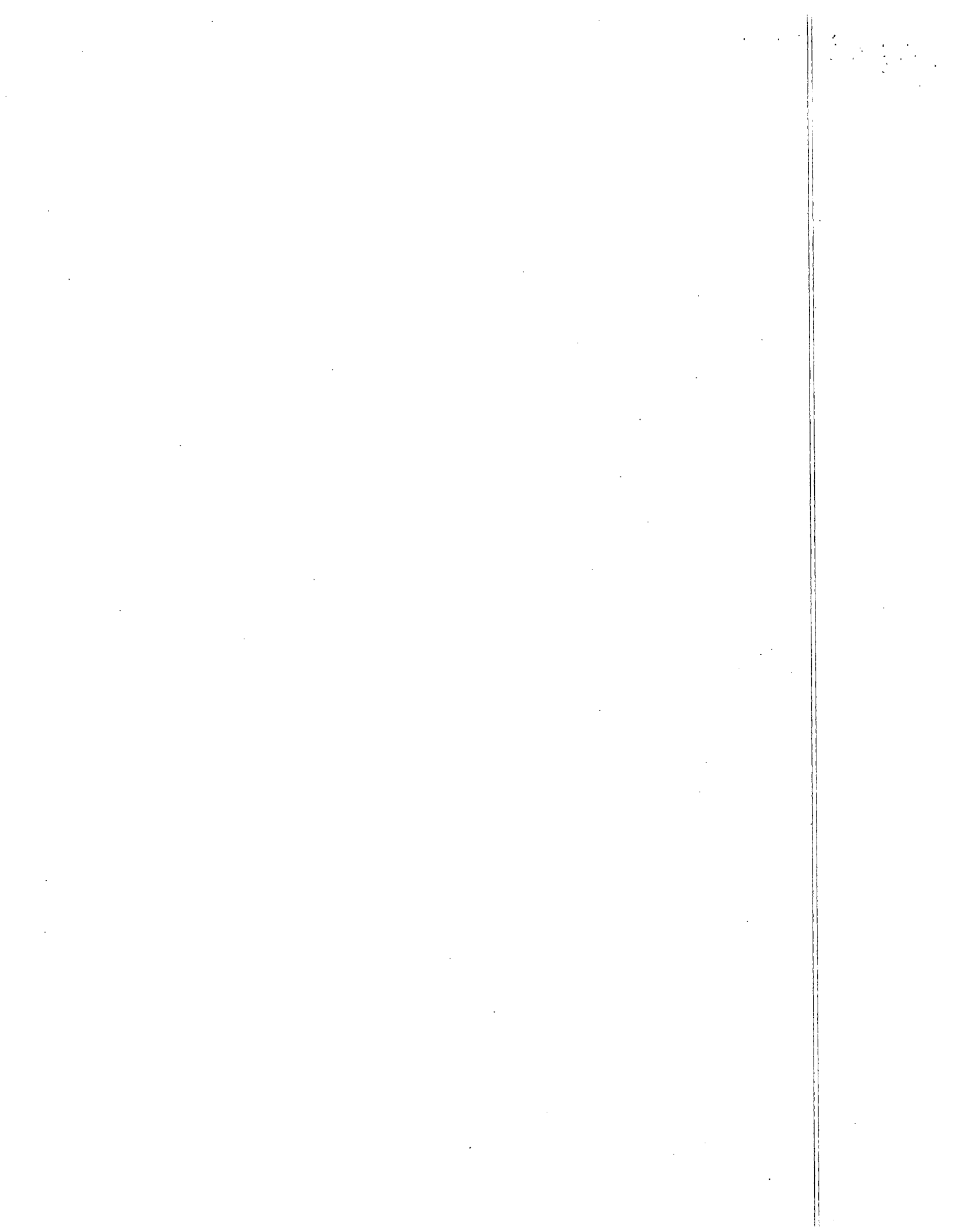


PAUL F. KIRSCH, Ph.D., DIRECTOR
Division of Pari-Mutuel Wagering
Northwood Centre
1940 N. Monroe Street
Tallahassee, Florida 32399-1035
(850) 488-9130



RIGHT TO APPEAL

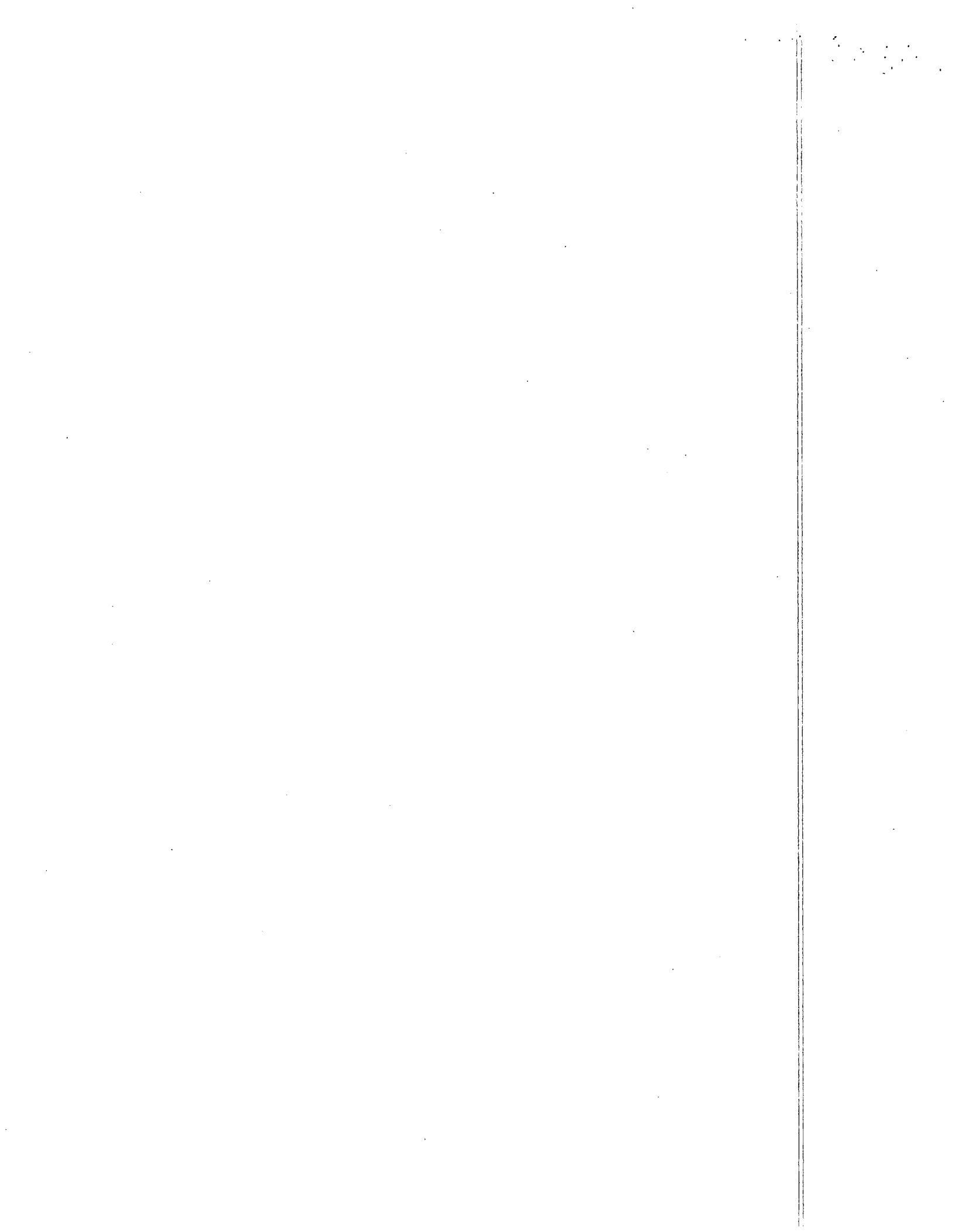
THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY PETITIONER PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(D), FLORIDA RULES OF APPEAL ACCOMPANIED WITH THE APPROPRIATE FILING FEE AND WITH SARAH WATCHMAN, AGENCY CLERK FOR THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, WITHIN THIRTY (30) DAYS OF THE RENDITION OF THIS FINAL ORDER.



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Declaratory Statement has been furnished via U.S. Mail to Mark Herron and E. Gary Early, Akerman, Senterfitt & Eidson, P.A., at 301 South Bronough Street, Suite 200, Tallahassee, Florida 32301 and by Inter-office Mail to Leon M. Biegalski, Lead Attorney, Office of the General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202 this _____ day of _____, 2000.

Mary Polombo, Clerk
Division of Pari-Mutuel Wagering



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DEC 27 AM 11:33
DIVISION OF
PARI-MUTUAL WAGERING

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUAL WAGERING

CASE NUMBER:

IN RE: Petition of

FLORIDA HORSEMEN'S BENEVOLENT
AND PROTECTIVE ASSOCIATION,
INC., a Florida corporation,
not-for-profit.

FILED

Department of Business and Professional Regulation
DEPUTY CLERK

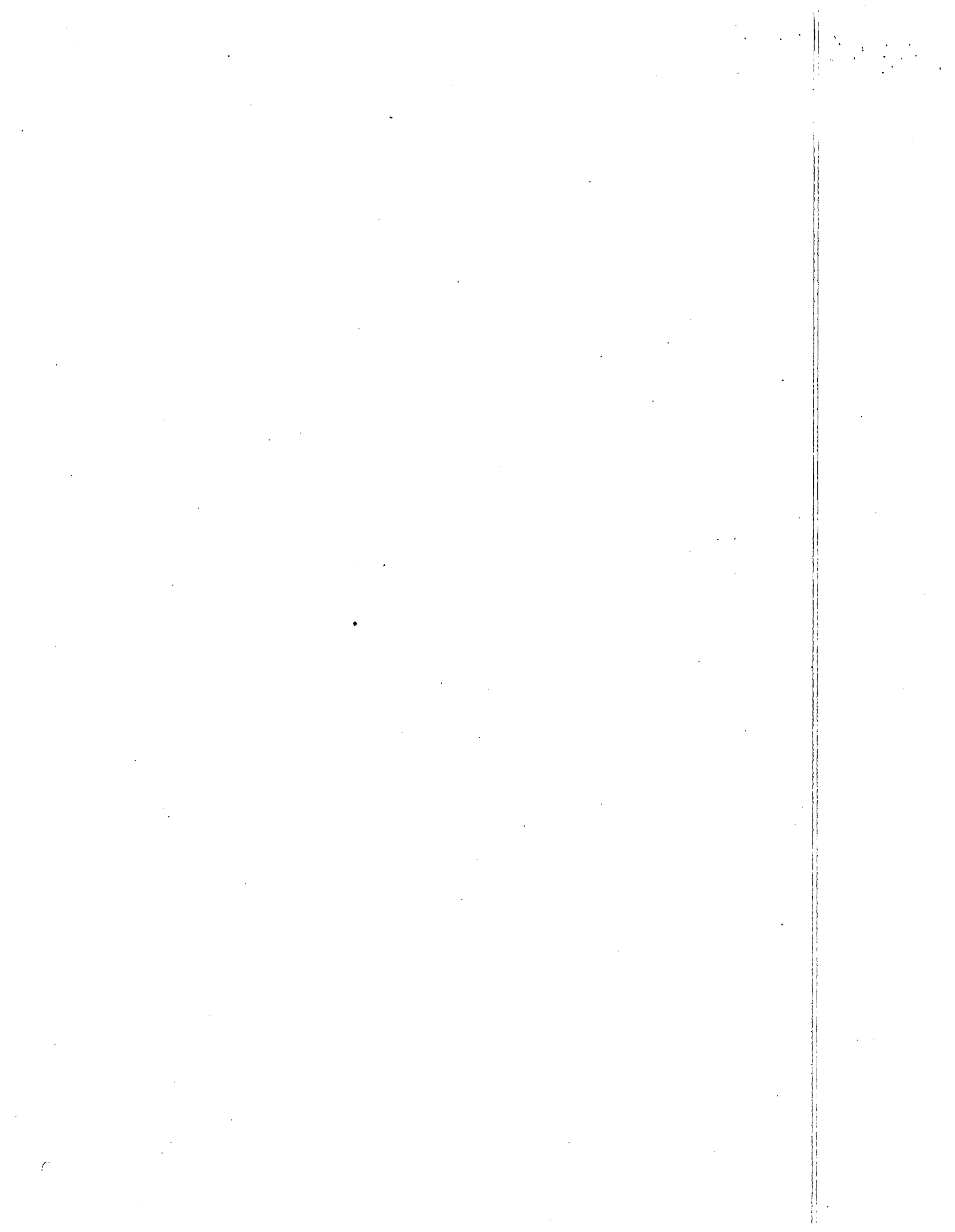
CLERK *Brandon M. Nichols*

DATE 12-22-99

**PETITION FOR DECLARATORY STATEMENT
PURSUANT TO SECTION 120.565, FLORIDA STATUTES**

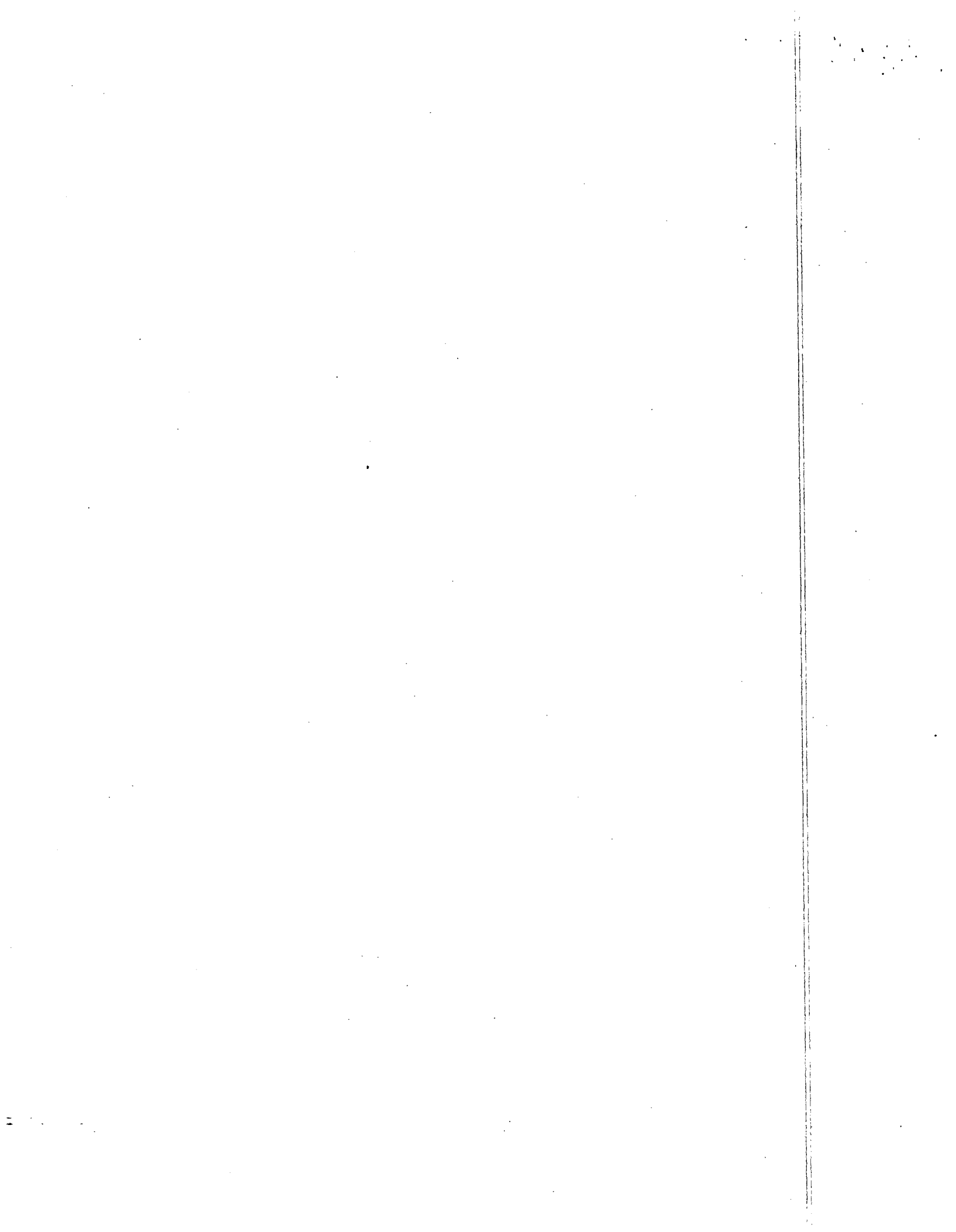
Petitioner, FLORIDA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION,
INC. (FHBPA), by and through undersigned Counsel, files this Petition for Declaratory
Statement pursuant to Section 120.565, Fla. Stat. (1998) and Rule 28-103, Florida
Administrative Code, and states:

1. This petition is filed pursuant to Section 120.565, Fla. Stat. (1998). That section provides "(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances." The issuance of a declaratory statement in this instance is allowable under the under the Florida Administrative Procedures Act. See, *Florida Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering v. Investment Corp. of Palm Beach, et al.*, ___ So. 2d ___, 24 FLW S521, (Fla. 1999); *Chiles v. Department of State, Division of Elections*, 711 So. 2d 151 (Fla. 1st DCA 1998)



2. Petitioner, FLORIDA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION, INC., is a Florida corporation, not-for-profit, whose principal office is located in Dade County, Florida, and whose address is 21001 N.W. 27th Avenue, Miami, Florida 33056, whose purposes are, among other things, to promote the sport of thoroughbred horse racing in the State of Florida; to foster, promote and otherwise encourage a healthier economic climate and a higher level of public acceptance of the thoroughbred horse industry in the State of Florida; to bring about a closer and more understanding relationship between Florida horsemen, Florida racing associations, the State of Florida, Department of Business and Professional Regulation, Division of Pari-mutuel Wagering, and its departments and sub-divisions, and the public; to take part and advise with all officials and representatives, racing associations, the DIVISION, and other racing organizations in the establishment of proper laws, rules and conditions that affect in any manner pari-mutuel wagering, awards, the interests of horsemen, their employees, and backstretch personnel; to represent the general interests of its members in any matters with any local, state or federal government and any agency thereof, including, but not limited to the State of Florida, Department of Business and Professional Regulation, Division of Pari-mutuel Wagering. Because Section 550.3551(6)(a), Fla. Stat. impacts all members of the FHBPA, and because the FHBPA is "the horsemen's group representing the majority of thoroughbred race horse owners and trainers in this state" as that term is used in Section 550.3551(6)(a), Fla. Stat., its interests are substantially affected by interpretations of Chapter 550, Florida Statutes and the rules and regulations of the Division of Parimutuel Wagering promulgated thereunder, and therefore has standing to bring this petition as a substantially effected person.

3. Respondent is the State of Florida, Department of Business and Professional



Regulation, Division of Pari-mutuel Wagering (the "Division"). The address of the Department of Business and Professional Regulation is 1940 North Monroe Street, Tallahassee, Florida 32399-1035 and the address of the Division is 725 South Bronough Street, 227 The Johns Building, Tallahassee, Florida 32399. Petitioner is unaware of an agency file or identification number pertaining to the above entitled matter.

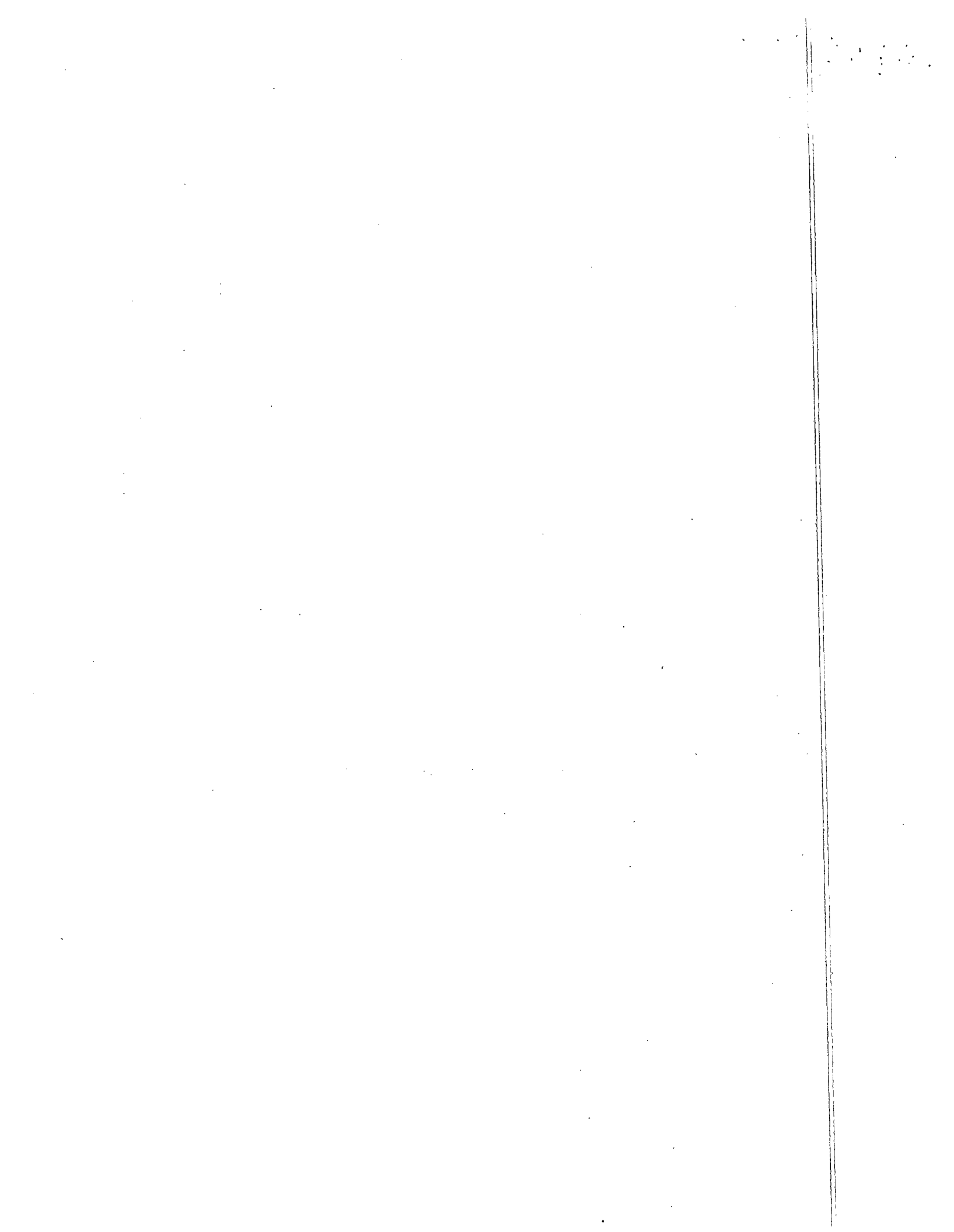
STATEMENT OF SUBSTANTIAL INTEREST

4. FHBPA is a not-for-profit corporation whose members are owners and trainers of thoroughbred horses each of whom is licensed by the Division pursuant to the provisions of Chapter 550, Fla. Stat. FHBPA represents the interest of in excess of 4,600 thoroughbred race horse owners and trainers, FHBPA is recognized by Calder Race Course, Inc., Tropical Park, Inc., Gulfstream Park Racing Association, Inc. And Hialeah, Inc., as the sole representative of the interests of thoroughbred race horse owners and trainers in Florida, and is the horsemen's group or association referred to in various provisions of Ch. 550, Fla. Stat., including, but not limited to Sections 550.3551(6)(a) and (10) and 550.6305(9)(c), Fla. Stat.

5. Each of the thoroughbred horse owner and trainer members of the FHBPA is subject to regulation by the Division.

6. The application and interpretation of Section 550.3551(6)(a), Fla. Stat. governs pari-mutuel activities in the State of Florida, including the conduct of race events and the distribution of purses, and therefore, directly regulates the members of FHBPA as to their participation in the pari-mutuel industry in Florida. As such, Section 550.3551(6)(a), Fla. Stat. has a direct and substantial impact on the FHBPA and its members.

7. Petitioner is materially interested in the interpretation and application of Section



550.3551(6)(a), Fla. Stat. in its relations with racing associations in Florida. Because there is an actual, present and practical need for a declaratory statement, Petitioner requests a declaratory statement identifying how Respondent determines how a horsemen's group, such as Petitioner, is "the horsemen's group representing the majority of thoroughbred race horse owners and trainers in this state" within the meaning of Section 550.3551(6)(a), Fla. Stat.

8. Pursuant to Section 120.565, Fla. Stat., any substantially affected person (or entity) may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

9. Section 550.3551(6)(a), Fla. Stat., establishes the general structure for racing schedules at pari-mutuel facilities in Florida. That section provides in part that:

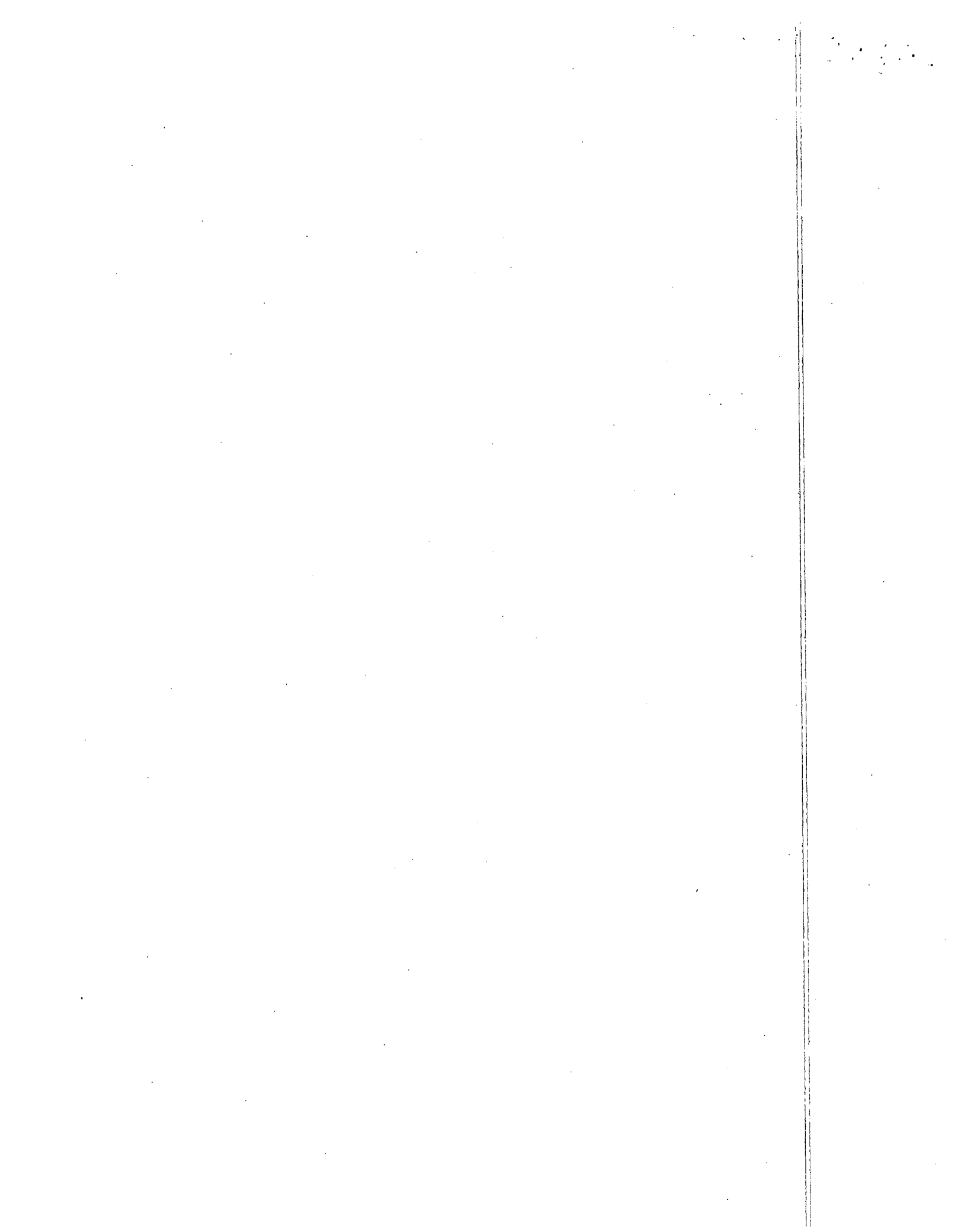
A thoroughbred permitholder may not conduct fewer than eight live races on any race day without the written approval of ... the horsemen's group representing the majority of thoroughbred race horse owners and trainers in this state.

10. Section 550.3551(10), Fla. Stat., addresses, among other things, the commingling of pari-mutuel pools and purse distribution and provides, in pertinent part:

The division may adopt rules necessary to facilitate commingling of pari-mutuel pools ... and to regulate the distribution of net proceeds between the horse track and, in this state, the horsemen's associations.

11. Section 550.6305(9)(c), Fla. Stat., addresses, among other things transmission of race broadcasts and the distribution of net race proceeds and provides, in pertinent part:

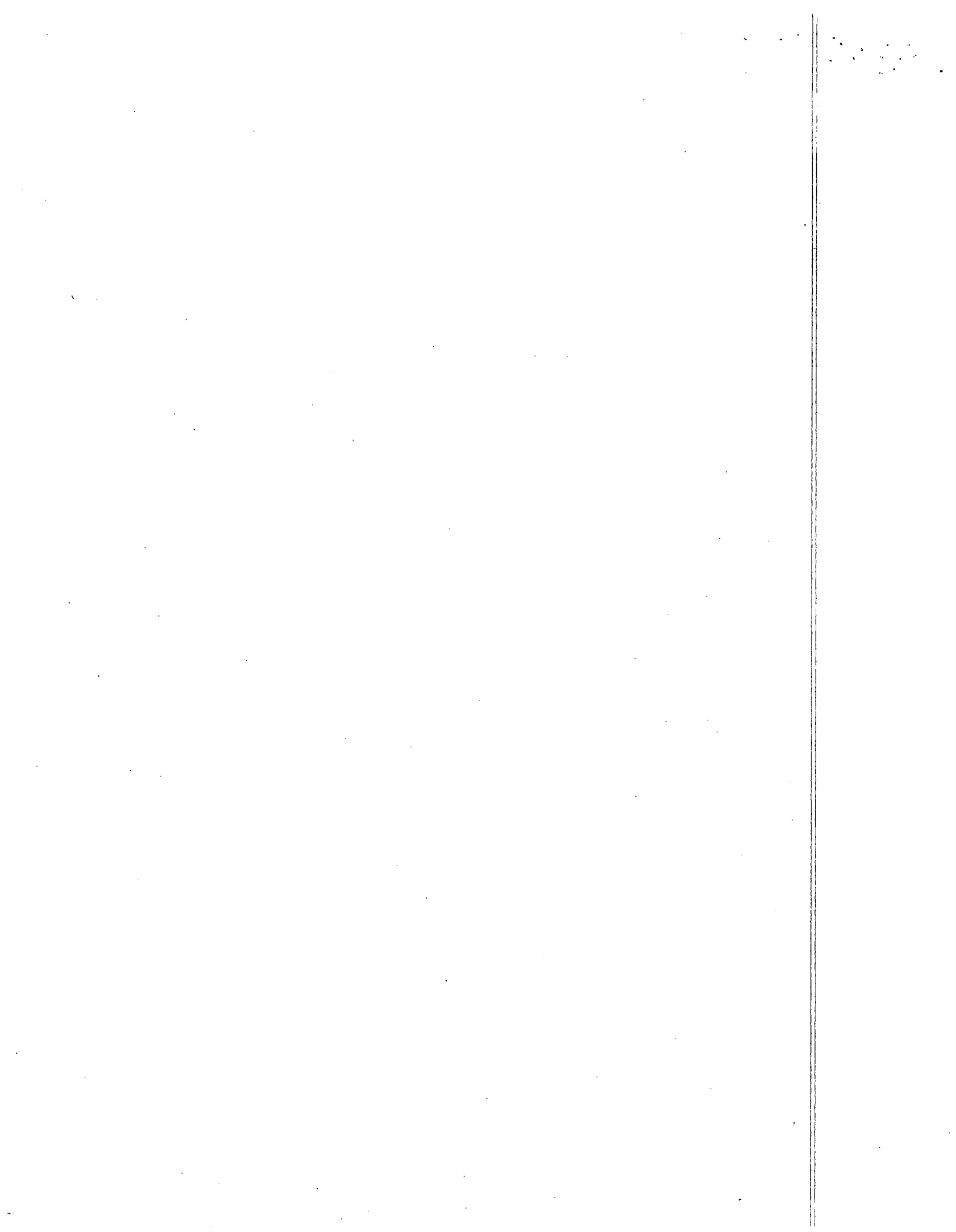
[a]ll guest tracks other than thoroughbred permit holders that are



eligible to receive wagers on out-of-state horse races re-broadcast from a host track racing under a thoroughbred horse permit shall be subject to the distribution of the net proceeds as specified in paragraph (a) unless the host and guest permit holders and the recognized horsemen's group agree to a different distribution to their respective portions of the proceeds by contract. (e.s.)

12. Petitioner has historically represented the interests of horsemen in Florida and contracts with permitholders regarding racing and purses to be paid. Purses are funded from, among other things, wagering on live racing and transmission of racing on which wagering is permitted. Therefore, Petitioner is substantially affected by the application and interpretation of Sections 550.3551(6)(a), 550.3551(10) and 550.6305(9)(c), Fla. Stat., since it and its members are materially affected by the scheduling and conduct of races, the distribution of net proceeds from those races, and in its relations with racing associations in Florida.

13. Because the referenced sections refer to "the horsemen's group" or the "horsemen's association," it is appropriate for Petitioner, as a horsemen's group in the state of Florida to seek an interpretation of said statute and Petitioner has standing to seek a declaratory statement as herein requested. See, *Federal of Mobile Homeowner's of Florida, Inc. v. Dept. of Business Regulation*, 479 So.2d 252 (Fla. 2d DCA 1985). Trade and professional associations are accorded standing to represent the interests of their members. *Florida League of Cities, Inc. v. Department of Environmental Regulation*, 603 So. 2d 1363 (Fla. 1st DCA 1992); *Department of Professional Regulation, Board of Dentistry v. Florida Dental Hygienist Association, Inc.*, 612 So.2d 646 (Fla. 1st DCA 1993). The FHBPA, as the recognized representative of over 4,600 thoroughbred race horse owners and trainers, is substantially affected in its relations with racing associations in Florida as is each of its members, and thus has standing to bring this Petition for

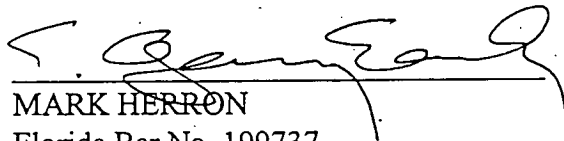


Declaratory Statement pursuant to Section 120.565, Fla. Stat. and Rule 28-105, F.A.C.

14. FHBPA requests a declaratory statement because the provisions of Sections 550.3551(6)(a), 550.3551(10) and 550.6305(9)(c), Fla. Stat. apply specifically to Petitioner. Petitioner represents in excess of 4,600 thoroughbred race horse owners and trainers and is specifically recognized by Calder Race Course, Inc., Tropical Park, Inc., Gulfstream Park Racing Association, Inc. and Hialeah, Inc. (the largest thoroughbred racing associations in Florida), as the sole representative of the interests of thoroughbred race horse owners and trainers in Florida.

WHEREFORE, Petitioner, FHBPA, requests that a declaratory statement be issued specifically stating and setting forth, in detail, the Respondent's interpretation of Section 550.3551(6)(a) and (10) and 550.6305(9)(c), Fla. Stat. as they apply to Petitioner, specifically stating how "the horsemen's group" is determined for purposes of those sections.

Respectfully submitted this 22nd day of December, 1999.



MARK HERRON

Florida Bar No. 199737

E. GARY EARLY

Florida Bar No. 325147

Akerman, Senterfitt & Eidson, P.A.

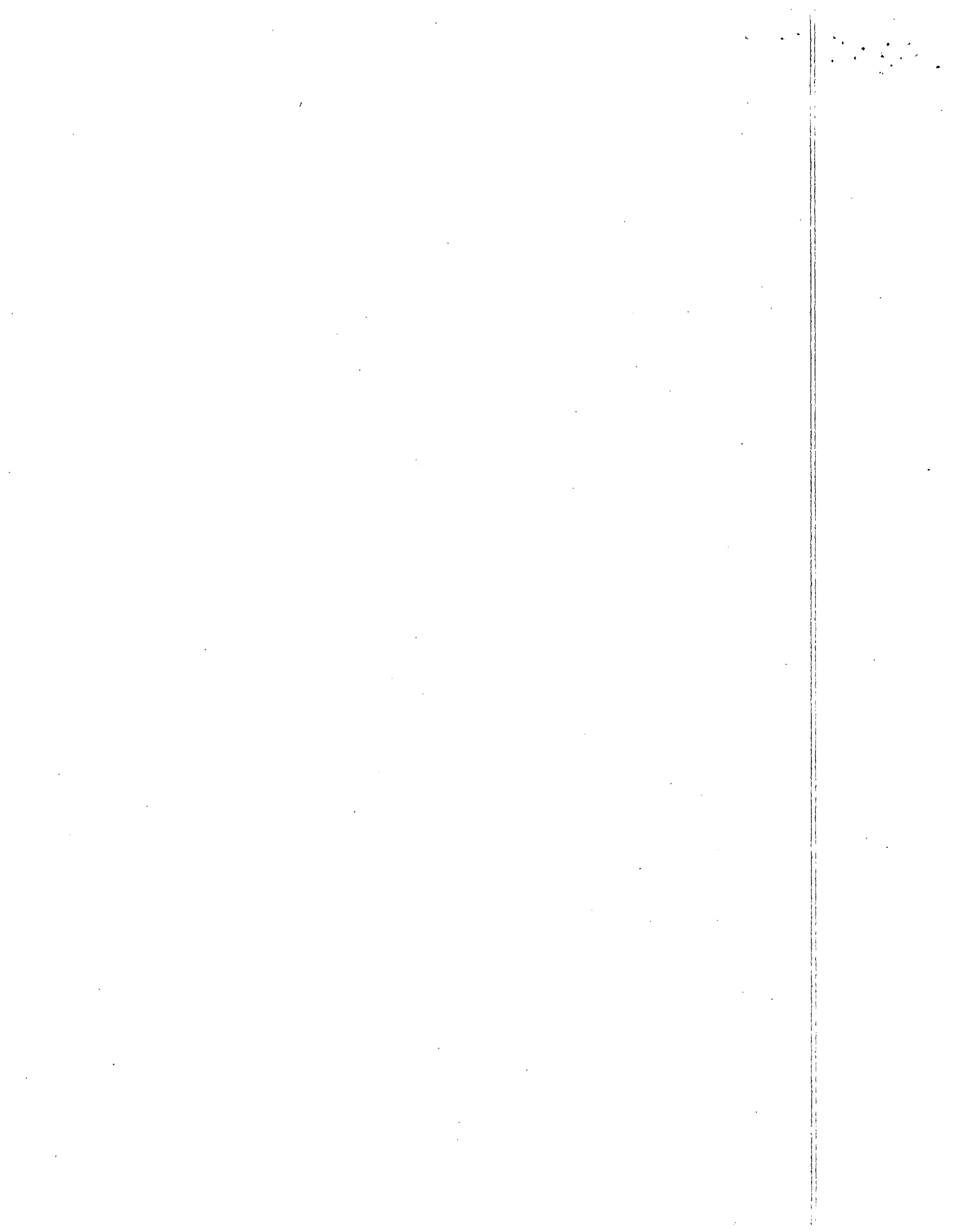
301 South Bronough Street, Suite 200

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Telephone: 850-222-3471

Facsimile: 850-222-8628

Counsel for the Florida Horsemen's Benevolent
and Protective Association



CERTIFICATE OF SERVICE

I CERTIFY that the original and one true copy of the foregoing Petition for Declaratory Statement Pursuant to Section 120.565, Florida Statutes were served by hand delivery to the Agency Clerk, Florida Department of Business and Professional Regulation, 1940 North Monroe Street, Northwood Centre, Tallahassee, Florida 32399-1040, and a true copy of the Petition was served by hand delivery to Charlie Crist, Deputy Secretary and Acting Director, Florida Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Northwood Centre, Tallahassee, Florida 32399-1040, and to Leon M. Biegalski, Assistant General Counsel, Office of General Counsel, Florida Department of Business and Professional Regulation, 1940 North Monroe Street, Northwood Centre, Tallahassee, Florida 32399-1040, on this 22nd day of December 1999.


MARK HERRON
E. GARY EARLY

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