

## RESOLUTION

2023-XX

**WHEREAS**, the Oklahoma Horse Racing Act, 3A O.S. §§ 200-09 (the “Act”), creates the Oklahoma Horse Racing Commission (“Commission”), and empowers the Commission to supervise horse racing and organization licensees. *See id.* §§ 201, 204.

**WHEREAS**, the Act authorizes gaming to be conducted by organization licensees at enclosure locations where live racing is conducted. *id.* at § 262 (B).

**WHEREAS**, separately, and subject to certain qualifications and conditions, the State has offered to all federally recognized Indian tribes a model gaming compact. *See id.* § 280. Several Indian tribes have accepted the offer and are engaged in gaming operations.

**WHEREAS**, when the State and Indian tribes enter a compact pursuant to state and federal law, the compact remains in full force and effect until the sooner of expiration of the term or until the compact is terminated by mutual consent of the parties. *id.* § 281, pt. 15 (C). The model gaming compact provides as follows regarding the term and expiration thereof:

This Compact shall have a term which will expire on January 1, 2020, and at that time, if organization licensees or others are authorized to conduct electronic gaming in any form other than pari-mutuel wagering on live horse racing pursuant to any governmental action of the state or court order following the effective date of this Compact, the Compact shall automatically renew for successive additional fifteen-year terms; provided that, within one hundred eighty (180) days of the expiration of this Compact or any renewal thereof, either the tribe or the state, acting through its Governor, may request to renegotiate the terms of subsections A and E of Part 11 of this Compact.

*id.* at pt. 15 (B).

**WHEREAS**, subsections A and E of Part 11 of the model gaming compact cover exclusivity fees, and the state's agreement to not permit the nontribal operations of machines within the state and outside of the designated located authorized by the STGA, respectively. *See id.* at pt. 11.

**WHEREAS**, in October 2019, the Commission approved gaming licenses for Remington Park and Will Rogers Downs for calendar year 2020, which was after the expiration of the model gaming compacts.

**WHEREAS**, due to disagreement about whether the compacts entered into pursuant to the model gaming compact automatically renewed after their expiration on December 31, 2019, litigation ensued in the United States District Court for the Western District of Oklahoma, Case No. CIV-19-1198-D. The Court addressed, in part, whether the Commission's approval of gaming licenses for Remington Park and Will Rogers Downs for calendar year 2020 triggered the automatic renewal of compacts, pursuant to pt. 15(B) of the model gaming compact.

**WHEREAS**, Chief United States District Judge, Timothy D. DeGiusti, entered a Final Judgement in Case No. CIV-19-1198-D, declaring that the compacts entered pursuant to the model gaming compact automatically renewed on January 1, 2020, for a successive 15-year term because, according to the Court, the Commission took governmental action—issuance of organization licenses to Remington Park and Will Rogers Down in October 2019 for the year 2020—and that no more was required for the compacts to automatically renew on January 1, 2020, for a successive fifteen (15) year term.

**WHEREAS**, pursuant to the Court's Final Judgement, the current compacts entered under the model gaming compact are set to expire on December 31, 2034.

**WHEREAS**, given the Court’s rationale and determination, the Commission’s issuance of organization licenses to become effective on or after January 1, 2035, could result in the automatic renewal of the model gaming compacts, thereby leaving the State without the ability to meaningfully negotiate terms, as permitted under the model gaming compact.

**WHEREAS**, the Commission desires the State to be in the best position to negotiate terms of compacts entered under the model gaming compact.

**NOW, THEREFORE, BE IT RESOLVED** that the Commission does hereby express its intent to take all steps necessary to ensure compacts entered pursuant to the model gaming compact, which are set to expire December 31, 2034, not be automatically renewed.

**AND BE IT FURTHER RESOLVED** the Commission, to avoid the potential automatic renewal of compacts entered pursuant to the model gaming compact, shall not allow organization licenses to be effective on, or after, January 01, 2035, unless and until expressly authorized to do so by the Governor of the State of Oklahoma.

**ADOPTED** by the Oklahoma Horse Racing Commission and **SIGNED** by the Chair of the Commission this \_\_\_\_\_ (day) of \_\_\_\_\_ (month), 2023.

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Chair, Oklahoma Horse Racing Commission