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Intro. Res. No. -2011
Introduced by Presiding Officer Lindsay

Laid on Table 3/3/11

**RESOLUTION NO. -2011, AUTHORIZING SUFFOLK
REGIONAL OFF-TRACK BETTING CORPORATION TO FILE A
PETITION UNDER CHAPTER 9 OF THE UNITED STATES
BANKRUPTCY CODE**

WHEREAS, for the reasons set forth below, this Legislature has determined that it is in the best interests of the citizens of Suffolk County for Suffolk Regional Off-Track Betting Corporation, a public benefit corporation of the State of New York ("Suffolk Regional OTB") created by and operating under Article V of the New York Racing, Pari-Mutuel Wagering and Breeding Law, to file a voluntary petition for relief under Chapter 9 of Title 11 of the United States Code (the "Bankruptcy Code"), and

WHEREAS, for over thirty (30) years the Suffolk Regional OTB has provided a benefit to Suffolk County by generating revenue for the support of government, acting to prevent and curb illegal wagering and bookmaking on horse races, and promoting the horse racing and breeding industries in the State; and

WHEREAS, on February 24, 2011, the Board of Directors of Suffolk Regional OTB unanimously adopted a resolution, pursuant to which the Chairman was authorized and empowered to take all steps, as in the exercise of his business judgment and discharge of his fiduciary responsibilities, necessary to investigate and evaluate on an expedited basis the necessity and appropriateness of Suffolk Regional OTB filing a petition under Chapter 9 of the Bankruptcy Code, and to retain such expert assistance and advisory services from outside professionals as was required to conduct such evaluation and, if so advised, to take steps preparatory to such filing and the prosecution thereof; and

WHEREAS, in the exercise of such authority delegated to him, the Chairman has done so and recommended to the Board that Suffolk Regional OTB promptly submit a plan for adjustment of its indebtedness under said Chapter 9; and

WHEREAS, Suffolk Regional OTB has informed this Legislature that Suffolk Regional OTB is currently insolvent (as that term is defined in the Bankruptcy Code with respect to a municipality) and at significant risk in the immediate future of exhausting unrestricted cash available for continued operations; and

WHEREAS, Suffolk Regional OTB has informed this Legislature that Suffolk Regional OTB has negotiated in good faith and has not reached agreement with the its creditors that may be impaired under a Chapter 9 plan for adjustment of debts of Suffolk Regional OTB, at least in part because such negotiation is impracticable in light of the sheer number of creditors and the need for and current absence of changes in the statutory framework under which Suffolk Regional OTB operates, and believes that one or more creditors may attempt to obtain a preference; and

WHEREAS, it appears to this Legislature that Suffolk Regional OTB has considered available alternatives for restoring a state of financial equilibrium for Suffolk Regional OTB and charting a path to regain profitability, both of which are essential to enabling Suffolk Regional OTB to fulfill the mission that has been assigned to it; and

WHEREAS, it appears to the Legislature that it is in the best interests of Suffolk Regional OTB, its creditors and other interested parties, that a petition for debt adjustment (and avail itself of other rights and protections afforded) under Chapter 9 the Bankruptcy Code be filed by Suffolk Regional OTB; and

WHEREAS, this Legislature sanctions the filing of a petition for relief under Chapter 9 of the Bankruptcy Code and the prosecution thereof, now therefore be it

1st RESOLVED that Suffolk Regional OTB should be and is authorized to file a petition for debt adjustment (and avail itself of rights and other protections afforded) under Chapter 9 of the Bankruptcy Code with the United States Bankruptcy Court for the Eastern District of New York; and be it further

2nd RESOLVED that the President/CEO, Executive Vice President, Secretary, Executive Director/Director of External Affairs, Comptroller, Chief of Staff, Director of Government and Public Affairs, Board Counsel and General Counsel of Suffolk Regional OTB and/or other appropriate corporate officers and employees of the Suffolk Regional OTB be, and they each hereby are, authorized to execute and file all petitions, schedules, lists, applications, motions, pleadings and other ancillary documents, and take any and all additional and further actions as, in consultation with counsel, they deem necessary and appropriate in connection with and in support and aid of said Chapter 9 case, with a view to the expeditious prosecution and successful completion of such case.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date:

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