Talking Points - Local Realty Transfer Tax

Tennessee has a statewide realty transfer tax of .37% or $0.37 per $100[1]. Tennessee stipulates that the buyers of the real property pay the transfer tax. In Tennessee, local entities including counties and cities cannot levy realty transfer taxes on real estate transactions as stipulated by the County Powers Relief Act (CPRA)[2]. Local transfer taxes are economically inefficient, disproportionately impact low-income earners, and provide inconsistent revenues. A 2010 study from Brown University on Toronto's 1.1% land transfer tax (a tax rate that could come to fruition for Tennesseeans if the state, county, and city all levied taxes at .37%) found it decreased home sales by 15% and resulted in a welfare loss of $8 for every $1 of revenue generated compared to a relative equivalent property tax increase[3].

Tennessee REALTORS® is opposed to any increase in the existing realty transfer tax and to any proposal that amends or eliminates the existing provision in the CPRA to grant cities or counties the power to levy transfer taxes.

Talking Points

- Transfer taxes are discriminatory and targeted at the housing industry. The transfer tax is discriminatory in that it only applies to housing assets as compared to other assets like stock and bonds. Tennessee REALTORS® opposes targeted taxes and instead favors broad base taxes to meet local revenue needs.
- Transfer taxes are regressive disproportionately burdening lower-income households.
- Transfer taxes are an unreliable source of revenue because of the volatility of the housing market.
- Local option transfer taxes would substantially increase closing costs robbing the most vulnerable households of being able to afford a home.
- Local option transfer taxes, essentially a tax on moving, discourage mobility and make it more difficult for families to take advantage of Tennessee's booming economy.

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[1] (TCA) § 67-4-409)
[2] (TCA) § 67-4-2913
[3] Dachis, B., Duranton, G., & Turner, M. A. (2011). *The effects of land transfer taxes on real estate markets: evidence from a natural experiment in Toronto.* Toronto: Dept. of Economics and Institute for Policy Analysis, University of Toronto.

HOA Rental Authority (HB1290/SB1429)

Background

HB1290/SB1429 was introduced in the 2018 session of the General Assembly in order to regulate Homeowners Associations' ability to prohibit rental properties within their jurisdictions. Originally written to require unanimous approval of the HOA to either permit or prohibit rental properties, it was amended to defer to the existing HOA bylaws and their requirements for passing motions/regulations. It also grandfathered in existing rental properties to protect them from the HOA regulation until a change in ownership occurs.

Talking Points

- TN REALTORS® supports HOA's jurisdictional authority and their prerogative to determine the type of properties in their area.
- TN REALTORS® supports the property rights of its members and others by maintaining the rights of existing landlords to continue to rent out their properties.
- Because rental properties often provide significant sources of income to their owners, it would be unjust to strip Tennesseeans of large portions, if not all, of their livelihood.

Impact Fees Summary

Impact fees are levied by local governments and municipalities on developers to fund the expansion or creation of public infrastructure to serve new developments. In Tennessee, "municipalities incorporated under the general law mayor-aldermanic charter and the general law modified city manager-council charters have authority to levy impact fees. See T.C.A. § 6-2-201(15) and § 6-33-101(a)."[1] The County Powers Relief Act of 2006 was implemented to provide high growth counties, defined as those counties experiencing more than 20% growth between the last two federal decennial censuses or a 9% population increase over a 4 year period, new sources of revenue to account for the additional costs the growth imposes on the K-12 public education system. The statute explicitly allocates revenue raised from the impact fees to growth-related capital expenditures on education. In 2019, a bill (SB1162/HB1488) was introduced to decrease the growth threshold to 15% but stalled in the House. This bill would have greatly increased the number of counties authorized to implement impact fees.

Closely related to impact fees are adequate facilities taxes. These taxes are levied on new development to help fund additional capital expenditure related to the development. It is generally understood that the adequate facilities tax revenue has more flexibility in its use. The County Powers Relief Act of 2006 prevents local governments from implementing adequate facilities taxes unless a private act permitting these taxes exists and predates the 2006 statute.

Tennessee REALTORS® is opposed to the expansion of and increase in impact fees and adequate facilities taxes generally. Where they exist, they should be narrowly tailored to support only capital expenses related to new development. These fees and taxes produce negative effects in the real estate market felt by both developers and home buyers. These taxes make building new homes more expensive especially when the cost cannot be transferred to the buyer. Developers are then disincentivized from building as many homes as would otherwise be the case if the fees did not exist. This leads to a reduced supply of housing in the areas where demand is the highest resulting in higher overall home prices for every home buyer in the jurisdiction where the impact fees are levied. Moreover, the cost of these fees is often passed onto the buyer at closing making the purchase of a home more expensive for all and preventative for some.

Removing impact fees and adequate facilities taxes would encourage the building of more homes in areas where growth is exploding. This would help keep home prices low and provide enough housing for all families moving to an area. Increased revenue from the broad-based taxes already in place will help offset the additional costs of new developments in an area.

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[1] https://www.mtas.tennessee.edu/reference/impact-fees-and-adequate-facilities-taxes