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Opinion 06-143

Re-establishment of Tennessee Racing Commission

## QUESTION

The Tennessee State Racing Commission terminated on June 30, 1997, under the Tennessee Governmental Entity Review Law.

What steps are necessary to recreate the Commission and allow legal horse racing and pari-mutuel wagering in Tennessee?

## OPINION

The Legislature must re-establish the Racing Commission by passing legislation that accomplishes this goal. The Commission may then promulgate rules setting out the conditions under which horse racing and pari-mutuel wagering on these races will be allowed.

## ANALYSIS

The Tennessee State Racing Commission terminated on June 30, 1997, under the Tennessee Governmental Entity Review Law, Tenn. Code Ann. §§ 4-29-101, *et seq*. The Commission was permitted one year to wrap up its affairs. Tenn. Code Ann. § 4-29-112. The Racing Commission then ceased to exist. Op. Tenn. Att'y Gen. 98-045 (February 17, 1998). Also, the rules promulgated by the Commission expired. Tenn. Code Ann. § 4-5-226(b)(1); *see also*, Op. Tenn. Att'y Gen. 05-066 (May 2, 2005). Finally, the statutes creating the Racing Commission were deemed obsolete. *See* Tenn. Code Ann. § 4-36-201, Code Commission Notes.

To re-establish the Commission, the Legislature must pass an act accomplishing this goal.[1] Assuming the new Commission will have the same power to promulgate rules as the prior

[1]*See*, for example, 2003 Tenn. Pub. Acts, ch. 344, under which the Tennessee Commission of Indian Affairs was re-established.

Commission did, the new Commission may promulgate rules under which live or simulcast horse racing and pari-mutuel wagering on these races may be conducted. Tenn. Code Ann. § 4-36-303.

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