



RAMSEY FARRAR RUSSELL & SMITH
GOVERNMENT RELATIONS

2024 Tennessee Legislative Update

The One Hundred Thirteenth General Assembly adjourned sine die on April 25, 2024 and now it is time to focus on election season. Seven house members and one senator announced they would not be seeking re-election this year. That leaves eight open seats, and several incumbents are being challenged for their seat. Particular focus will be on primary races in the Senate.

In headlines this week, Representative Justin Jones (D), Nashville, can remain on the ballot this election cycle following a challenge regarding the signatures on his petition. The Davidson County Election Commission dismissed the qualifying challenge on a 3-1 vote on May 2, 2024.

Here is an overview of the top headlines coming out of the legislature this session.

Governor Lee Initiatives:

Statewide Educational Savings Accounts

Governor Bill Lee's Education Scholarship Act bill was not passed this legislative session. The bill was taken off notice in the House Finance Committee creating speculation that the votes were not there to pass it through committee. This legislation created the universal voucher program that would have used public funds to cover expenses at private schools. The Governor said he was "extremely disappointed for the families who will have to wait yet another year for the freedom to choose the right education for their child." Governor Lee's statement indicated he planned to pursue the initiative again next year.

Franchise & Excise Reform

Governor Bill Lee's proposed \$1.9 billion franchise tax deal was approved by both chambers on Thursday. The legislation will eliminate the franchise property tax calculation for years moving forward and offers eligible businesses refunds for the past three and a half years. For the first time in state history, tax information will become public record by disclosing the names of companies and the ranges of refund amounts they receive. This tax package is the biggest new spending item this year as it is expected to reduce state revenue by \$400 million starting this year. Additionally, it offers up to \$1.5 billion in refunds to about 100,000 businesses that have paid taxes based on the property measure over the past three years.



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E.L.V.I.S. Act

This session Tennessee passed first-of-its-kind legislation updating Tennessee's Protection of Personal Rights law to include protections for songwriters, performers, and music industry professionals' voice from the misuse of artificial intelligence (AI). While Tennessee's preexisting law protected name, image, and likeness, it did not specifically address new, personalized generative AI cloning models and services that enable human impersonation and allow users to make unauthorized fake works in the image and voice of others. The Governor held a bill signing for the Act on March 21st at Robert's Western World on Broadway amongst legislative leadership and several recognizable members of the music industry.

Other Initiatives of Note:

Arming Teachers

On the last week of session, lawmakers passed HB 1202/SB 1325 that allows a school principal, district director of schools and local law enforcement agency to enter into a memorandum of understanding that would allow the school's teachers to carry a firearm on school property. All three parties must agree and any teacher wishing to carry will need to have forty hours of training, maintain a handgun permit, go through a background check, and receive a psychological certification from a licensed healthcare provider. Many schools and school districts across the state have announced they will not be entering into the memorandums of understanding, including Metro Nashville, Shelby County, Anderson County, Knox County, Oak Ridge Special Schools, Maryville Special Schools, Robertson County, Williamson County and Sumner County. The bill was signed by the Governor on April 26, 2024.

Constitutional Amendment to Prohibit a State Property Tax

HJR81 proposes an amendment to Article II, Section 28 of the Constitution of Tennessee, to prohibit taxation of property by the State. The resolution has passed one General Assembly; it must pass a subsequent General Assembly with a 2/3 vote, then can be eligible to be placed on a statewide ballot before becoming effective.



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Initiatives of Interest to Tennessee REALTORS® that were successful:

Foreign Ownership of Real Property: SB2639/HB2553 rewrites the foreign ownership bill from 2023 and Prohibits a prohibited foreign party (PFP) or prohibited foreign-party-controlled business (PFPCB) from acquiring by grant, purchase, devise, descent, or otherwise, any interest in agricultural land in this state, regardless of whether it intends to use such land for nonfarming purposes, or from holding agricultural land as an agent, trustee, or other fiduciary for a PFP or PFPCB. Requires that any such party must divest itself of any agriculture land within two years of the date the entity is found to be in violation.

A PFP is defined as:

- (i) A citizen or resident of a country subject to international traffic in arms regulations under 22 C.F.R. § 126.1;
 - (ii) (ii) A foreign government formed within a country subject to international traffic in arms regulations under 22 C.F.R. § 126.1;
 - (iii) A party other than an individual or a government that is created or organized under the laws of a foreign government within a country subject to international traffic in arms regulations under 22 C.F.R. § 126.1; or
 - (iv) A party other than an individual or a government:
 - (a) That is created or organized under the laws of a state, federal district, or territory of the United States; and
 - (b) In which a significant interest or substantial control is directly or indirectly held or is capable of being exercised by:
 - (1) An individual referred to in subdivision (9)(A)(i);
 - (2) A foreign government referred to in subdivision (9)(A)(ii);
 - (3) A party referred to in subdivision (9)(A)(iii); or
 - (4) A combination of the individuals, parties, or governments referred to in this subdivision (9)(A)(iv)(b);
 - (v) An entity of particular concern; or
 - (vi) An agent, trustee, or other fiduciary of a person or entity enumerated in subdivisions (9)(A)(i)-(v); and
- (B) Does not mean a resident alien;

A PFPCB is defined as: a corporation, company, association, firm, partnership, society, joint-stock company, trust, estate, or other legal entity whose controlling interest is owned by a prohibited foreign party;



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Further prohibits any PFPCB from acquiring, by grant, purchase, devise, descent, or otherwise, any interest in non-agricultural land in this state, or a party holding non-agricultural land as an agent, trustee, or other fiduciary for a prohibited PFPCB. Any PFPCB found in violation of this act must divest itself of any non-agricultural land within two years of the date the entity is found to be in violation. Specifies that a PFP or PFPCB that acquires agricultural land or an PFPCB that acquires non-agricultural land, in violation of this act, remains in violation as long as such entities hold an interest in such land.

Requires PFPs to register their land with the Department of Agriculture; Requires PFPs to register their land with the Department of Agriculture and Secretary of State. Provides some exceptions for existing businesses.

Specifies that this act does not impose liability upon real estate licensees, attorneys, title insurance companies or agents, or banks when such are involved in a transaction in which a PFP or PFPCB acquired property in violation of this act.

Tennessee REALTORS® successfully advocated for the liability protection of real estate licensees in this legislation.

Impact Fees: SB2461/HB2426 allows high growth counties to enact impact fees on residential and commercial development at a rate of \$1.50/sq ft. The county must maintain and re-certify the growth in order to continue enacting the \$1.50 rate. The tax will only be assessed on the first 150,000 sq ft on a commercial property.

Documentation for Service and Support Animals in Rental Housing: SB2030/HB2266 Specifies that documents provided through a website with the primary function of providing certificates, registrations, licenses, or similar documents for assistance animals in exchange for payment of a fee are not reliable documentation in seeking an exemption to a prohibition on animals in rental property.

Property Condition Disclosure Updates: SB658/HB623 Specifies that a seller of residential property is required to disclose the presence of a known sinkhole on the property prior to entering into a contract with a buyer regardless of whether the sinkhole is indicated through the contour lines on the property's recorded plat map.



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Retired Real Estate License Activation: SB2264/HB2440 authorizes a temporarily retired real estate firm, real estate broker, affiliate broker, time-share salesperson, or acquisition agent whose license was in good standing with the Tennessee Real Estate Commission at the time of temporary retirement but whose license has lapsed due to non-payment of renewal fees to reactivate the license upon the payment of all renewal fees owed and any penalty imposed by the commission. Requires the licensee to also submit proof of continuing education courses in real estate that would have been required had the licensee's license been active during the temporary retirement period to reactivate the license. Removes the re-testing requirement; effective July 1, 2024.

TREC Advisory Opinions: SB2588/HB2097 requires state regulatory boards within the Department of Commerce and Insurance (DCI) and state health-related boards within the Department of Health (DOH) to issue advisory private letter rulings, upon request, to any affected person who is certified, licensed, or registered by such state boards regarding any matters within the state entities' primary jurisdiction. Authorizes the Division of Regulatory Boards administratively attached to DCI to prescribe a fee for the issuance of an advisory private letter ruling. This will take effect July 1, 2024.

Anti Squatter Legislation: SB795/1259 establishes a process by which a property owner may file a complaint to request the sheriff remove an unlawful occupant of a residential dwelling under certain conditions. Requires the sheriff to: (1) investigate the complaint; and (2) serve a notice to immediately vacate on all unlawful occupants. Authorizes the sheriff to arrest any person in the dwelling for trespass, outstanding warrants, or any other legal cause. Entitles the sheriff to a fee for service of the notice to immediately vacate and authorizes the sheriff to charge a reasonable hourly rate should the property owner request the sheriff to be on standby as the locks are changed and an unlawful occupant's personal property is removed. Authorizes a person to bring a civil action if they are wrongfully removed from a dwelling and requires the court to expedite such hearing.

Acreage for Forest / Open Space Classifications: SB1659/HB2054 increases from 1,500 to 3,000 the number of acres of land that may be placed within one property tax jurisdiction for purposes of classification and assessment as agricultural, forest, or open space land. Increases from 1,500 to 3,000 the maximum acreage available to a real property owner that may be classified as forest or open space land.



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Building Inspection Timeframe: SB1735/HB1807 requires, for an inspection of new construction or the renovation of an existing building that must be conducted by the state fire marshal or another state agency, department, or entity, the state fire marshal or appropriate state entity to conduct the requested inspection within 10 business days, instead of 72 hours, of receipt of the request.

Real Estate Fraud Study: SB2448/HB2215 requires the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) to conduct a study and compile a report to be submitted to the general assembly on real estate fraud in this state. The study must investigate the prevalence of real estate fraud in this state, the different schemes used to perpetrate real estate fraud, the methods used by other states to combat real estate fraud, and the best practices for local government officials in registering documents related to real estate transactions. The report must provide a detailed summary of the study and provide suggested statutory revisions that are designed to reduce the risk of real estate fraud for property owners in this state.

Disclosure of Information to Tenant from Landlord: SB1694/HB1814 requires the landlord, or a person authorized to enter into a rental agreement on the landlord's behalf, to disclose to the tenant in writing at or before the commencement of the tenancy the following: (1) The name and address of (i) the agent authorized to manage the premises, which may include a third-party management company; and (ii) an owner of the premises or a person or agent authorized to act for and on behalf of the owner for the acceptance of service of process and for receipt of notices and demands; and (2) A telephone number or electronic mail address for maintenance services; or an online portal system designed for landlord-tenant communication.

Eviction Proceedings: SB1985/HB2267 Decreases from 15 to seven the number of days that a general session judge may postpone a trial for forcible entry and detainer. Also removes the ability to be moved to circuit court by writs of certiorari and superseseas.

Affordable Housing Measures:

Third Party Inspectors: SB2100/HB1892 allows developers to pay certified third party inspectors, engineers, and other professionals in lieu of local or state examiners to satisfy certain permitting requirements. The city or state entity has the opportunity to review the inspection and approve or deny the report or request certain changes or reinspection. This legislation is designed to help speed up the permitting and building process in an effort to promote affordable housing.



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SB2496/HB2623 authorizes the chief legislative body of a municipality to create a voluntary attainable housing incentive program by ordinance for the purpose of authorizing certain incentives to be provided to property owners who seek to build multi-family attainable housing. Requires property owners to submit a completed application to the regional planning commission of a local government in order to be considered for the voluntary program. Defines "multi-family housing" to mean accommodations that are designed principally for residential use and consist of not less than five rental units on one site, so long as such units are not detached.

SB1000/HB1046 "Tennessee Rural and Workforce Housing Act." This amendment authorizes the Tennessee housing development agency ("agency") to allocate to the owner of a qualified project a credit against taxpayer liability for any tax imposed by the law relevant to insurance, excise tax law, or franchise tax law. This amendment authorizes the owner of a qualified project to apportion a Tennessee rural and workforce housing tax credit among some or all of the direct partners or direct members of the business entity or association owning the qualified project, in any manner agreed to by such business entity or association, regardless of whether such business entities or associations are allocated or allowed any portion of the federal housing tax credit with respect to the qualified project.

SB1137/HB1229 Authorizes a municipality to aid or otherwise provide assistance to an industrial development corporation (IDC) by granting, contributing, or pledging to or for the benefit of the IDC revenues derived from any source except property tax revenues, for certain projects.

Requires a municipality to submit to the Comptroller of the Treasury (COT) a plan for the provision of assistance to the IDC containing the nature and feasibility of the project, the structure of the project, the risks to the municipality and mitigation, types of assistance, and a description of how the plan is in the best interest of the state.

Prohibits issuance of the debt in total with all other debt of the municipality being secured by a pledge of non-ad valorem taxes from exceeding a debt service coverage ratio determined by the COT.

SB2182/HB2797 provides that an industrial development corporation created by a housing opportunity county or by a municipality within the boundaries of the housing opportunity county or jointly by any combination of such entities has the following powers: (1) To construct and install public infrastructure for qualified residential developments or contract with a private party for the construction and installation of such public infrastructure; (2) To accept loans and grants of money from this state or the U.S. or any agency or instrumentality of this state or the U.S.,



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upon such terms and conditions as this state, the U.S., or the agency or instrumentality may impose, for purposes of carrying out the design, construction, installation, financing, or undertaking of public infrastructure; and (3) To make loans and grants of money to private entities constructing and installing public infrastructure for qualified residential developments within the boundaries of the housing opportunity county upon such terms as the industrial development corporation deems advisable. As used in this amendment, a "housing opportunity county" means a county that is certified by the comptroller of the treasury and the commissioner of economic and community development as a county with acute needs for additional housing to support the expected growth in population due to the undertaking of one or more economic development projects, whether or not located in the county, that are expected to result in the employment of more than 1,000 new employees. Additionally, as used in this amendment, a "qualified residential development" means an area to be developed for residential housing, which may be single-family housing or multi-family housing so long as that at least 80 percent of the developable area in the development is expected to be used for residential housing, as determined by the industrial development corporation. If this state or an agency or instrumentality of this state makes a loan or grant to an industrial development corporation in a housing opportunity county for the purposes described in this amendment, then this amendment requires such loan or grant to be made upon such terms as are embodied in a written agreement between this state or an agency or instrumentality of this state and that are approved by the comptroller of the treasury, the commissioner of economic and community development, and the commissioner of finance and administration. Such agreement may include such terms as are deemed advisable to this state to ensure that the housing to be constructed in the qualified residential development is affordable for persons residing in the housing opportunity county.

A "housing opportunity county" means a county with acute needs for additional housing to support the expected growth in population due to the undertaking of one or more economic development projects, whether located in the county or surrounding area, that are certified by the commissioner of economic and community development as expected to result in the employment of more than 1,000 new employees (ie Blue Oval City).



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Legislation Opposed by Tennessee REALTORS® That Did NOT Pass:

Inclusionary Zoning: SB2532/HB2725 Deletes the prohibition on local governments enacting a law that would place requirements regarding inclusionary, affordable, or below market value housing when entitlements, variances, or any other form of permit or authorization is sought from the local government. Deletes the prohibition on a local governmental unit from conditioning development entitlements through amendment to the zoning map on the allocation of existing or newly constructed private residential or commercial rental units to be sold or rented at below market rates.

Transfer Tax Disbursement: SB1710/HB1629 Requires half of the unencumbered revenue from the recordation tax to be distributed to counties for school debt and school capital projects.

Junk Fees: SB1893/HB2025 Requires a landlord, leasing company, or management company to disclose all fees charges in addition to the rent during a billing cycle and whether the residential property landlord accepts reusable screening reports prior to the prospective tenant's submission of an application. Creates requirements for an individual to use a reusable tenant screening report in an application for residential rental property. Makes other changes related to the disclosure and charging of fees in connection with residential rental property including prohibiting a landlord from charging a fee that is higher than the actual cost to do business.

Housing Code Mandates: SB2124/HB2292 Requires each municipal and metropolitan government to adopt, on or before July 1, 2025, certain housing development strategies, including providing for zoning that specifically allows or encourages the development of tiny homes, in addition to other strategies. Provides that a municipal or metropolitan government that does not adopt such housing development strategies is ineligible for certain state grants, including community development block grants and local park and recreation fund grants.

Shelby County Landlord Registration: SB1256/HB34 Requires residential landlords in Shelby County to furnish certain information to the agency or department of local government that is responsible for enforcing building codes in the jurisdiction where the dwelling units are located.



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Impact Fee Measures that Were Not Successful and Opposed by Tennessee REALTORS®

SB2137/HB2628, as amended, would have allowed counties with a AAA Bond Rating to assess impact fees at any amount with no restrictions.

HB2988: Local bill for Gallatin that authorizes the City of Gallatin to impose impact fees with no parameters.

SB2984/HB3001: Local bill for Oneida that grants the town with the same powers and authorities granted to municipalities chartered under the general law mayor-aldermanic charter, including enacting impact fees. Tennessee REALTORS® worked with sponsors and the City of Oneida to amend out the authority to enact impact fees from the Charter.